

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint and petition of
John Charles Heekin against
Florida Power & Light Company.

DOCKET NO. 981923-EI
ORDER NO. PSC-99-0739-PCO-EI
ISSUED: April 16, 1999

ORDER GRANTING LEAVE FOR APPEARANCE
OF QUALIFIED REPRESENTATIVE

Pursuant to Rule 28-106.106, Florida Power & Light Company (FPL) filed a Request for Representation by a Qualified Representative on March 18, 1999. By its request, FPL seeks qualified representative status for its authorized house counsel, Mr. R. Wade Litchfield. On March 22, 1999, the Petitioner, Mr. John Charles Heekin, filed an Objection to Request for Representation by Qualified Representative. Petitioner asserts that Mr. Litchfield is not an attorney and should not be allowed to represent FPL because FPL is a corporation and cannot be represented by one who is not an attorney.

I. Request for Representation by a Qualified Representative

The Request seeks qualified representative status for R. Wade Litchfield, pursuant to Rule 28-106.106, Florida Administrative Code. The Request states that Mr. Litchfield is not a member of the Florida Bar, but that he is admitted to practice law in both Louisiana and New York. The Request further states that Mr. Litchfield has practiced extensively before other utility regulatory agencies, has reviewed Florida Statutes relative to the Commission's jurisdiction, has reviewed the Florida Rules of Civil Procedure relative to discovery in an administrative proceeding, and that he has reviewed portions of the Florida Administrative Code and Florida Statutes relative to the rules of evidence, including the concept of hearsay in an administrative proceeding. The Request further asserts that Mr. Litchfield is certified by the Florida Supreme Court as "Authorized House Counsel" pursuant to Chapter 17 of the Rules Regulating the Florida Bar, and as such, that he has reviewed Rule 28-106.107, Florida Administrative Code, and agreed to abide by this rule. Consistent with this rule, the Request alleges that Mr. Litchfield has or will acquire knowledge of the factual and legal issues involved in this proceeding as it relates to the representation of his client.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

II. Objection to Request for Representation by Qualified Representative

Petitioner responded to FPL's request by asserting that Mr. Litchfield is not admitted to practice law in Florida and is, therefore, not an attorney. Petitioner asserts that FPL should be required to hire a member of the Florida Bar to represent itself. Petitioner further states that if FPL is allowed to be represented by someone not admitted to practice in Florida, Mr. Heekin should be allowed to hire a consultant to represent himself instead of having an attorney do so.

II. Legal Basis for Representation by Qualified Representative

Rule 28-106.106(1), Florida Administrative Code, provides that any party in an agency proceeding has the right, at the party's own expense, to be represented by counsel or by a qualified representative. A qualified representative is an individual who, while not a member of the Florida Bar or a certified law student, "has demonstrated that the representative has the necessary qualifications to responsibly represent the party's interests in a manner which will not impair the fairness of the proceeding or the correctness of the action." Rule 28-106.106(3), Florida Administrative Code. A qualified representative could be a consultant as long as he or she met the requirements of the rule.

There is no requirement in Rule 28-106.106, Florida Administrative Code, that corporate parties to administrative agency action must be represented by members of the Florida Bar in administrative agency proceedings. In this instance, FPL's request for qualified representative status for R. Wade Litchfield contains the information required by Rule 28-106.106, Florida Administrative Code.

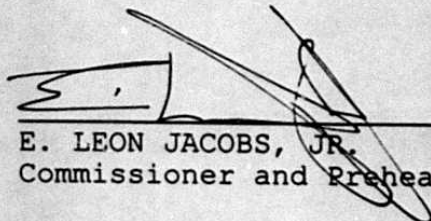
Having considered the specific allegations set forth in the Request and the Objection, the Prehearing Officer has determined that the Request meets the criteria set forth in Rule 28-106.106(4), Florida Administrative Code. Therefore, the Request is granted.

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Based on the foregoing, it is

ORDERED by Commissioner E. Leon Jacobs, Jr., as Prehearing Officer, that Florida Power & Light's Request for Representation by a Qualified Representative is granted. R. Wade Litchfield shall be permitted to appear as a qualified representative in this docket.

By ORDER of Commissioner E. Leon Jacobs, Jr. as Prehearing Officer, this 16th day of April, 1999.



E. LEON JACOBS, JR.
Commissioner and Prehearing Officer

(S E A L)

GAJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida

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Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.