

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power)
Cost Recovery Clause and Generating)
Performance Incentive Factor)
_____)

NOV -2 PM 4: 34
DOCKET NO. 040001-EL
COMMISSION
CLERK
DATED: November 2, 2004

**CALPINE CORPORATION'S WITHDRAWAL OF MOTION TO QUASH
SUBPOENA FOR DEPOSITION ISSUED BY
FLORIDA POWER & LIGHT COMPANY**

On or about October 20, 2004, Florida Power & Light Company ("FPL") presented Calpine Corporation ("Calpine") with a Subpoena for Deposition, pursuant to which FPL indicated its intent to take the deposition of a corporate representative of Calpine. On October 26, 2004, Calpine responded by filing a Motion to Quash and Response to FPL's Subpoena, pointing out, *inter alia*, that the Subpoena was defective on its face but that Calpine welcomed the opportunity to present additional information to FPL regarding the alternative power supply proposal proffered by Calpine to FPL, which proposal represents (Calpine believes) a more cost-effective wholesale resource for Florida ratepayers than the proposed extension of the FPL arrangement with Southern Company. Accordingly, Calpine's Response offered to cooperate with FPL in scheduling a deposition of Mr. Jerry Fudge, as Calpine's corporate representative with regard to most of the issues identified in the Subpoena, if FPL would issue and serve a proper Subpoena.

CMP _____ For informational purposes, and in an attempt to cooperate with FPL, Calpine also
COM _____ attached to its Motion to Quash a copy of the indicative proposal that was submitted to
CTR _____ FPL and background information regarding Calpine's Hillabee Energy Center.
ECR _____ Calpine's offer to produce Mr. Fudge for deposition was conveyed to FPL's
GCL _____ counsel, but upon consideration, FPL indicated that it no longer wished to take Mr.
OPC _____ Fudge's deposition.
MMS _____

RCA _____
SCR _____
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In view of, and relying upon, the fact that FPL has indicated that it does not wish to depose Mr. Fudge, Calpine hereby respectfully withdraws its Motion to Quash.

Respectfully submitted this 2nd day of November, 2004.

A handwritten signature in cursive script that reads "Robert Scheffel Wright". The signature is written in black ink and is positioned above a horizontal line.

Robert Scheffel Wright
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and fifteen copies of the foregoing has been filed with the Clerk's Office, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399 and that a true and correct copy of the foregoing has been served by U.S. Mail or hand delivery (*) or facsimile transmission (**) this 2nd day of November, 2004.

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