

# CARLTON FIELDS

ATTORNEYS AT LAW

ORIGINAL

ONE HARBOUR PLACE  
777 S. HARBOUR ISLAND BOULEVARD  
TAMPA, FLORIDA 33602-5799

MAILING ADDRESS:  
P.O. BOX 3239, TAMPA, FL 33601-3239  
TEL (813) 223-7000 FAX (813) 229-4133

March 24, 1998

## FEDERAL EXPRESS

Ms. Blanca S. Bayó, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

980283-EP

RECEIVED  
MAR 25 AM 10:13  
MAIL ROOM

Re: **Florida Power Corporation's Response to Joint Petition of Dade County and Montenay to Intervene for Limited Purpose of Moving to Dismiss**

Dear Ms. Bayó:

Enclosed for filing please find an original and fifteen copies of Florida Power Corporation's Response to Joint Petition of Dade County and Montenay to Intervene for Limited Purpose of Moving to Dismiss.

ACK

AFA

APP

CAF

CMU

CTR

EAG

LEG

LIN

OPC

RCH

SEC

WAS

OTH

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Thank you for your assistance in this matter.

Sincerely,

Chris S. Coutroulis

Enclosures

cc: James D. Wing, Esquire

Counsel for Metropolitan Dade County (w/accompanying Response)

RECEIVED FILED

DEPARTMENT OF RECORDS

DOCUMENT NUMBER - DATE

03518 MAR 25 98

CARLTON, FIELDS, WARD, EMMANUEL, SMITH & CUTLER, P.A.

TAMPA

ORLANDO

PENSACOLA

TALLAHASSEE

WEST PALM BEACH

SP. BUREAU OF REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

---

In re: Petition for Declaratory Statement that Commission's Approval of Negotiated Contract for Purchase of Firm Capacity and Energy between Florida Power Corporation and Metropolitan Dade County, Order No. 24734, Together with Order Nos. PSC-97-1437-FOF-EQ, Rule 25-17.0832, F.A.C. and Order No. 24989, Establish that Energy Payments thereunder, including when Firm or As-Available Payment is Due, Are Limited to Analysis of Avoided Costs based upon Avoided Unit's Contractually-Specified Characteristics,

Docket No. 980283-EQ

Submitted for Filing:  
March 24, 1998

by Florida Power Corporation

---

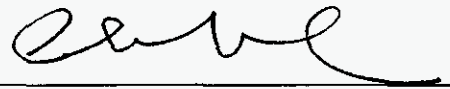
**FLORIDA POWER'S RESPONSE TO JOINT  
PETITION OF DADE COUNTY AND MONTENAY TO INTERVENE  
FOR LIMITED PURPOSE OF MOVING TO DISMISS**

Florida Power Corporation ("Florida Power") hereby responds to the Joint Petition of Metropolitan Dade County ("Dade") and Montenay-Dade, Ltd. ("Montenay") to Intervene for the Limited Purpose of Moving to Dismiss Florida Power's Petition for Declaratory Statement. As was true with respect to Dade and Montenay's motion to intervene in Docket No. 940771-EQ (the "Pricing Docket"), Florida Power does not oppose the Motion to Intervene here. However, with respect to Montenay, Florida Power would note that:

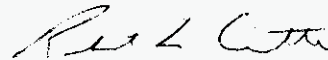
1. Florida Power disagrees with Montenay's characterization of itself as "a party to the Contract" between Florida Power and Dade. The Commission approved the Negotiated Contract between Florida Power and Dade pursuant to which Dade sells capacity

and energy to Florida Power. (The Commission's interpretation of that approval is the subject of Florida Power's pending Petition for Declaratory Statement, the "Petition"). Montenay was not a party to the Contract at the time it was approved by the Commission and has not subsequently been made a party to the Contract. Rather, Montenay simply operates the facility, which is owned by Dade, from which the capacity and energy is sold pursuant to the Contract.

2. In not opposing Montenay's intervention, Florida Power does not mean to suggest or convey that it believes that the issuance of the declaratory statement requested in the Petition necessarily would involve a determination of Montenay's substantial interests or that Montenay otherwise satisfies the requirements for intervention set forth in the Florida Administrative Code.



Chris S. Coutroulis, Esquire  
Fla. Bar No. 300705



Robert L. Ciotti, Esquire  
Fla. Bar No. 333141  
**CARLTON, FIELDS, WARD,  
EMMANUEL, SMITH & CUTLER, P.A.**  
One Harbour Place  
P.O. Box 3239  
Tampa, Florida 33601-3239  
Telephone: (813) 222-7000  
Facsimile: (813) 229-4133

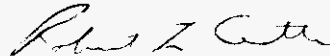
AND

James A. McGee, Esquire  
Fla. Bar. No. 0150483  
**FLORIDA POWER CORPORATION**  
3201 34th St. South  
P.O. Box 14042  
St. Petersburg, FL 33733-4042

Attorneys for **Florida Power Corporation**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been furnished, by U.S. Mail, to Gail P. Fels, Esq., Assistant County Attorney, Dade County Aviation Dept., P.O. Box 592075 AMF, Miami, Florida 33159, counsel for Dade County; Robert Scheffel Wright, Esq., Landers & Parsons, 310 West College Avenue, P.O. Box 271, Tallahassee, Florida 32302, counsel for Montenay; and David E. Smith, Esq., Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Third Floor, Gunter Building, Tallahassee, Florida 32399-0850; this 24th day of March, 1998.



---

Robert L. Ciotti