



**William P. Cox**  
**Senior Attorney**  
**Florida Power & Light Company**  
**700 Universe Boulevard**  
**Juno Beach, FL 33408-0420**  
**(561) 304-5662**  
**(561) 691-7135 (Facsimile)**

December 1, 2015

**-VIA ELECTRONIC FILING-**

Ms. Carlotta S. Stauffer  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re: Docket No. 150196-EI**

Dear Ms. Stauffer:

Please find attached for filing in the above docket the Response of Florida Power & Light Company to the Motion for Reconsideration and Clarification filed by the Environmental Confederation of Southwest Florida, filed November 30, 2015. This letter, the Response, and a certificate of service together are being submitted via the Florida Public Service Commission's Electronic Filing Web Form as a single PDF file.

If there are any questions regarding this filing, please contact me at 561-304-5662

Sincerely,

*s/ William P. Cox*

William P. Cox  
Senior Attorney  
Florida Bar No. 0093531

WPC/msw

Enclosures

cc: Counsel for Parties of Record (w/encl.)

**CERTIFICATE OF SERVICE**  
**Docket No. 150196-EI**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail on this 1st day of December, 2015 to the following:

Kelly Corbari, Esq.  
Leslie Ames, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850  
kcorbari@psc.state.fl.us  
lames@psc.state.fl.us

Jon C. Moyle, Jr., Esq.  
Karen A. Putnal, Esq.  
Moyle Law Firm, P.A.  
Attorneys for FIPUG  
118 N. Gadsden St.  
Tallahassee, Florida 32301  
jmoyle@moylelaw.com  
kputnal@moylelaw.com

Charles Rehwinkel, Esq.  
Patricia Christensen, Esq.  
J.R. Kelly, Esq.  
Office of Public Counsel  
The Florida Legislature  
111 West Madison Street, Room 812  
Tallahassee, Florida 32399  
christensen.patty@leg.state.fl.us  
rehwinkel.charles@leg.state.fl.us  
kelly.jr@leg.state.fl.us

James Whitlock, Esq.  
Gary A. Davis, Esq.  
Davis & Whitlock, PC  
21 Battery Park Avenue, Suite 206  
Asheville, NC 28801  
jwhitlock@enviroattorney.com  
gadavis@enviroattorney.com

Bradley Marshall, Esq.  
Alisa Coe, Esq.  
David Guest, Esq.  
Earthjustice  
111 S. Martin Luther King Jr. Blvd.  
Tallahassee, Florida 32301  
bmarshall@earthjustice.org  
acoe@earthjustice.org  
dguest@earthjustice.org

George Cavros, Esq.  
Southern Alliance for Clean Energy  
120 E. Oakland Park Blvd., Suite 105  
Fort Lauderdale, FL 33334  
george@cavros-law.com

By: s/ William P. Cox  
William P. Cox  
Florida Bar No. 0093531

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for Determination of )  
Need for Okeechobee Clean Energy )  
Center Unit 1, by Florida Power & )  
Light Company )

Docket No. 150196-EI  
Date: December 1, 2015

**RESPONSE OF FLORIDA POWER & LIGHT COMPANY  
TO MOTION FOR RECONSIDERATION & CLARIFICATION FILED BY  
ENVIRONMENTAL CONFEDERATION OF SOUTHWEST FLORIDA**

Pursuant to Florida Public Service Commission (“Commission”) Rule 25-22.0376, F.A.C., Florida Power & Light Company (“FPL”), by and through its undersigned counsel, hereby files its response in opposition to the Motion for Reconsideration & Clarification of Order No. PSC-15-0540-PCO-EI (issued on November 20, 2015) (“Ruling”) filed by the Environmental Confederation of Southwest Florida (“ECOSWF”) on November 30, 2015. FPL opposes that motion and states as follows:

1. The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law that the Commission overlooked or failed to consider in rendering its order. *See Stewart Bonded Warehouse, Inc. v. Bevis*, 294 So. 2d 315 (Fla. 1974); *Diamond Cab Co. v. King*, 146 So. 2d 889 (Fla. 1962); *Pingree v. Quaintance*, 394 So. 2d 162 (Fla. 1<sup>st</sup> DCA 1981). A motion is not an appropriate vehicle to reargue matters that have already been considered. *Sherwood v. State*, 111 So. 2d 96 (Fla. 3d DCA 1959), *citing State ex rel. Jaytex Realty Co. v. Green*, 105 So. 2d 817 (Fla. 1<sup>st</sup> DCA 1958).

2. ECOSWF has failed to identify of any point of fact or law that the Prehearing Officer overlooked or failed to consider in his ruling denying additional issues proposed by the Southern Alliance for Clean Energy (“SACE”), addressing the 20% reserve margin reliability criterion (SACE Issues 1 and 2). The Prehearing Officer’s ruling on the requested additional issues is clear, complies with applicable Commission precedent and Section 403.519(3), Florida Statutes, and

addresses all points raised by ECOSWF in its instant motion. Including its own issues already rejected by the Prehearing Officer by the Prehearing Order (“Order No. PSC-15-0547-PHO-EI), ECOSWF is essentially asking the Commission a third time in this proceeding to decide whether the 20% reserve margin criterion applicable to all Peninsular Florida investor-owned utilities should be changed in FPL’s instant need determination proceeding or alternatively addressed in a generic proceeding.

3. As the Prehearing Officer has ruled, the Commission has already decided the express issue of addressing the 20% reserve margin outside of a generic proceeding and has consistently found the 20% reserve margin should be applied in an individual utility’s need proceeding unless changed in a generic proceeding.<sup>1</sup> Accordingly, FPL agrees with the Prehearing Officer that it would be improper to take up proposed SACE Issues 1 and 2 in this proceeding based on Commission precedent.

4. The arguments raised in ECOSWF’s motion simply regurgitate comments filed by ECOSWF and SACE on SACE proposed Issues 1 and 2 or are otherwise mischaracterizations of the Prehearing Officer’s ruling. First, despite the argument previously raised by SACE (and rejected by the Prehearing Officer) and raised again here by ECOSWF regarding interpretation of Section 8 of the Commission’s 1999 Stipulation Order (Order No. PSC-99-2507-S-EU) and its application to need determination proceedings, ECOSWF fails to recognize that the basis of the Prehearing Officer’s Ruling, as clearly stated, is the Commission’s decision in the *Hines 3* proceeding.

5. Second, this Ruling by the Prehearing Officer does not violate Commission Rule 25-6.035, F.A.C., which addresses a 15% requirement for shared reserves. The rule states clearly that it is not intended to set a prudent level of reserves for long-term planning or reliability purposes.

---

<sup>1</sup> See, *In re: Petition to determine need for Hines Unit 3 in Polk County by Florida Power Corporation*, Order No. PSC-03-0175-FOF-EI (February 4, 2003) (“*Hines 3*”) (“The proper forum to address what minimum reserves are necessary should be in a generic docket, as was previously done, and not in a particular utility’s power plant need determination docket.”).

6. Third and finally, the “broad reading” of the Ruling advocated by ECOSWF in paragraph 5 of its motion clearly mischaracterizes the Ruling. Nowhere does the Ruling preclude evidence regarding reliability in this proceeding, and it certainly does not state that the “Commission must grant a need determination proceeding” if FPL properly projects its reserve margin will drop below 20%.

7. Accordingly, ECOSWF’s motion for reconsideration should be denied.

WHEREFORE, FPL respectfully requests that the Commission deny ECOSWF’s Motion for Reconsideration.

Respectfully submitted this 1st day of December, 2015.

Charles A. Guyton, Esquire  
Gunster Law Firm  
215 South Monroe Street  
Suite 601  
Tallahassee, Florida 32101-1804  
Telephone: (850) 521-1722  
Facsimile: (850) 671-2505  
cguyton@gunster.com

William P. Cox, Senior Attorney  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408  
Telephone: (561) 304-5662  
Facsimile: (561) 691-7135  
will.cox@fpl.com

By s/ William P. Cox  
William P. Cox  
Florida Bar No. 0093531