

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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RECORDS AND REPORTING

In Re: Petition for Determination)
of Need for an Electrical Power)
Plant in Polk County by Calpine)
Construction Finance Company, L.P.)

DOCKET NO. 000042-E
FILED: SEPTEMBER 26, 2000

MOTION FOR REVISED PROCEDURAL SCHEDULE

Calpine Construction Finance Company, L.P., ("Calpine") pursuant to Rule 28-106.204, Florida Administrative Code ("F.A.C."), hereby requests that the Prehearing Officer revise the procedural schedule in this proceeding regarding the time and manner in which all parties in this docket must file objections and responses to discovery requests.

In summary, Calpine is proposing that the Order Establishing Procedure (PSC-00-1615-PCO-EI, Sept. 11, 2000) (the "Procedural Order") be revised to provide that parties file objections to discovery requests within 7 days of service; that, to the extent practicable, parties file responses to discovery requests within 15 days of service; and that parties serve all objections and responses to discovery requests by hand delivery, facsimile transmission, or express courier service. In support of this request for a revision to the Procedural Schedule, Calpine states

APP as follows.

- APP _____
- CAF _____
- CMP 1
- COM 3
- CTR _____
- ECR 1
- LEG 1
- OPC _____
- PAI _____
- RGO _____
- SEC 1
- SER 1
- OTH _____

1. On September 11, 2000, the Prehearing Officer issued the Procedural Order establishing procedure for this docket. The Procedural Order provides that the Prehearing Officer "may issue any order necessary to effectuate discovery, prevent delay, and

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promote the just, speedy, and inexpensive determination of all aspects of this case." Procedural Order at 1.

2. By Order dated September 21, 2000, (Order No. PSC-00-1687-PCO-EI), the Prehearing Officer granted Florida Power & Light Company's ("FPL") and Florida Power Corporation's ("FPC") petitions to intervene in this docket. Calpine anticipates that it will serve discovery requests on FPL and FPC in the near future and expects to receive discovery requests from FPL and FPC within a similar time frame.

3. The hearing in this docket will occur on November 29-30 and December 1, 2000, and the discovery cutoff date is November 22, 2000. Procedural Order at 1. In addition, FPL's and FPC's direct testimony is due on October 16, 2000, Staff's direct testimony is due on October 23, 2000, Petitioner's rebuttal testimony is due on October 30, 2000, and the parties' supplemental testimony is due thereafter. Procedural Order at 5.

4. In view of these controlling dates, Calpine respectfully suggests that an expedited discovery schedule would be appropriate in this docket in order to prevent delay and to promote the speedy determination of the issues to be determined in this docket. In particular, Calpine is sensitive to the fact that FPL's and FPC's primary direct testimony and exhibits are due on October 16, 2000, such that without expedited discovery, neither FPL nor FPC would be able to have written discovery of Calpine with responses due before they must file their testimony.

Accordingly, Calpine has suggested what it believes to be a realistic, workable schedule that will accommodate FPL's and FPC's legitimate discovery needs in a manner that would enable them to have and process discovery materials prior to filing their primary direct testimony.¹ Indeed, Calpine expected FPL and FPC to serve discovery upon it immediately upon their being granted intervention in this proceeding, and Calpine stood ready to respond to such discovery in accordance with its proposed schedule. (Moreover, even though neither FPL nor FPC has inquired as to the availability of Calpine's witnesses for depositions, Calpine has, by letters dated September 26, 2000, advised FPL's and FPC's counsel of the availability of Calpine's witnesses for depositions within the next two weeks.) Specifically, Calpine proposes that all parties file objections to discovery requests within 7 days of service; that, where practicable,² all parties file responses to discovery requests within 15 days of service; and that all parties serve their objections and responses to discovery requests by hand delivery

¹ Ironically, counsel for both FPL and FPC have advised Calpine's counsel that they oppose the expedited discovery schedule suggested herein by Calpine.

² Calpine recognizes that certain discovery requests may be impossible to respond to within 15 days (e.g., if the request calls for analyses based on new computer modeling that cannot be completed within 15 days). Accordingly, Calpine proposes that if a party is served with such a request, that party coordinate with the requesting party to reach an agreeable alternative schedule.

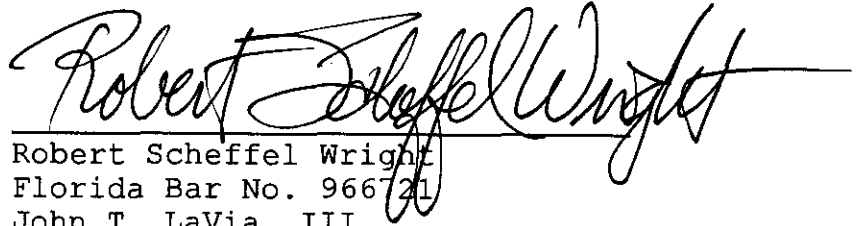
or facsimile transmission.

5. Neither FPL nor FPC should be prejudiced by the relief that Calpine is requesting through this motion. Indeed, one of the main purposes of Calpine's proposed schedule is to accommodate FPL's and FPC's interests in having discovery of Calpine in time to use the results thereof in their testimony that is due on October 16. Accordingly, in light of the benefits to be provided by the expedited schedule and in light of the absence of prejudice resulting therefrom, the Commission should grant Calpine's motion.

6. Counsel for Calpine has contacted counsel for FPL and FPC and has been authorized to represent that FPL and FPC oppose this motion. Calpine's counsel has also contacted counsel for the Commission Staff and has been authorized to represent that the Commission Staff take no position on this motion.

WHEREFORE, Calpine respectfully requests that the Prehearing Officer revise the Procedural Order in this docket to be consistent with the discovery procedures proposed in this motion.

Respectfully submitted this 26th day of September, 2000.

A handwritten signature in black ink, reading "Robert Scheffel Wright". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery (*), facsimile transmission (**), or U.S. Mail, on this 26th day of September, 2000, to the following:

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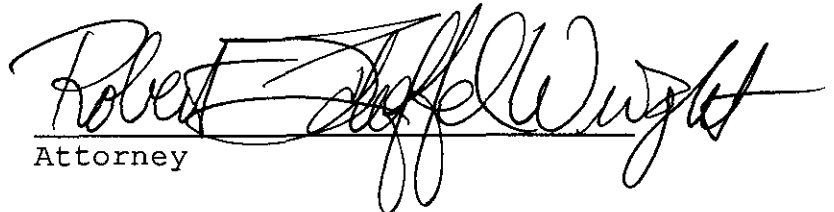
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