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99 JUN 11 PM 8:50
MAIL ROOM

June 10, 1999

HAND DELIVERED

Mr. John Wheeler, Clerk
District Court of Appeal, First District
301 Martin Luther King, Jr. Boulevard
Tallahassee, FL 32399-1850

Re: Florida Power & Light Co. v. Duke Energy Power Company, Et Al.
Case No. 1999-1442, L.T. No.: 981042-EM

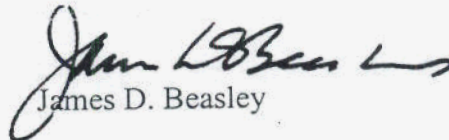
Dear Mr. Wheeler:

Enclosed is the original and one copy of Tampa Electric Company's Request to Retain Party Status.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,


James D. Beasley

AFA _____
APP _____ JDB/pp
CAF _____ Enclosures
CMU _____
CTR _____
EAG _____
LEG _____
MAS _____
OPC _____
RRR _____
SEC _____
WAW _____
OTH _____

DOCUMENT NUMBER-DATE

07149 JUN 11 8

FPSC-RECORDS/REPORTING

DISTRICT COURT OF APPEAL, FIRST DISTRICT
Tallahassee, Florida 32399-1850

Florida Power & Light, Co.)	CASE NO.: 1999-1442
)	L.T. No.: 981042-EM
Appellant)	
v.)	
Duke Energy Power Company, Et Al.)	
Appellee)	
_____)	

**TAMPA ELECTRIC COMPANY'S
REQUEST TO RETAIN PARTY STATUS**

Appellee, Tampa Electric Company ("Tampa Electric" or "the company"), in response to this Court's Order dated June 7, 1999, respectfully requests that it retain party status in the above appeal and, in support thereof, says:

1. This appeal of an order of the Florida Public Service Commission ("FPSC") was filed by Florida Power & Light Company ("FPL"). FPL simultaneously filed two notices of appeal from the same order, one in this Court and the other in the Florida Supreme Court. Tampa Electric appealed the same FPSC order to the Florida Supreme Court and its interests are aligned with those of Appellant, FPL, although in the different forum. Tampa Electric nominally is an Appellee in the appeal pending before this Court but does not seek to uphold or defend the action taken by the FPSC in the order on appeal.

2. On the day prior to the Case Management Conference counsel for Tampa Electric received a copy of FPL's Motion to Stay Appeal Pending Determination of its Appeal to the

DOCUMENT NUMBER-DATE

07149 JUN 11 8

FPSC-RECORDS/REPORTING

Florida Supreme Court. Tampa Electric's counsel did not oppose the Motion and believed FPL would effectively advocate the entry of a stay and that a stay would be granted. Counsel believed that the Motion for Stay mooted any necessity for a status conference on the future handling of the case. Given the mandatory transfer requirements of Article V, § 2(a) of the Florida Constitution and Rule of Appellate Procedure 9.040(b), separate appeals of the same FPSC order proceeding simultaneously before the Supreme Court of Florida and this Court were an impossibility. In addition, under Rule 9.300(b), the filing of FPL's Motion suspended the "time schedule of any proceeding in the court."

3. Counsel for Tampa Electric did not believe that their attendance was required at the initially scheduled Case Management Conference of May 27, 1999. In addition to the above, decisions by the FPSC routinely involve numerous parties not all of whom actively participate in the appeals from those decisions to the Florida Supreme Court. Counsel certainly intended no disrespect to this Court in not attending the Conference and will attend any and all further Conferences that may be scheduled. Tampa Electric will also participate in the joint status reporting required in the Court's June 7, Order.

4. Tampa Electric is in agreement with the stay of this case in the Court's June 7, 1999 Order. The appeals from the FPSC decision in question are now proceeding in the Supreme Court and no party has yet suggested to the Florida Supreme Court that it lacks jurisdiction. Obviously jurisdiction over the same order cannot exist in both courts at the same time.

WHEREFORE, Appellee Tampa Electric Company, respectfully requests that it retain its party status in the above appeal subject to it being realigned as a party Appellant if the case is transferred from the Supreme Court to this Court.

DATED this 10⁵ day of June 1999.

Respectfully submitted,



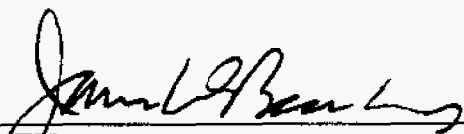
LEE L. WILLIS
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ATTORNEYS FOR APPELLEE

CERTIFICATE OF SERVICE

I hereby certify that the original of the foregoing has been filed with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, and a true and correct copy of the foregoing has been filed with the District Court of Appeal, First District, Tallahassee, Florida 32399-1850, and furnished by U. S. Mail to Robert Scheffel Wright, John T. LaVia, III and Alan C. Sundberg, Landers & Parsons, P.A., 310 West College Avenue, Tallahassee, Florida 32301, counsel for Utilities Commission, City of New Smyrna Beach, Florida, and Duke Energy New Smyrna Beach Power Company, Ltd., L.L.P., Robert S. Lilien, Duke Energy Power Services, LLC 442 Church Street, PB05B, Charlotte, NC 23242, James A. McGee, Post Office Box 14042, St. Petersburg, Florida 33733 and Gary L. Sasso, Carlton Fields Ward Emmanuel Smith & Cutler, P.A., Post Office Box 2861, St. Petersburg, Florida 33731, counsel for Florida Power Corporation, William B. Willingham and Michelle Hershel, Post Office Box 590, Tallahassee, Florida 32302, counsel for Florida Electric Cooperatives Association, Inc., Gail Kamaras, 1114 Thomasville Road, Suite E, Tallahassee,

Florida 32303, counsel for Legal Environmental Assistance Foundation, Inc., Charles A. Guyton and Matthew M. Childs, Steel Hector & Davis, LLP, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301, counsel for Florida Power & Light Company, Terry L. Kammer, PAC Director, 3944 Florida Boulevard, Palm Beach Gardens, Florida 33410, counsel for System Council U-4, Jon C. Moyle, Jr. and Robert J. Sniffen, Moyle, Flanigan, Katz, Kolins, Raymond & Sheehan, 210 South Monroe Street, Tallahassee, Florida 32301, counsel for U.S. Generating Company, Donald F. Santa, Jr., LC&E Enegy Corporation, 220 West Main Street, Louisville, KY 40232 and Leslie J. Paugh and Grace A. Jaye, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, counsel for the Commission Staff, this 10th day of June, 1999.



ATTORNEY

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