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RECORDS AND REPORTING

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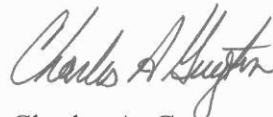
**In re: Joint Petition for Determination of Need for an Electrical Power Plant in Volusia County by the Utilities Commission, City of New Smyrna Beach, Florida, and Duke Energy New Smyrna Beach Power Company Ltd., L.L.P.
Docket No. 981042-EM**

Dear Ms. Bayó:

Enclosed please find the original and fifteen copies of Florida Power & Light Company's Motion to Expedite Discovery in Docket No. 981042-EM.

If you or your staff have any questions regarding this transmittal, please contact me at 222-2300.

Very truly yours,



Charles A. Guyton

ACK _____

AFA 3

APP _____

CAF _____

CMU Enc.

CTR _____ cc: Counsel for all parties of record

EAG Futrell

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São Paulo Rio de Janeiro
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Joint Petition for Determination of Need)
for an Electrical Power Plant in Volusia County)
by the Utilities Commission, City of New Smyrna)
Beach, Florida, and Duke Energy New Smyrna)
Beach Power Company Ltd., L.L.P.)**

DOCKET NO. 981042-EM

DATE: October 12, 1998

**FLORIDA POWER & LIGHT COMPANY'S
MOTION TO EXPEDITE DISCOVERY**

Pursuant to Florida Administrative Code Rule 28.-106.205, Florida Power & Light Company ("FPL") moves the Commission to expedite discovery to the petitioners in Docket No. 981042-EM such that the petitioners' responses are due no later than fourteen (14) days from service. As grounds for its motion, FPL states:

1. The schedule for this case is on an extremely accelerated and abbreviated schedule. The hearing scheduled for December 2, 3 and 4, 1998 falls only 15 weeks after the filing of the petition, and the discovery cut off date scheduled by the Prehearing Officer is only three months after filing of the petition.
2. The petitioners opted to file their determination of need before filing their Siting Application. Therefore, there has not been a sufficiency determination regarding their Siting Application and any supplemental information which such a determination may have developed.
3. Since there is no preexisting Siting Application, the 150 day statutory time line which begins with a determination as to the sufficiency of the application has not begun to run, so there is no urgency as to the completion of this need determination proceeding. The Commission's rule requiring a hearing within 90 days of filing contemplates the need to comply

with the 150 day statutory time line. Arbitrary adherence to that non-statutory time line in this instance where there is no pending Siting Application is neither necessary nor desirable.

4. The petitioners' Joint Petition fails to provide all the information required by the Commission's rules governing determination of need petitions. Consequently, the need for discovery is greater than it would be if the petitioners had satisfied the Commission's rules. The direct testimony of the petitioners, which was not filed until forty (40) days after their petition, did not provide all the information the petitioners omitted from their Joint Petition, and it raises the need for further discovery.

5. FPL could not begin to conduct discovery until intervention was granted. Although FPL petitioned to intervene within eight (8) days of the filing of the need determination petition, FPL was not granted party status until late Thursday of last week, fifty (50) days after the filing of the petition.

6. The time remaining until the discovery cut-off date of November 19, 1998, ninety-two (92) days after the filing of the petition, does not allow sufficient time for FPL to conduct discovery. With the typical thirty (30) day response period for discovery set forth in the Rules of Civil Procedure, FPL will have only one opportunity to pose discovery, with no opportunity for follow-up questions.

7. Given the circumstance FPL finds itself in regarding its inability to pose discovery until late last week and the quickly approaching discovery cut-off date, FPL seeks to expedite the petitioners' responses to discovery so that they are provided fourteen (14) days from service rather than thirty (30) days from service to provide responses to FPL's discovery. This

abbreviated response time will facilitate discovery and permit FPL and other intervenors to conduct discovery within the limited time available for preparation of their case.

8. Given the timing of the ruling on FPL's intervention, FPL has not had an opportunity to conduct discovery prior to filing its testimony. This makes the need for the petitioners' abbreviated response times all the more important for FPL to be able to prepare meaningfully for the scheduled hearing.

9. The petitioners should not be prejudiced by an expedited response time, as the discovery sought by FPL goes to materials they have developed and rely upon in their Joint Petition and testimony.


10. Counsel for FPL has conferred with counsel for all other parties in this proceeding other than counsel for the petitioners who could not be reached, and none of them object to the expedited response time for the joint petitioners.

WHEREFORE, FPL moves the Commission to issue an order requiring the petitioners to respond to all discovery requests in fourteen (14) or less days from service.

Respectfully submitted,

Steel Hector & Davis L.L.P.
Suite 601, 215 S. Monroe St.
Tallahassee, Florida 32301

Attorneys for Florida Power &
Light Company

By: 
Charles A. Guyton

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of October, 1998 a copy of the foregoing Florida Power & Light Company's Motion to Expedite Discovery in Docket No. 981042-EM was served by either hand delivery (*) or U.S. Mail upon the following persons:

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