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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION RECEIVED-FPSC

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In re: Petition for Determination of Need for Electric Power Plant in Polk County by Calpine Construction Finance Company, L.P.)

Docket No. 000442 RECORDS AND REPORTING Filed: November 20, 2000

RESPONSE OF FLORIDA POWER & LIGHT COMPANY TO JOINT MOTION FOR ALTERNATIVE PROCEDURAL SCHEDULE OR, IN THE ALTERNATIVE, FOR ENLARGEMENT OF TIME TO FILE SUPPLEMENTAL TESTIMONY

Florida Power & Light Company ("FPL"), pursuant to Rule 25-106.204, Florida Administrative Code, responds as follows to the "Joint Motion" filed on November 13, 2000, by Calpine Construction Finance Company, L.P., ("Calpine") and Seminole Electric Cooperative, Inc., ("Seminole") seeking to modify the procedural schedule or enlarge the petitioner's time for filing supplemental testimony:

The Alternative Relief Would Violate Due Process.

FPL is categorically opposed to the alternative relief sought of extending only Calpine's supplemental filing deadline from November 13, 2000 to November 22, 2000. Because Calpine (a) prematurely filed an inadequate and deficient petition, (b) missed its deadline for its extraordinary opportunity to attempt to cure its deficient petition and evidence, but (c) sought an expedited hearing process, there is already too little time for the intervenors to review the petitioner's supplemental filing, conduct discovery, prepare responsive testimony and prepare for trial. Reducing that already severely limited time by 32% (9 out of 28 days), simply leaves the intervenors with too little time to prepare for trial. Such a schedule would deny the intervenors a right to a fair trial; it would be a denial of due process.

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FPSC-RECORDS/REPORTING

The Primary Relief Needs To Be Supplemented.

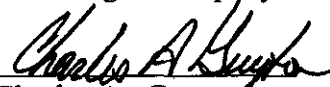
If the Commission entertains the revised procedural schedule sought, then there are some additional procedural changes that should also be made.¹ First, the discovery deadline of December 21, 2000 needs to be changed. FPL respectfully suggests that if the hearing date of January 19, 2001 is adopted, the discovery deadline should be changed to January 12, 2001. Second, it is prudent to set this trial for three rather than two days as requested in the Joint Motion. Third, if this case proceeds to trial within two months of the supplemental filing, a bench decision is not practical. There will be significant legal issues for the Commission's consideration as well as consideration of contested factual matters. An opportunity for the parties to brief both the facts and the law would serve the Commission and the parties well.

Wherefore, FPL respectfully submits that the alternative request for an enlargement of only the petitioner's time for filing testimony should be denied. If the modified procedural schedule sought is considered, it should be supplemented as herein suggested.

Respectfully submitted,

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By: 
Charles A. Guyton

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¹ FPL continues to have concerns about whether the time allowed the intervenors to review the petitioner's supplemental evidence is sufficient, but rather than object to the revised filing deadlines at this time, FPL reserves its right to seek any other schedule modifications it feels may become warranted.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Response of Florida Power & Light Company to Joint Motion for Alternative Procedural Schedule Or, in the Alternative, for Enlargement of Time to File Supplemental Testimony was served by Hand Delivery (*) or mailed this 20th day of November, 2000 to the following:

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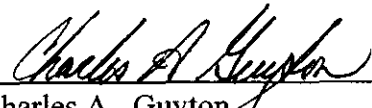
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