

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition for	)	
Determination of Need for an	)	DOCKET NO. 981042-EM
Electrical Power Plant in Volusia	)	
County by the Utilities Commission,	)	FILED: OCTOBER 23, 1998
City of New Smyrna Beach, Florida,	)	
and Duke Energy New Smyrna Beach	)	
Power Company Ltd., L.L.P.	)	

---

**DUKE ENERGY NEW SMYRNA BEACH POWER COMPANY LTD., L.L.P.'S  
OBJECTIONS TO FLORIDA POWER & LIGHT COMPANY'S FIRST  
REQUEST FOR PRODUCTION OF DOCUMENTS (1-13)**

Duke Energy New Smyrna Beach Company Ltd., L.L.P. ("Duke New Smyrna") pursuant to the Order Establishing Procedures issued in this docket on September 4, 1998, hereby respectfully submits its objections to Florida Power & Light Company's ("FPL") First Request for Production of Documents (Nos. 1-13) which were served on Duke New Smyrna on October 13, 1998.

**GENERAL OBJECTIONS**

Duke New Smyrna objects to FPL's First Request for Production of Documents (Nos. 1-13) on the grounds set forth in paragraphs A - C below. Each of Duke New Smyrna's responses will be subject to and qualified by these general objections.

A. Duke New Smyrna objects to the production of documents in the offices of FPL's attorneys, Steel Hector and Davis, L.L.P., at 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301. Pursuant to Rule 1.350, Florida Rules of Civil Procedure, ("F.R.C.P.") which is made specifically applicable to this proceeding by Uniform Rule 28-106.206, Florida

Administrative Code ("F.A.C."), the requested documents that are not subject to another objection will be produced where those documents are kept in the usual course of business or at a place that is mutually acceptable to the parties.

B. Duke New Smyrna objects to FPL's request that the documents be produced no later than 14 days after service. Rule 1.350, F.R.C.P., requires that documents be produced within 30 days of service of a request to produce. However, in the spirit of compromise, Duke New Smyrna stated in its Response in Opposition to FPL's Motion to Expedite Discovery and Motion for Alternate Discovery Schedule, filed with the Commission on October 19, 1998, that it will agree to respond to discovery requests, including FPL's, within 20 days of service.

C. Duke New Smyrna objects to the production of any documents that constitute attorney work product or are subject to the attorney-client privilege.

D. As stated specifically below, Duke New Smyrna objects to those of FPL's document production requests that ask for confidential, proprietary business information. Moreover, Duke New Smyrna does not have a form of confidentiality agreement, nor does Duke New Smyrna believe that it would be possible to fashion such an agreement, that would be satisfactory to protect Duke New Smyrna's interests in such information.

#### **SPECIFIC OBJECTIONS**

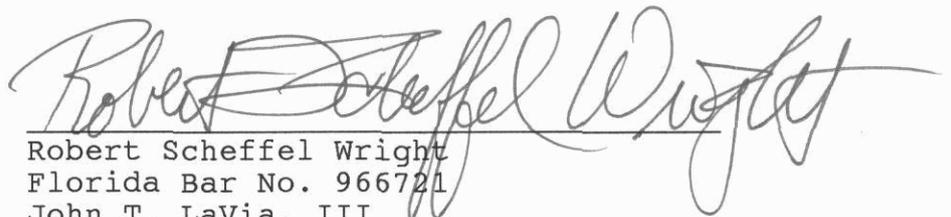
Duke New Smyrna makes the following specific objections to FPL's First Request for Production of Documents (Nos. 1-13).

Duke New Smyrna's specific objections are numbered to correspond with the numbers of FPL's requests to produce.

6. Duke New Smyrna objects to this request on the grounds that the "complete and unredacted gas supply and transportation contract between Duke Energy Power Services, L.L.P. and Citrus Trading Corp." contains confidential, proprietary information.

10. Duke New Smyrna objects to this request on the grounds that it is vague. FPL does not provide a definition for the term "Joint Power Agreement" and pursuant to the Order Establishing Procedure, Duke New Smyrna requests clarification by FPL of this term.

Respectfully submitted this 23rd day of October, 1998.



Robert Scheffel Wright  
Florida Bar No. 966721  
John T. LaVia, III  
Florida Bar No. 853666  
LANDERS & PARSONS, P.A.  
310 West College Avenue (ZIP 32301)  
Post Office Box 271  
Tallahassee, Florida 32302  
Telephone (850) 681-0311  
Telecopier (850) 224-5595

Attorneys for the Utilities Commission,  
City of New Smyrna Beach, Florida,

and

Duke Energy New Smyrna Beach Power  
Company Ltd., L.L.P.

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 981042-EM**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (\*) or by United States Mail, postage prepaid, on the following individuals this 23rd day of October, 1998:

Leslie J. Paugh, Esquire\*  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Gunter Building  
Tallahassee, FL 32399

Gail Kamaras, Esquire  
LEAF  
1114 Thomasville Road  
Suite E  
Tallahassee, FL 32303-6290

Charles A. Guyton, Esquire\*  
Steel Hector & Davis  
215 South Monroe Street  
Suite 601  
Tallahassee, FL 32301

Gary L. Sasso, Esquire  
Carlton, Fields et al  
P.O. Box 2861  
St. Petersburg, FL 33733

William G. Walker, III  
Vice President, Regulatory Affairs  
Florida Power & Light Co.  
9250 West Flagler St.  
Miami, FL 33174

Lee L. Willis, Esquire  
Ausley & McMullen  
P.O. Box 391  
Tallahassee, FL 32302

William B. Willingham, Esquire  
Michelle Hershel, Esquire  
FL Electric Cooperatives Assoc., Inc.  
P.O. Box 590  
Tallahassee, FL 32302

Terry L. Kammer, COPE Director  
System Council U-4, IBEW  
3944 Florida Blvd., Suite 202  
Palm Beach Gardens, FL 33410

Susan D. Cranmer  
Asst. Secretary & Asst. Treasurer  
Gulf Power Company  
One Energy Place  
Pensacola, FL 32520-0780

John Schantzen  
System Council U-4, IBEW  
3944 Florida Blvd., Suite 202  
Palm Beach Gardens, FL 33410

Jeffrey A. Stone, Esquire  
Beggs & Lane  
P.O. Box 12950  
Pensacola, FL 32576-2950

J. Roger Howe, Esquire  
Office of Public Counsel  
111 W. Madison Ave., Room 812  
Tallahassee, FL 32399-1400

  
\_\_\_\_\_  
Attorney