

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine
need for an electrical power
plant in Martin County by
Florida Power & Light Company.

DOCKET NO. 020262-EI

In re: Petition to determine
need for an electrical power
plant in Manatee County by
Florida Power & Light Company.

DOCKET NO. 020263-EI
ORDER NO. PSC-02-0704-PCO-EI
ISSUED: May 23, 2002

ORDER DENYING MOTION TO STRIKE

On April 22, 2002, Florida Power & Light Company (FPL) filed an Emergency Motion to Hold Proceedings in Abeyance, which was granted by Order PSC-02-0571-PCO-EI on April 26, 2002. The purpose of holding the proceeding in abeyance was to allow FPL to conduct a second Request for Proposals (RFP) process on its need determinations.

On April 24, 2002, CPV Cana, LTD. (CPV) filed a Response to FPL's Emergency Motion for Abeyance and Petition for Waiver of Rule 25-22.080, Florida Administrative Code. In its Response, CPV opposed holding the proceedings in abeyance, suggested a Petition for Rule Waiver was required, and requested the Commission impose four conditions on the Supplemental RFP process. On May 10, 2002, FPL filed a Motion To Strike the conditions requested by CPV in its Response.

On April 29, 2002, Florida Power & Light (FPL) filed an Emergency Petition for Waiver of Rule 25-22.080(2), specifically requesting an extension of the 90 day time frame in which to hold a need determination hearing on its proposed Martin and Manatee Powerplants. At its May 21, 2002, Agenda Conference the Commission voted to grant FPL's Petition for Emergency Rule Waiver, and CPV withdrew its request that the Commission impose conditions on the rule waiver.

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FPSC-COMMISSION CLERK

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In light of the Commission's decision to grant FPL's Emergency Petition for Rule Waiver and CPV Cana's withdrawal of its request for conditions it appears that Florida Power and Light's Motion to Strike is moot. The Motion is therefore denied.

It is, therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Florida Power and Light's Motion To Strike Part of CPV Cana, Ltd.'s Response is rendered moot and therefore denied.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 23rd day of May, 2002.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

LDH

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.