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November 19, 1998

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, FL 32399

Re: Docket No. 981042-EU

Dear Ms. Bayo:

Enclosed for filing please find an original and fifteen (15) copies of Florida State Building & Construction Trades Council's Petition for Leave to Intervene in the above-referenced case.

Very truly yours,

John F. Kattman
(Signed in Mr. Kattman's
absence to avoid delay)

ACK 2
AFA _____
APP JFK/bbr
CAF _____
CMU Enclosures
CTR cc: All Parties of Record
EAG Futrell
LEG 3
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OPC _____
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SEC 1
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Joint Petition for Determination)
of Need for an Electrical Power Plant in)
Volusia County by the Utilities) DOCKET NO. 981042-EU
Commission, City of New Smyrna Beach,)
Florida, and Duke Energy New Smyrna)
Beach Power Company, Ltd., L.L.P.,)

**FLORIDA BUILDING & CONSTRUCTION
TRADES COUNCIL'S PETITION FOR LEAVE TO INTERVENE**

Florida Building & Construction Trades Council, AFL-CIO, pursuant to Florida
Administrative Code Rule 25-22.039, petitions the Florida Public Service Commission for leave
to intervene in Docket No. 981042, and states:

INTRODUCTION

1. The name and address of the affected agency are:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

2. The name and address of the petitioner are:

Florida Building & Construction Trades Council, AFL-CIO
104 W. Jefferson Street
Tallahassee, Florida 32301

3. All pleadings, motions, orders and other documents directed to the petitioner are

to be served on:

John F. Kattman
Attorney for Petitioner
1920 San Marco Boulevard
Jacksonville, Florida 32207

DOCUMENT NUMBER-DATE

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**PETITIONER HAS INTERESTS WHICH WILL BE
DETERMINED AND AFFECTED IN THIS PROCEEDING**

4. Florida Building & Construction Trades Council is a not for profit corporation representing construction units that represent construction workers. The construction workers represented by petitioner include, but are not limited to, electricians, plumbers and pipefitters, heating and air conditioning mechanics, cement masons, sheet metal workers, carpenters, millwrights, ironworkers, insulators, boilermakers, operating engineers, painters, bricklayers, sprinklerfitters, and laborers. The Petitioner represents approximately 75,000 construction workers state-wide, and approximately 3,000 to 5,000 construction workers in the New Smyrna immediate area.

5. It is our understanding that under the Florida Electrical Power Plant Siting Act, Sections 403.501 to 403.518, Florida Statutes, that a determination of need must be shown before siting can be granted. The legislative intent, as contained in 403.502, F.S., requires that courses of action are to be sought that will fully balance the increasing demands for electrical power plant location and operation with the broad interests of the public, and in determining whether an application submitted should be approved, the Board is to ensure that the broad interests of the public will be served and protected (403.5175(4), F.S.).

6. It is our understanding that reports are to be filed that address the impact on the public of the proposed electrical power plant, and that studies of the proposed electrical power plant and site are to include studies concerning construction and operational safeguards. The construction workers represented by petitioner are part of the public affected by the building/construction of the proposed electrical power plant, and their interests are directly impacted by any construction projects performed in the area in which the power plant in question

is to be built.

7. Duke Energy New Smyrna Beach Power Company, Ltd., L.L.P. ("Duke") is proposing building a 514 MW power plant and to our knowledge does not have a firm contract to sell any of this capacity. Duke has not shown a need for this capacity in the state of Florida, nor, to our knowledge, has it been shown by Duke that there are adequate construction and operational safeguards and that the interests of the public affected, which includes the persons represented by petitioner, will be protected, or that the construction methods, in which the persons represented by petitioner have a vested interest, provide adequate construction and operational safeguards.

8. With no firm contract or an obligation to serve, Duke has no penalty for creating volatility in the Florida power grid with its operating practices.

9. Duke has no obligation to serve, as do the regulated utilities in the state of Florida. This alone could give Duke an unfair competitive advantage in the power market, creating uncertainty for persons represented by petitioner and their job security. Additionally, it is petitioner's position/request that if Duke is permitted to construct the power plant in question, consideration should be given to the impact on the affected construction workers during the construction phase, as well as during the subsequent maintenance of the facility.

10. If the Commission were to grant Duke's request to build this plant, with no determination of need shown, or any firm contract(s) to sell the resulting capacity, this would open the door for any and all electric power producers to build in Florida, to export power out of the state, thus creating the very situation the Legislature hoped to avoid by enacting the Power Plant Siting Act.

11. If Duke is allowed to build this 514 MW plant and cannot sell within Florida, this

capacity may be "exported" outside the state, thus limiting the capacity of our transmission lines that were built and designed for the use of Florida's electric users.

12. If this unregulated plant is built and used as reserve capacity without firm contracts in lieu of a regulated electrical utility building capacity, Floridians may suffer in times of high demand. The unregulated plant with no obligation to serve, will sell to the highest bidder without regard to the needs of Florida consumers. This could lead to brownouts causing unsafe conditions for our members and the general public.

13. Duke has no obligation to serve, cannot show a need for this capacity in Florida, and has not demonstrated that the interests of the public will be protected in the construction phase and maintenance phase of the power plant in question. Because Florida Building & Construction Trades Council, has substantial interests which will be determined in this proceeding and because Florida Building & Construction Trades Council and the members it represents may be adversely affected by the outcome of this proceeding, petitioner believes it should be allowed to intervene in these proceedings.

WHEREFORE, Florida Building & Construction Trades Council, respectfully requests this Commission to allow it to intervene and take part as a party to this proceeding.

JOHN F. KATTMAN, P.A.
Attorneys for Florida Building &
Construction Trades Council
1920 San Marco Boulevard
Jacksonville, Florida 32207
(904) 398-1229

By: _____


John F. Kattman
Florida Bar No. 206210

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been furnished by U.S. Mail, this 19th day of November, 1998, to the following the following parties of record:

Leslie J. Paugh, Esquire
Legal Division
Florida Public Service Commission
2540 Shumard Oak Boulevard, Room 370
Tallahassee, Florida 32399

Duke Energy/Utilities Commission
Robert Scheffel Wright, Esquire
John T. LaVia, III, Esq.
Landers & Parson, P.A.
P. O. Box 271
Tallahassee, Florida 32302

Ronald L. Vaden, Utilities Director
Utilities Commission
City of New Smyrna Beach
P. O. Box 100
New Smyrna Beach, FL 32170

Kelly J. O'Brien, Manager
Structured Transactions
Duke Energy Power Services LLC
5400 Westheimer Court
Houston, TX 77056

Tampa Electric
c/o Lee Willis, Esq.
P.O. Box 391
Tallahassee, FL 32302

Florida Electric Cooperatives Assoc., Inc.
c/o Michelle Hershel
P.O. Box 590
Tallahassee, FL 32302

Florida Power & Light Co.
c/o Matthew Childs, Esq.
215 S. Monroe St., #601
Tallahassee, FL 32301

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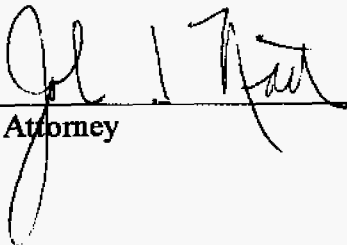
Florida Power Corporation
c/o Gary Sasso, Esq.
P.O. Box 2861
St. Petersburg, FL 33731

The Utilities Commission
c/o Steven G. Gey
Florida State University
Tallahassee, FL 32306

Legal Environmental Assistance Foundation, Inc.
Gail Kamaras, Director
1114-E Thomasville Road
Tallahassee, FL 32303-6290

U.S. Generating Company
c/o John Moyle, Esq.
210 S. Monroe St.
Tallahassee, FL 32301

Duke Energy New Smyrna Beach Power Company
c/o Mark Seidenfeld
Florida State University College of Law
Tallahassee, FL 32306-1601



Attorney

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