

STEEL ■
HECTOR
■ & DAVIS™

Steel Hector & Davis LLP
200 South Biscayne Boulevard
Miami, Florida 33131-2398
305.577.7000
305.577 7001 Fax
www.steelhector.com

May 10, 2001

John T. Butler, P.A.
305.577.2939
jbutler@steelhector.com

-VIA HAND DELIVERY-

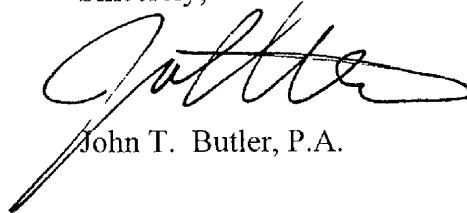
Ms. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 001148-EI

Dear Ms. Bayó:

Yesterday, I delivered to you via facsimile transmission Florida Power & Light Company's Response in Opposition to the Petition to Intervene of South Florida Hospital and Healthcare Association (the "FPL Response"). As note in the cover sheet for the facsimile transmission and in compliance with the Order Establishing Procedure in this docket and Rule 25-22.028, F.A.C., I am enclosing herewith for filing the original and seven (7) copies of the FPL Response, together with a diskette containing the electronic version of same. The enclosed diskette is HD density, the operating system is Windows 98, and the word processing software in which the document appears is WordPerfect 9.

Sincerely,



John T. Butler, P.A.

Enclosure

cc: Counsel of record

DOCUMENT NUMBER-DATE

05861 MAY 10 2001

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Review of Florida Power & Light)	
Company's proposed merger with Entergy)	DOCKET NO. 001148-EI
Corporation, the formation of a Florida)	Dated: May 9, 2001
transmission company ("Florida transco"),)	
and their effect on FPL's retail rates.)	
_____)	

**FLORIDA POWER & LIGHT COMPANY'S
RESPONSE IN OPPOSITION TO PETITION TO INTERVENE
OF SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION**

Florida Power & Light Company ("FPL"), pursuant to Rule 28-106.204, Florida Administrative Code ("F.A.C."), hereby respectfully opposes the petition to intervene filed by the South Florida Hospital and Healthcare Association ("SFHHA") to the extent that the petition seeks to have the Commission consider issues of material fact that are not properly the subject of this proceeding. In support thereof, FPL states the following:

1. SFHHA's petition alleges that its member companies are retail electric customers of FPL. To the extent that this is accurate, FPL does not oppose SFHHA's intervention to represent its members as retail electric customers.

2. FPL is concerned, however, that SFHHA seeks expansion of this proceeding beyond its intended scope. Specifically, SFHHA's petition raises the following "disputed issues of material fact" that are either inappropriate or are too broad as stated:

a. *"The effect of the failed [Entergy] merger on FPL's earnings and costs."*

SFHHA petition at ¶ 10(a). As stated in the Order Establishing Procedure issued in this docket on

November 6, 2000, the purpose of this proceeding is to consider the effect of “FPL’s planned merger with Entergy Corporation” on FPL’s retail rates. That merger is no longer being pursued. It would be an unwarranted expansion of this proceeding to explore the impact of *not* merging under the guise considering the impact of merging.

b. *“The effect of the RTO on competition in Florida.”* SFHHA petition at ¶10(b). The Order Establishing Procedure contemplates the impact of an RTO on FPL’s retail rates is to be considered, not the broader topic of the RTO’s impact on “competition.” The Commission has cautioned a previous intervenor, Dynegy Midstream Services, LP, that its intervention was not to be construed as a license to represent its parent’s interests as a competitor of FPL. *See* Order No. PSC-01-0628-PCO-EI, dated March 14, 2001, at 3-4. The SFHHA likewise seeks to extend this proceeding impermissibly into the arena of wholesale competition and likewise should be precluded from doing so.

c. *“Appropriate adjustments to be made in setting retail rates for FPL retail customers.”* SFHHA petition at ¶10(d). This issue is appropriate only if limited to what, if any, adjustments to FPL’s retail rates would be warranted as a consequence of the formation of an RTO (FPL’s proposed merger no longer being an issue).

d. *“The appropriate level of rates charged by FPL for service.”* SFHHA petition at ¶10(e). Similarly, this issue would be appropriate only if limited to the effect on FPL’s rates of the formation of an RTO.

WHEREFORE, FPL respectfully requests that, if the SFHHA is permitted to intervene, its intervention be limited and clarified so that the issues it may properly raise do not extend beyond the scope of this proceeding stated in the Order Establishing Procedure.

Respectfully submitted,

R. Wade Litchfield, Esq.
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

Steel Hector & Davis LLP
215 South Monroe Street - Suite 601
Tallahassee, Florida 32301

Attorneys for Florida Power & Light Company

By: 

Matthew M. Childs, P.A.

John T. Butler, P.A.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of FPL's Response in Opposition to Petition to Intervene of South Florida Hospital and Healthcare Association was served by facsimile transmission (*) or mailed this 9th day of May 2001 to the following:

Robert V. Elias, Esquire. *
Legal Division
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 370
Tallahassee, FL 32399-0850

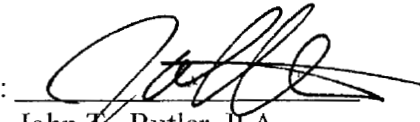
Thomas A. Cloud, Esquire
Gray, Harris & Robinson, P.A.
201 East Pine Street, Suite 1200
Orlando, Florida 32802-3068

J. Roger Howe, Esq.
Office of Public Counsel
c/o Florida Legislature
111 W. Madison Street
Room No. 812
Tallahassee, Florida 32399-1400

Florida Industrial Power Users Group
c/o John McWhirter, Jr.
McWhirter Reeves
400 North Tampa St., Suite 2450
Tampa, Florida 33601-3350

Mark F. Sundback, Esq.
Kenneth L. Wiseman, Esq.
Andrews & Kurth LLP
1701 Pennsylvania Ave., N.W.
Suite 300
Washington, D.C. 20006

Linda Quick, President
South Florida Hospital and Healthcare Association
6363 Taft Street
Hollywood, Florida 33024

By: 
John T. Butler, P.A.