STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MICHELE M. YOUNG, Petitioner, vs. DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION, Respondent.	)	Case No. 03-1140

RECOMMENDED ORDER

Upon due notice, a disputed-fact hearing was conducted in this case on May 19, 2003, in Tallahassee, Florida, before the Division of Administrative Hearings by its duly-assigned Administrative Law Judge, Ella Jane P. Davis.

APPEARANCES

For Petitioner: Michele M. Young, pro se
1732 Augustine Place
Tallahassee, Florida 32301

For Respondent: Michael Wheeler, Esquire,
Department of Business and
Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399

STATEMENT OF THE ISSUES

Whether Respondent is guilty of an unlawful employment practice by discrimination against Petitioner on the basis of race and/or in retaliation against a protected expression.

PRELIMINARY STATEMENT

This cause originated by a Charge of Discrimination based solely on race filed on or about December 10, 2001, with the Florida Commission on Human Relations.

The Commission entered a Notice of Determination: No Cause on March 10, 2003, and a Petition for Relief was referred to the Division of Administrative Hearings on or about March 31, 2003. No issue as to the timeliness of the Petition has been raised.

At the disputed-fact hearing held May 19, 2003, Respondent orally objected to any evidence of "retaliation" because that issue had not been raised in the Charge of Discrimination. Evidence intended to demonstrate retaliation was admitted, subject to determination of jurisdiction in this Recommended Order. (TR-36) [1/]

Petitioner presented the oral testimony of Najla Burt, Keyon Copeland, and Everett Thompson, and testified on her own behalf. Petitioner proffered one exhibit (P-1), which was not admitted in evidence. Respondent presented no oral evidence. Exhibit ALJ-A, which is the Charge of Discrimination,[2/] and Joint Exhibit One, were also admitted in evidence.

A Transcript was filed on June 2, 2003. The parties' respective timely-filed Proposed Recommended Orders have been considered in preparation of this Recommended Order. However,

the materials attached to Petitioner's proposal which were not admitted into evidence at the hearing have not been considered.

FINDINGS OF FACT

1. Petitioner, an African-American female, was employed by Respondent Employer for 53 days, from October 15, 2001, to December 6, 2001.

2. Respondent is an agency of the executive branch of Florida's State government, created under Chapter 20, Florida Statutes. As such, the undersigned infers that the real employer is the State of Florida, and therefore more than 15 employees work for Respondent.

3. During the whole of Petitioner's employment with Respondent she was an "other personnel services" (OPS) employee. This means that she was paid an hourly rate, for each hour worked, at a rate set by the Respondent's Division Director and the immediate supervisor, in conjunction with the budget office. Her employment fell under the "temporary" category of OPS personnel, hired to work until a specific short-term project/task was completed. There are opportunities to extend the period for which an OPS employee is hired, but there is no guarantee of extensions or of continued employment. OPS employees may be removed from the OPS payroll at any time based upon work performance, upon completion of the project/task for which employed, or for any other reason.

4. Petitioner was hired-on by Respondent at $7.00 per hour. She worked at least eight hours per day, five days per week.

5. For approximately the first four weeks of Petitioner's employment with Respondent, Petitioner and a "white" female employee, Julia Gilbert, typed deficiency letters and answered phones. Ms. Gilbert was also an OPS employee who worked at least an eight hours per day. No evidence of Ms. Gilbert's hourly wage was presented.

6. In most instances, OPS employees are paid at the minimum of the class of career service employees whose duties are comparable.

7. Petitioner and Ms. Gilbert were performing the duties of a Regulatory Specialist I.

8. Another African-American woman, Najla Burt, had been hired in August 2001. At all times material, Ms. Burt performed the duties of an application reviewer. She was paid $10.00 per hour, to work for at least eight hours per day. She continued to be employed by Respondent as of the date of hearing. Although there was no specific testimony on this point, it may be inferred from Ms. Burt's hourly rate that she was/is classified as OPS personnel, but there is no clear evidence that as an "application reviewer" she would have fallen into the Regulatory Specialist I category.

9. Mr. Everett Thompson, an African-American male, hired Ms. Burt and claimed to have hired Petitioner. Petitioner denied that Mr. Thompson hired her, but conceded that she reported to him as her immediate superior and to Shirley Rodgers, a "white" female, who was a higher level superior, and that Mr. Thompson fired Petitioner on December 6, 2001.[3/]

10. Petitioner's perception was that Mr. Thompson terminated her because he is "prejudiced" and that he discriminated against her as an African-American when he terminated her without also terminating the "white" employee, Ms. Gilbert.

11. Aside from her termination being without warning, Petitioner's offered proof of Mr. Thompson's racial prejudice revolves around an office party. Petitioner, Mr. Thompson, Ms. Burt, and other employees were present. Everyone present was African-American except for two employees whose race is not of record. The undersigned infers, from the evidence as a whole, that these two employees were "white." Mr. Thompson testified that, as a joke, and to avoid eating chocolate cake, which he dislikes, he said, "I don't eat anything darker than me." He testified that he felt his "joke" was acceptable due to the predominance of African-American employees at the gathering. Petitioner and Ms. Burt heard Mr. Thompson's remark differently. Their testimony is consistent on this issue and more credible,

to the effect that, in fact, Mr. Thompson said, "I don't like anything that is blacker than me or eat anything that is blacker than me."

12. There is no evidence to support a finding that Petitioner is a darker- or lighter-skinned African-American than Mr. Thompson.[4/]

13. With regard to the allegations of disparate treatment of Petitioner and Ms. Gilbert, Petitioner, Ms. Burt, and Mr. Copeland testified that Ms. Gilbert and Petitioner were assigned to answer phone inquiries and Ms. Gilbert repeatedly unplugged her phone to avoid this duty. Petitioner and Ms. Burt testified that Mr. Thompson and Ms. Rodgers held a meeting of all office personnel and announced that anyone unplugging his or her phone in order to avoid having to answer it would be automatically terminated, and that Ms. Gilbert was not terminated for unplugging her phone or for not answering it, even when Ms. Gilbert again unplugged her telephone after the departmental warning.

14. Mr. Thompson's testimony is credible that several employees, in addition to Petitioner, reported to him that Ms. Gilbert was unplugging her phone but that when he approached Ms. Gilbert about the problem, Ms. Gilbert told him that she had not unplugged her phone. He further testified credibly that when he personally checked Ms. Gilbert's phone, he determined that it

was, in fact, plugged-in, and that as a result, he had believed Ms. Gilbert over the other employees. Mr. Thompson also testified that, in the interests of resolving the issue and as a management technique, he went so far as to announce in a meeting with all employees that if anyone did unplug his or her phone, that person would be reprimanded. I accept Mr. Thompson's foregoing testimony as credible, except that Petitioner and her witnesses are more credible to the limited effect that Mr. Thompson and Ms. Rodgers together made a blanket threat of automatic termination, not just reprimand, of anyone found to have unplugged his or her telephone.

15. Ms. Gilbert was not terminated for unplugging her phone or for not answering one. No one testified that Petitioner was terminated for unplugging a telephone or for not answering one.

16. Petitioner also maintained that she was terminated in retaliation for asking Ms. Rodgers why she, Petitioner, was not being paid $10.00 per hour, which Petitioner understood was base pay for her position if she had been a permanent career service employee. However, all Petitioner was able to relate on this issue was that Ms. Rodgers had told her "all OPS employees make the same hourly rate," and Petitioner knew this was not so. Ms. Burt apparently escorted Petitioner to Ms. Rodgers' office and Petitioner told her on the way what she intended to say to Ms.

Rodgers, but neither Ms. Burt nor any other witness was in the room during Petitioner's and Ms. Rodgers' conversation. Petitioner apparently had no other direct dealings with Ms. Rodgers after this conversation and was not terminated until two weeks after this conversation. Petitioner was terminated by Mr. Thompson, not by Ms. Rodgers.

17. Mr. Thompson denied that race had anything to do with terminating Petitioner. He related that he had received oral complaints about Petitioner's work from processors. None of these complaints was formalized in writing or placed in Petitioner's personnel file. Mr. Thompson privately corrected Petitioner for misspellings and other typographical errors she made typing deficiency letters during her first four weeks. He also privately corrected Ms. Gilbert for the same sort of spelling and typographical errors, but he also determined that Ms. Gilbert was making far fewer errors than Petitioner. He further determined that Petitioner's deficiency letters were not being done as fast as Ms. Gilbert's letters. He required that each woman correctly re-type her own work.

18. After approximately four weeks, Mr. Thompson moved Petitioner to a data-entry position which required less skill. After approximately two more weeks, he found that Petitioner also was neither fast enough nor accurate enough in her new duties to suit him. Mr. Thompson felt he had no obligation to

explain his motivations or reasons for termination to OPS personnel, and he simply fired Petitioner.

19. Mr. Thompson admitted that on two occasions, Petitioner had asked him why she was not earning $10.00 per hour just after he had given her instructions to perform duties appropriate to her project/task. Mr. Thompson was not the immediate superior designated by the employer to set OPS salaries so Petitioner's pay inquiries irritated him, but he testified that he did not retaliate with termination as a result of her pay inquiries. It was Petitioner's overall attitude which was objectionable to him, not just her inquiries about pay. He related that whenever he asked Petitioner to answer the phone, she asked why she had to answer the phone instead of his assigning the task to another similarly-situated employee and that once he justified that order, Petitioner would then immediately ask him if she and the other similarly-situated employee could take turns answering the phone. This type of negotiation was Petitioner's response to many of his instructions. Petitioner never directly refused an order from him, but Mr. Thompson resented her attitude in never simply complying with his orders as her supervisor and her turning his every instruction into a negotiation.

20. Petitioner testified that she was doing her job well; received compliments from her two superiors; and got no prior

warning she would be terminated. Ms. Burt testified that Petitioner was performing her job duties and responsibilities "to the best of her ability" when she was fired. Mr. Keyon Copeland, an African-American male OPS co-worker, testified that Petitioner was performing her job well and worked through lunch and coffee breaks and worked after regular hours to help other employees but she was then fired without warning. He felt "the situation was not handled right." However, neither Ms. Burt nor Mr. Copeland was a superior of Petitioner or of Ms. Gilbert. Neither of them was ever called upon to formally evaluate Petitioner's or Ms. Gilbert's job skills or performance for the employer. Neither Ms. Burt nor Mr. Copeland claimed to have any experience or expertise in employee performance evaluations. Their evidence was essentially anecdotal.

21. Mr. Thompson has held supervisory positions for many years and has evaluated many employees. He credibly denied that race had anything to do with his decision to fire Petitioner. Upon the evidence as a whole, most particularly the fact that Mr. Thompson is an African-American and he did not terminate other African-Americans including Ms. Burt and Mr. Copeland, it is found that Mr. Thompson's perception of Petitioner was that she alone had an attitude problem and that this perception, coupled with his assessment that her job performance was not adequate, motivated him to terminate Petitioner.

CONCLUSIONS OF LAW

22. The Division of Administrative Hearings has jurisdiction over the parties and subject matter of this cause, pursuant to Chapter 760, Part I, and Section 120.57(1), Florida Statutes.

23. In resolving this dispute, reference may be made to the precedents addressing Title VII of the Civil Rights Act of 1964, as amended, 42 U. S. C. Section 2000e, et seq., See Florida Dept. of Community Affairs v. Bryant, 580 So. 2d 1205 (Fla. 1st DCA 1991)], and similar anti-discriminatory legislation.

24. Petitioner did not check the box for "retaliation" on her December 10, 2001, Charge of Discrimination and nothing in that Charge would alert one to an allegation of discrimination by retaliation. Therefore, the issue of retaliation is time-barred and may not be addressed herein. The Division of Administrative Hearings is without jurisdiction of the retaliation claim because it was not raised in the initial Charge of Discrimination before the Florida Commission on Human Relations. New or different types of discrimination cannot be alleged in the Petition for Relief or at the disputed-fact hearing under Section 120.57(1), Florida Statutes, unless they have been alleged in the Charge of Discrimination. The Commission must first investigate the allegations of the Charge,

and only when the Commission has entered its "proposed final agency action," by way of a "determination" of cause or no cause on the contents of the Charge, may a Petition for Relief attacking that proposed final agency action be filed. Because more than 365 days have passed since Petitioner's termination, her Charge cannot now be amended, nor a new one filed. See Section 760.11(1), Florida Statutes; Williams v. Shands at Alachua General Hospital and Santa Fe Health Care, DOAH Case No. 98-2539, (Recommended Order January 8, 1999; Final Order July 16, 1999); Luke v. Pic 'N' Save Drug Company, Inc., DOAH Case No. 93-4425, (Recommended Order August 25, 1994; Final Order December 25, 1994); Austin v. Florida Power Corp., DOAH Case No. 90-5137, (Recommended Order June 20, 1991; Final Order October 24, 1991). See also Haynes v. State of Florida, 1998 W. L. 271462, U. S. D. C. So. Dist. 254 (6th Cir. 1998); 11 Fla. L. Weekly Fed. D497, 499; Abet v. TransAmerica Mailings, Inc., 159 F. 3d 246, 254 (6th Cir. 1998); Auston v. Schubnell, 116 F. 3d 251, 254 (7th Cir. 1997).

25. Furthermore, simply inquiring about one's rate of pay is not the type of activity normally associated with an retaliation claim. Even stretching the holding of Pipkins v. City of Temple Terrace, Florida, 267 F. 3d 1197, 1201 (11th Cir. 2001), which held that internal complaints constitute a protected expression, farther than the court intended it to go,

Petitioner's complaint to the accused discriminator(s), as opposed to complaining up the chain of command or to the personnel office about the alleged salary discrepancy, cannot be considered a protected expression. The termination was remote in time from Petitioner's inquiry of Ms. Rodgers, and Ms. Rodgers did not terminate Petitioner. Mr. Thompson credibly denied any involvement with setting pay rates. Even more to the point, unless the pay disparity complained-of was somehow tied to another form of discrimination, i.e. discrimination in pay based on race, it is probably unprotected expression, anyway.

26. To prevail on a claim of "retaliation" a Petitioner must establish (1) a statutorily protected expression; (2) an adverse employment action; and (3) a causal link between the two events. Petitioner herein has not established a prima facie case, but even if she had done so, once a Petitioner establishes his prima facie case, the employer must offer a legitimate, non-discriminatory reason for the adverse employment action of termination. If the employer offers legitimate reasons for the employment action, the Petitioner must then demonstrate that the employer's proffered explanation is a pretext for retaliation. Bass v. Board of County Commissioners, Orange County, 242 F. 3d 996, 1013 (11th Cir. 2001); Bermen v. Orkin Exterminating Company, Inc., 161 F. 3d 697 (11th Cir. 1998); Simmons v. Camden County Board of Education, 757 F. 2d 1187 (11th Cir. 1985) cert.

den. 474 U.S. 981, 106 S.Ct. 385, 88 L.Ed. 2nd 338 (1985). Ultimately, even if Petitioner's retaliation claim were cognizable in this forum, the undersigned is not persuaded with regard to Petitioner's retaliation claim for the same reasons given below with regard to her racial discrimination claim.

27. Petitioner bears a very heavy burden herein. In Department of Corrections v. Chandler, 582 So. 2d 1183 (Fla. 1st DCA 1991), the Florida Supreme Court analyzed the types of claims under the Florida Civil Rights Act as follows:

> The United States Supreme Court set forth in procedure essential for establishing such claims in McDonnell Douglas Corp. v. Green, 41 U.S. 792 (3 S.Ct. 1817, 36 L.Ed. 2d 668 (1973), which was then revisited in detail in Texas Department of Community Affairs v. Burdine, 450 U.S. 248, 101 S.Ct. 1089, 67 L.Ed. 2d 207 (1981). Pursuant to the Burdine formula, the employee has the initial burden of establishing a prima facie case of intentional discrimination, which once established raises a presumption that the employer discriminated against the employee. If the presumption arises, the burden shifts to the employer to present sufficient evidence to raise a genuine issue of fact as to whether the employer discriminated against the employee. The employer may do this by stating a legitimate, nondiscriminatory reason for the employment decision; a reason which is clear, reasonable specific, and worthy of credence. Because the employer has the burden of production, not one of persuasion, which remains with the employee, it is not required to persuade the trier of fact that its decision was actually motivated by the reason given. If the employer satisfies the burden, the employee must then persuade the

> fact finder that the proffered reasons for the employment decision was pretext for intentional discrimination. The employee must satisfy this burden by showing directly that a discriminatory reason more likely than not motivated by the decision, or indirectly by showing that the proffered reasons for the employment decision is not worthy of belief. If such proof is adequately presented, the employee satisfies his other ultimate burden of demonstrating by a preponderance or evidence that he or she has been the victim of intentional discrimination (citation omitted).

28. It is not fairly debatable whether Mr. Thompson's comment over the chocolate cake was in bad taste. Clearly, it was in bad taste. Petitioner and her female African-American friend, Ms. Burt, took offense at it and rightfully so, but whether it constitutes evidence of racial prejudice is a different issue. The remark was a one-time event and not so pervasive as to create an abusive work environment. See Meritor Savings Bank, FSB v. Vinson, 477 U.S. 57, 106 S. Ct. 2399, 91 L.Ed. 2nd 49 (1986). Clearly, the remark was far removed in time and content from Petitioner's termination. Also, no direct casual link between Mr. Thompson's chocolate cake remark and Petitioner's termination was shown. Therefore, the remark does not demonstrate discrimination in and of itself. However, Mr. Thompson's remark still could indicate that a discriminatory intent for Petitioner's termination was more likely than the

reason given by him. Accordingly, the comment has been considered in that context.

29. Petitioner has established that she is a member of a protected class: African-American. Petitioner has established that she was terminated and that a "white" co-employee, Ms. Gilbert, was not terminated. However, Petitioner has not established that she and Ms. Gilbert were similarly-situated employees who were treated differently. Assuming, arguendo, but not ruling, that Ms. Gilbert should have been terminated for unplugging her phone, all that Petitioner has established is that Ms. Gilbert was not terminated for that reason. Petitioner has not proven that she, as an African-American woman, was treated differently than Ms. Gilbert, a "white" woman, because Petitioner has not proven that she, the African-American, was terminated for unplugging her phone while the "white" employee was not terminated for unplugging her phone. Therefore, in this context, the chocolate cake comment is immaterial, and Petitioner has not made a prima facie case.

30. Assuming, but again not ruling, that Petitioner has met her prima facie burden as to disparate treatment merely by proving she is a member of a protected class and was terminated, Respondent employer has articulated a legitimate, non-discriminatory reason for the decision to terminate: Petitioner's bad attitude and poor performance. That reason is

specific and worthy of credence. Because the burden on the employer is light, that of production only, not persuasion, the burden of persuasion shifts again to Petitioner to show that Mr. Thompson's employment decision was a pretext for intentional discrimination, and she has not done so. Mr. Thompson's crude comment over the chocolate cake notwithstanding, there is insufficient evidence here to demonstrate that the reasons for termination given by the employer are not worthy of belief. See Hollifield v. Reno, 115 F.3d. 1555 (11th Cir. 1997); Isenburgh v.Knight-Ridder Newspaper Sales, Inc. 97 F.3d. 436 (11t Cir. 1996). Proof that an employer's proffered reason is unpersuasive, or even obviously contrived, does not necessarily establish that a plaintiff's proffered reason [of discrimination] is correct; in other words, it is not enough to disbelieve the employer, but, instead, the fact-finder must [also] believe the plaintiff's explanation of intentional discrimination. Reeves v. Sanderson Plumbing Products, Inc., 120 S. Ct. 2097 (2000).

31. Petitioner thought she was doing a good job. Petitioner's friends and co-workers thought she was doing a good job. Mr. Thompson did not agree. Mr. Thompson may have been a less than compassionate supervisor because he terminated Petitioner so close to Christmas 2001, or because he did not give her a clear understanding of why he was letting her go, but

compassion and good management skills are not the test. For instance, it is the manager's perception of a plaintiff's performance that is relevant in determining whether the proffered reason for adverse employment action [is discriminatory], not the plaintiff's subjective evaluation of his own relative performance. Furr v. Seagate Technology, Inc., 82 F. 3d 980 (10th Cir. 1996).

32. In Florida, an employer may terminate an employee for a good reason, a bad reason, a reason based on erroneous facts, or for no reason at all, as long as its action is not for a discriminatory reason. Nix v. WLCY Radio Rahall Communications, 738 F.2d. 1181 at 1187 (11th Cir. 1984). See also Loeb v. Textron, Inc., 1600 F.2d. 1003 (1st Cir. 1979).

33. In Chandler supra, the then-hearing officer concluded that the reasons articulated by the employer for recommending a non-minority employee for promotion were pretextual and that the recommendation committee had been persuaded not to recommend an African-American employee because it would jeopardize the candidacy of a long-time friend. The First District Court of Appeal ruled that although the reasons given by the employer were perhaps a pretext to disguise a promotion based on friendship, these reasons did not amount to a pretext to disguise the existence of racial discrimination.[5/] See also Holder v. City of Raleigh, 867 F.2d 823 (4th Cir. 1989) (no

discrimination shown in promotion of employer's son rather than Black plaintiff); Antry v. North Carolina Dept. of Human Resources, 820 F.2d 1384, 1385 (4th Cir. 1987) (promotion of interviewer's white friend rather than Black plaintiff did not establish racial discrimination); DeCinto v. Westchester County Medical Center, 807 F.2d 304 (2nd Cir. 1986) (seven males did not prove discrimination on the basis of gender when they established that program administrator filled a position with a qualified woman with whom the administrator had a romantic relationship) cert. den. 484 U.S. 825 108 S. Ct. 89, 98 L.Ed. 2d 50 (1987). Even if Mr. Thompson's reason for firing Petitioner was solely the subjective reason that her attitude irritated him, without the additional poor performance reasons given, he could legitimately fire her for that reason, provided he was not firing her because of her race. Overall, Petitioner has failed to persuade that race played any part in her termination.

34. Petitioner has not been persuasive that the "attitude" and "poor performance" reasons given for her termination are pretextual. Therefore, she cannot prevail herein.

35. The foregoing Findings of Fact and Conclusions of Law do not amount to a ruling that Petitioner was terminated for good cause or in a compassionate manner. They amount only to a conclusion that she did not prove or persuade that she was terminated in retaliation for a protected expression or for a

racially discriminatory reason precluded by Chapter 760, Florida Statutes.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Florida Commission on Human Relations enter a final order dismissing the Charge of Discrimination and Petition for Relief.

DONE AND ENTERED this 1st day of July, 2003, in Tallahassee, Leon County, Florida.

ELLA JANE P. DAVIS
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 1st day of July 2003.

ENDNOTES

[1/] Petitioner's claim based on retaliation is barred by Chapter 760, Florida Statutes. (See Conclusions of Law.)

[2/] The Transcript Index erroneously lists this as "Transmittal of petition sent to DOAH by the Human Relations Commission." See TR-24, for the correct exhibit description.

[3/] Petitioner asserted only in her oral closing argument (not her testimony subject to cross-examination) that Ms. Rodgers was "white." She asserted only in her post-hearing proposal that Ms. Rodgers had participated in her termination. Petitioner also only asserted for the first time in her post-hearing proposal that Ms. Elise Mathis had hired her. The race of Ms. Mathis was not disclosed at any point. Because Petitioner both represented herself and was a sworn witness, her statement concerning Ms. Rodgers' race will be considered as if it had been given in evidence. However, her Proposed Recommended Order is not evidence and is partially contrary to her own testimony at trial. Her proposed fact that Ms. Rogers participated in firing her is rejected as evidence and as a proposed finding of fact.

[4/] The undersigned specifically inquired if skin hue or shade had some relevance to Petitioner's Charge of Discrimination (TR-27). Petitioner stated that hue or shade did matter, but she offered no evidence on that issue or to distinguish herself from Mr. Thompson or other African-American employees in that regard. The undersigned is unable, by observation, to note that Petitioner has a darker or lighter skin tone than Mr. Thompson's skin tone.

[5/] On rehearing, the Court went on to require that the hearing officer and Commission determine whether, in light of all the evidence, the friendship motivation also encompassed manipulation of the promotion committee in an attempt to avoid a presumed affect of the affirmative action program. The implication is that if the evidence also clearly demonstrated an attempt to confound an affirmative action program, a discriminatory motive might mean the otherwise non-compensable friendship motivation was also flawed by discrimination.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.