

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Florida Power & Light Company's
Petition for Approval of Arrangement to
Mitigate Impact of Unfavorable Cedar Bay
Power Purchase Obligation

Docket No.: 150075-EI

Filed: July 1, 2015

**FLORIDA AUDUBON SOCIETY, INC.'S
PETITION TO INTERVENE**

Pursuant to sections 120.569, 120.57, Florida Statutes, and rules 25-22.039 and 28-106.204, Florida Administrative Code, Florida Audubon Society, Inc. (FAS), through its undersigned counsel, files its Petition to Intervene. In support thereof, FAS states the following:

1. Name and address of agency. The affected agency is the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

2. Name and address of Petitioner. The name and address of the Petitioner is:

Florida Audubon Society, Inc.
4500 Biscayne Boulevard, Suite 205
Miami, Florida 33137
Telephone: (305) 371-6399

3. Petitioner's representative. Copies of all pleadings, notices and orders in this docket should be provided to:

Anna H. Upton, Esq.
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4. Notice of docket. Petitioner received notice of this docket by reading about the filing in the media. Petitioner subsequently reviewed the subject petition on the Commission's website.

5. Statement of substantial interests. FAS is a not-for-profit organization dedicated to restoring and conserving natural ecosystems, focusing on birds and their habitats. FAS has more than 28,000 members, 928 of which reside in Duval County, Florida.

6. Florida Power & Light Co. (FPL) seeks the Commission's approval of a transaction that is expected to result in the retirement of the Cedar Bay Generating Plant ("Cedar Bay Facility"), a 250 MW coal-fired power plant located in Duval County, Florida along the Broward River, which feeds into the St. Johns River. FAS and its members will be directly and substantially affected by the outcome of these proceedings. FAS has associational standing and should be permitted to intervene.

7. FAS and its members have used and enjoyed the invaluable wildlife, scenic, recreational, and water resources of the Broward River, St. Johns River and surrounding areas in and around Duval County, Florida. A substantial number of Petitioner's members engage in recreational activities, including boating, fishing, bird-watching, nature study and the observation of wildlife in Duval County and the surrounding counties, which are affected by emissions from and/or operations of the Cedar Bay Facility. FAS has a substantial interest in protecting the environment and natural resources its members utilize. Continued operation of the Cedar Bay Facility for a significant period of time is likely to result in environmental harm that affects FAS and its members; conversely, the early retirement of the Cedar Bay Facility, which is expected to occur if the PSC approves FPL's petition, will result in significant environmental benefits that are important to FAS and its members, such as lower carbon dioxide emissions and less water use.

8. While the Florida Public Service Commission often looks at transactions to determine how they affect ratepayers, “the public interest is the ultimate measuring stick to guide the PSC in its decisions.” *Gulf Coast Elec. Co-op., Inc. v. Johnson*, 727 So. 2d 259, 264 (Fla. 1999). In its petition, FPL raises environmental benefits that warrant consideration. As an environmental organization with members utilizing the surrounding areas, FAS and its members have substantial interests that may be affected by the outcome of this proceeding. Therefore, intervention by FAS should be granted.

9. Furthermore, FAS has members in all 32 counties serviced by FPL in Florida. For example, FAS has 169 members residing in Nassau County, an area serviced solely by FPL. FAS members who are serviced by FPL are, thus, ratepayers just like Florida Industrial Power Users Group’s members. Therefore, intervention should be granted on this ground as well.

10. Disputed issues of material fact. Disputed issues of material fact include, but are not limited to, the following:

- (a) Is the proposed purchase of the Cedar Bay Facility in the best interest of the public?
- (b) What environmental benefits are associated with purchasing the Cedar Bay Facility?

9. Disputed legal issues. None at this time.

10. Statement of ultimate facts alleged. Alleged ultimate facts include, but are not limited to, the following:

- (a) Whether FPL’s proposed Cedar Bay Plant acquisition benefits the public?

Additional alleged ultimate facts may be identified in the course of these proceedings.

11. Rules and statutes justifying relief. FAS is entitled to relief under the following legal authorities: Sections 120.569 and 120.57(1), Florida Statutes, and rules 25-22.039 and 28-106.204, Florida Administrative Code.

12. Position of parties regarding FAS's petition to intervene. The undersigned is authorized to represent that FPL and the Office of Public Counsel do not object to FAS intervening in this case. Florida Industrial Power Users Group objects to FAS's intervention.

WHEREFORE, FAS requests that the Commission enter an order allowing it to intervene and participate as a full party in this docket.

/s/ Anna H. Upton
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Audubon Society, Inc.'s Petition to Intervene has been furnished by electronic mail this 1st day of July, 2015 to the following:

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