

DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

FLORIDA POWER & LIGHT COMPANY,
Petitioner/Appellant

vs.

DCA CASE NO. 1D99-4552

PUBLIC SERVICE COMMISSION,
Respondent/Appellee

_____ /

MOTION BY THE FLORIDA POWER CORPORATION FOR LEAVE
TO APPEAR AND BE HEARD AS AMICUS CURIAE

FLORIDA POWER CORPORATION ("FPC"), by and through its undersigned counsel and pursuant to Florida Rule of Appellate Procedure 9.370, hereby moves for leave to appear and be heard as *amicus curiae* in support of the position of appellant, FLORIDA POWER AND LIGHT ("FPL"). As grounds for this motion, FPC states as follows:

1. This administrative appeal arises from a Final Order entered by Administrative Law Judge Donald R. Alexander on November 3, 1999, dismissing FPL's rule challenge. Prior to the dismissal, FPC filed and served its Petition for Leave to Intervene in the rule challenge proceeding. Judge Alexander declared that FPC's Petition for Leave to Intervene was rendered moot by his Final Order. FPL appealed Judge Alexander's ruling to this Court on December 3, 1999.

AFA _____
APP _____
CAF _____
CMU _____
CTR _____
EAG _____
LEG _____
MAS _____
OPC _____
RRR _____
SEC _____
VAW _____
OTH _____

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FPSC-RECORDS/REPORTING

2. FPC is a public utility and electric utility as defined by section 366.02, Florida Statutes, and was designated by the Public Service Commission ("PSC") as an appropriate party in PSC docket number 981890-EU, entitled: "In re: Generic investigation into the aggregate electric utility reserve margins planned for Penisular Florida." (a/k/a the "Reserve Margin Docket.") FPC is engaged in a variety of proceedings before the PSC every year and is directly subject to the PSC's rules and regulations. FPC has an interest in ensuring that the rules promulgated by the PSC are in accordance with the Administrative Procedure Act and the Uniform Rules of Procedure.

3. FPC seeks permission to file a brief as *amicus curiae*, in support of the position of Appellant, because the issues in this appeal directly affect the manner in which utilities in this state will be regulated by the PSC in the future. It is critically important to FPC to ensure regularity and fairness in PSC proceedings. In view of recent changes in federal law and policy, and the increasing interest of the PSC in examining potential changes in state regulatory policy, it is especially important that regulated utilities like FPC understand what their procedural rights and responsibilities are and what avenues are open, and what avenues are closed, to the PSC in initiating and conducting regulatory proceedings. FPL's rule challenge in this case seeks to vindicate the interest of

regulated utilities, like FPL and FPC, in ensuring the primacy of the Uniform Rules of Procedure and in preventing the PSC from improperly perpetuating its own unauthorized, superceded rules and procedures. Accordingly, this appeal places in issue matters of significant, direct importance to FPC as a regulated utility.

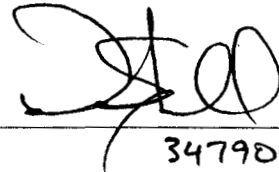
4. FPL's initial brief is currently due to be served on or before February 11, 2000. *Amicus Curiae* briefs filed in support of the position of the Appellant would be due to be served on or before that date. See Fla. R. App. P. 9.370. FPC's proposed brief has been filed contemporaneously with this motion.

5. FPC respectfully requests leave to file its brief in this appeal as *amicus curiae*. This Court will be assisted in reaching its decision by being made aware of the additional viewpoints and perspectives of this utility.

6. Counsel for FPC has contacted the parties and hereby represents that FPL supports this motion and the Appellee opposes this motion.

WHEREFORE, FPC respectfully requests that the Court grant its motion for leave to appear and be heard as *amicus curiae*.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail this 11th day of February, 2000, to the following:

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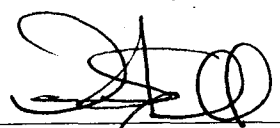
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