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Sent: Monday, December 10, 2007 1:52 PM
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Subject: PSC Dkt. 070650-EI [FMPA]
Attachments: FMPA Petition to Intervene - 121007.doc

Hi Matilda,

Attached for filing is Florida Municipal Power Agency's **Petition to Intervene** in PSC Docket **070650-EI**.

The document has seven (7) pages. Please contact me either by email or telephone if you have any questions.

As always, thank you for your assistance!

Karen

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12/10/2007

DOCUMENT NUMBER-DATE
10805 DEC 10 5
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Turkey
Point Nuclear Units 6 and 7 electrical power
plant, by Florida Power & Light Company.

DOCKET NO. 070650-EI
FILED: December 7, 2007

FLORIDA MUNICIPAL POWER AGENCY'S
PETITION TO INTERVENE

Pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039 and 28-106.205, Florida Administrative Code, the Florida Municipal Power Agency ("FMPA"), through its undersigned counsel, files this Petition to Intervene and states as follows:

1. The name and address of the affected agency is:

The Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

2. The name and address of the Petitioner is:

Florida Municipal Power Agency
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Tallahassee, FL 32315-3209
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3. Copies of all pleadings, notices, and orders in this docket should be provided to:

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4. FMPA is a governmental, joint-action agency comprised of thirty municipal electric utilities in Florida. FMPA's All-Requirements Power Supply Project (the "ARP") provides all the power supply needs (above certain excluded resources) for fifteen of FMPA member systems. FMPA satisfies these ARP members' needs through a combined portfolio of FMPA-owned and jointly-owned generation, member-owned capacity dedicated to the ARP, and power purchase agreements.

5. FMPA received notice of the Commission's proposed action in this proceeding on October 22, 2007, through the Commission's posting of its Notice of Commencement of Proceeding for Determination of Need for Proposed Electrical Power Plant.

6. Statement of Affected Interests. FMPA's interests will be affected by the Commission's determination in this proceeding. The Commission will decide in this docket whether it should approve Florida Power and Light Company's ("FPL's") petition for a determination of need for proposed nuclear power plants in Dade County, Florida. FMPA generally supports FPL's need petition. However, FPL is required by statute and Commission rule to hold discussions with other electric utilities, and to include in its petition a summary of those discussions regarding other electric utilities' ownership interests in the proposed nuclear plants. FMPA and its members are electric utilities in need of nuclear base load generation resources. FMPA has been actively seeking minority ownership interest in nuclear base load facilities throughout Florida, specifically the proposed FPL nuclear power plants subject to the Commission's determination in this proceeding. The Commission must determine in this docket, based on a summary of such discussions provided by FPL, whether sufficient discussions with other electric utilities have occurred. While informal, preliminary discussions between FPL and FMPA have occurred, those discussions must continue in a meaningful way. Therefore, FMPA's substantial interests will be affected by this proceeding.

7. Statement of Disputed Issues of Material Fact. In its petition, FPL states,

FPL has held preliminary discussions regarding the potential for ownership participation with several Florida utilities who have expressed interest. As FPL proceeds through the licensing phase and begins dedicated commercial negotiations with the selected vendor, opportunities for partnership with Florida utilities will continue to be explored.

In re Petition to determine need for Turkey Point Nuclear Units 6 and 7 electrical power plant, by Florida Power & Light Company, Docket No 070650-EI, Petition, at 37 (F.P.S.C., Oct. 16, 2007).

At issue is whether FPL has held adequate and meaningful discussions with other electric utilities (FMPA and its members) regarding minority ownership interests in the proposed nuclear power plants.

8. Statement of Ultimate Facts. Before certifying the need for the FPL plants, the Commission must ensure that FPL has presented sufficient facts to demonstrate that the required discussions with other electric utilities have taken place regarding ownership interest in the proposed nuclear power plants. FPL's petition does not include a summary of such discussions.

9. Statutes and Rules that Require the Relief Requested by FMPA. Statutes and rules that require the relief requested by FMPA include, but are not limited to, Section 403.519, Florida Statutes, and Rules 25-22.081, 25-22.039, and 28-106.205, Florida Administrative Code.

10. Statement Explaining How the Alleged Facts Relate to the Specific Statutes or Rules Cited Above. Section 403.519, Florida Statutes, and Rule 25-22.081, F.A.C., require an applicant seeking a determination of need for a nuclear power plant to include in its petition a summary of the discussions had with other electric utilities regarding ownership interests in a portion of the nuclear power plant. Rules 25-22.039 and 28-106.205 provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency

proceeding are entitled to intervene in such proceeding.

The increasing need for non-greenhouse gas emitting base load nuclear generation is equally shared by all of the state's electric utilities. This need has been recognized by the Florida Legislature in its most recent amendments to Section 403.519, Florida Statutes, which now require applicants such as FPL to address, in the need petition, participation opportunities discussed with other electric utilities. By requiring applicants to include this information in their petition, the Legislature has designed the need determination proceeding to, among other things, ensure that other electric utilities are afforded the opportunity to discuss ownership interests in a proposed nuclear power plant. Any other interpretation of this requirement would render the Legislature's handiwork moot. Therefore, the Commission must ensure that meaningful discussions with other electric utilities have in fact occurred before making an affirmative determination of need. Although FMPA is encouraged by FPL's initial indications that it will invite municipal participation, FMPA must be permitted to intervene and participate in this docket in order to protect its interests in this regard.

Accordingly, FMPA's substantial interests are subject to determination in and will be affected by the Commission's decision, and FMPA is entitled to intervene in this proceeding.

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WHEREFORE, FMPA requests that the Commission enter an order granting its petition to intervene and further requests the parties to provide the undersigned with all papers filed in this docket.

Respectfully submitted this 10th day of December, 2007.

s/ Frederick M. Bryant

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Agency**

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Petition to Intervene has been furnished by electronic mail and U.S. Mail this 10th day of December 2007, to the following:

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