

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In the Matter of

DOCKET NO. 001703-EM

**PETITION OF DETERMINATION OF
NEED FOR POWER PLANT IN
DUVAL COUNTY BY JEA.**

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AND DO NOT INCLUDE PREFILED TESTIMONY.**

PROCEEDINGS: PREHEARING CONFERENCE

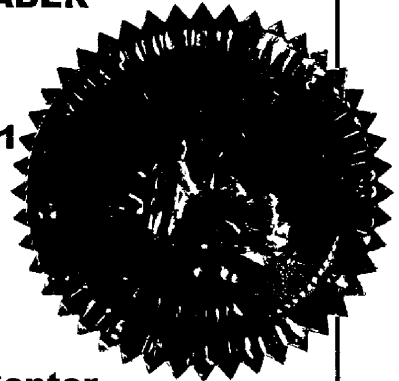
**BEFORE: COMMISSIONER LILA A. JABER
Prehearing Officer**

DATE: Thursday, January 25, 2001

**TIME: Commenced at 10:30 a.m.
Concluded at 10:40 a.m.**

**PLACE: Betty Easley Conference Center
Room 152
4075 Esplanade Way
Tallahassee, Florida**

**REPORTED BY: KORETTA E. STANFORD, RPR
Official FPSC Reporter**



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1 **APPEARANCES:**

2 **RICHARD D. MELSON, Hopping Green Sams and**
3 **Smith, Post Office Box 6526, Tallahassee, Florida**
4 **32314, Appearing on behalf of Jacksonville**
5 **Electric Authority (JEA).**

6 **DEBORAH HART, Florida Public Service**
7 **Commission, Division of Legal Services, 2540**
8 **Shumard Oak Boulevard, Tallahassee, Florida**
9 **32399-0870, appearing on behalf of the Commission**
10 **Staff.**

11 **ALSO PRESENT: RANDY BOSWELL, JEA, Vice President of**
12 **Production Services.**

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P R O C E E D I N G S

COMMISSIONER JABER: Let's convene the prehearing in docket number 001703. Counsel, read the notice.

MS. HART: Pursuant to notice issued December 6th, 2000, and notice published in the "Florida Administrative Weekly" on December 15th, 2000, and published as amended on January 5th, 2001, this time and place have been noticed for a prehearing conference in docket number 001703-EM, petition for determination of need for power plant in Duval County by JEA.

The purpose of this proceeding is to: 1, simplify the issues; 2, identify the positions of the parties on the issues; 3, consider the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof; 4, identify exhibits; 5, establish an order of witnesses; and 6, consider such other matters as may aid in the disposition of the action.

I'll also note, for the record, that it is now 10:32. Although we were originally noticed to begin at 9:30, there were scheduling conflicts and, there being only one party, it was agreed to begin at this later time. Appropriate notice was provided to the public of the change in time.

COMMISSIONER JABER: Thank you, Ms. Hart.

FLORIDA PUBLIC SERVICE COMMISSION

1 **Mr. Melson, let's take appearances.**

2 **MR. MELSON: Richard Melson of the law firm**
3 **Hopping, Green, Sams & Smith, P.A. appearing on behalf of**
4 **JEA. I've got at the table with me today Randy Boswell of**
5 **JEA. He is their Vice President of Production Services.**

6 **COMMISSIONER JABER: Deborah.**

7 **MS. HART: Deborah Hart, PSC Staff counsel.**

8 **COMMISSIONER JABER: Thank you.**

9 **All right, Ms. Hart, it's my understanding that**
10 **Mr. Melson has given you minor changes, and you've**
11 **incorporated them into the draft prehearing order.**

12 **MS. HART: That's correct.**

13 **COMMISSIONER JABER: Okay. Are there any**
14 **preliminary matters or pending motions I need to know**
15 **about?**

16 **MS. HART: Not from staff.**

17 **COMMISSIONER JABER: All right. Mr. Melson, are**
18 **there any preliminary matters or issues you'd like to**
19 **bring to my attention?**

20 **MR. MELSON: I've got several things I'd like to**
21 **discuss with you. I can take them up upfront or we can do**
22 **it as we go through the prehearing order, whichever you**
23 **prefer.**

24 **COMMISSIONER JABER: I prefer we do it now,**
25 **because there may not be a need to go through each issue.**

1 **MR. MELSON:** The notice that was published of
2 this proceeding indicated that the Commission reserve the
3 right to enter a bench decision at the end of the hearing.
4 And in order to put anyone who reads the prehearing order
5 on notice of that, I would suggest that under Part 1,
6 Conduct of Proceedings, I'd ask that you'd consider adding
7 a sentence at the end of that, that says that the
8 Commission reserves the right to enter a bench decision at
9 the end of the hearing.

10 **COMMISSIONER JABER:** Are you requesting a bench
11 decision?

12 **MR. MELSON:** Yes, although -- yes.

13 **COMMISSIONER JABER:** Okay. The reason I asked
14 you that is it's my preference to take that matter under
15 advisement. And if there is a ruling to have a bench
16 decision, it's going to be incorporated into the Ruling
17 section.

18 **MR. MELSON:** All right. I guess, what I would
19 -- sometimes -- my sense, sometimes the Commission is
20 uncomfortable making a ruling on that prior to the date of
21 the hearing, because, you know, potential intervenors,
22 things may change. If -- I guess, I would urge you if you
23 rule in favor of a bench decision, I'd like to have that
24 included in the prehearing order. If you're inclined to
25 rule against, I would ask that you reserve ruling until

1 the hearing, and give me the opportunity to ask the
2 Commission panel at that point.

3 COMMISSIONER JABER: Well, either way, you could
4 ask the Commission panel in the form of a reconsideration.
5 I understand. Somehow, this order will include language
6 regarding the bench decision, yes.

7 MR. MELSON: Okay, thank you.

8 COMMISSIONER JABER: Yes.

9 MR. MELSON: The only other preliminary matter I
10 had, we have talked with the Staff and understand there is
11 a possibility that by the time of the hearing they may be
12 in a position, if the Commissioners agree, to stipulate in
13 the testimony of one or more witnesses. The draft
14 prehearing order permits opening statements, limits them
15 to 10 minutes, permits witness summaries and limits them
16 to five minutes.

17 If Mr. Boswell is not stipulated and excused, it
18 would be my preference to waive the opening statement but
19 to ask that he be permitted to give up to a 10-minute
20 summary. If we do both opening statement and summary, I
21 think, you'd hear the same thing twice in a row, and it's
22 better from my perspective to have it come from a witness
23 where it is evidence rather than the lawyer telling you
24 what the witness is going to say.

25 COMMISSIONER JABER: You don't have any

1 objection to that, do you?

2 MS. HART: I don't have any objection.

3 COMMISSIONER JABER: All right. Then, reflect
4 in the prehearing order that Mr. Boswell will -- actually,
5 are you going to waive oral summaries, in general?

6 MR. MELSON: No. If the witness is not
7 stipulated, we'd like to start with a brief summary. I
8 would waive the opening statement, if Mr. Boswell takes
9 the stand. If he does not take the stand, none of our
10 other witnesses is really an overview person, so I
11 probably would do the opening statement.

12 I guess, probably, the simplest thing would be
13 simply in the section of the order that indicates that
14 witness summaries are listed to five minutes, to create an
15 exception for Mr. Boswell and to permit him to go 10.

16 COMMISSIONER JABER: All right. Staff, have
17 that reflected in the prehearing order, that Mr. Boswell
18 may perform a 10-minute summary of his testimony.

19 MS. HART: I will.

20 MR. MELSON: That was all I had, Commissioner
21 Jaber. Other than that, JEA's positions are correctly
22 stated in the prehearing order. I believe, our witnesses
23 and exhibits are correctly listed.

24 COMMISSIONER JABER: On the exhibits, Page 11,
25 Ms. Hart, I notice the exhibits are all numbered JEA-1,

1 **JEA-2. In identifying the exhibits for purposes of the**
2 **hearing, it may become confusing, so I'd just ask that you**
3 **and Mr. Melson, after the prehearing, determine the best**
4 **way to handle that. To the degree it's all one exhibit,**
5 **perhaps identifying it as a composite exhibit is the**
6 **easiest way to go.**

7 **MS. HART: Right.**

8 **COMMISSIONER JABER: And just make sure that the**
9 **presiding officer knows that.**

10 **MS. HART: Right.**

11 **MR. MELSON: Commissioner Jaber, what I**
12 **ordinarily do is ask that the entire book be identified as**
13 **a single exhibit, and then we have individual witnesses**
14 **testify to the pieces of it they're sponsoring, and then**
15 **at the conclusion of all the witnesses ask that it be**
16 **moved.**

17 **COMMISSIONER JABER: All right. That's good, as**
18 **long as that communication is had with the presiding**
19 **officer and everyone understands the identification of the**
20 **exhibit.**

21 **MS. HART: Right.**

22 **COMMISSIONER JABER: All right. Anything else?**

23 **MR. MELSON: No, ma'am.**

24 **COMMISSIONER JABER: All right. We will adjourn**
25 **this prehearing.**

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Thank you.

(Prehearing concluded at 10:40 a.m.)

1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, KORETTA E. STANFORD, RPR, Official Commission
6 Reporter, do hereby certify that the Prehearing Conference
7 held on Thursday, January 25th, 2001, Docket Number
8 001703-EM was heard before Prehearing Officer Lila A.
9 Jaber at the time and place herein stated.

10 It is further certified that I stenographically reported
11 the said proceedings; that the same has been transcribed
12 under my direct supervision; and that this transcript,
13 consisting of 9 pages, constitutes a true transcription of
14 my notes of said proceedings.

15 I FURTHER CERTIFY that I am not a relative, employee,
16 attorney or counsel of any of the parties, nor am I a
17 relative or employee of any of the parties' attorneys or
18 counsel connected with the action, nor am I financially
19 interested in the action.

20

DATED this 30th day of January, 2001.

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KORETTA E. STANFORD, RPR
Official Commission Reporter
(850) 413-6734

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