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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination of Need of Hines Unit 3 Power Plant.)
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Docket No.: 020953-EI

Submitted for Filing: November 22, 2002

FLORIDA POWER'S OBJECTIONS TO FLORIDA PARTNERSHIP FOR AFFORDABLE COMPETITIVE ENERGY'S FIRST SET OF INTERROGATORIES TO FLORIDA POWER (Nos. 1-88)

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Pursuant to § 350.0611(1), Fla. Stat. (2000), Fla. Admin. Code R. 28-106.206, and Fla. R.

Civ. P.1.340, Florida Power Corporation ("FPC" or "Florida Power") objects to Florida Partnership for Affordable Competitive Energy's ("PACE"), First Set of Interrogatories (Nos. 1-88) and states as follows:

GENERAL OBJECTIONS

On September 26, 2002, the Prehearing Officer issued an order establishing procedure requiring that all discovery shall be completed by Wednesday, November 20, 2002, and providing Florida Power with 20 days to respond to written discovery from any party. Knowing this, PACE waited to file its original Petition to Intervene in this docket until October 31, 2002 after 4:00 p.m. – exactly 20 days prior to the discovery cut-off.

These interrogatories were served with PACE's original petition to intervene without regard to its party status and ignoring Florida Power's due process rights in this proceeding. Because PACE was not at a party at the time it served its discovery, it had no right to serve discovery and no entitlement to receive any response. Numerous administrative rules and decisions establish that an intervenor must accept a case as it finds it and has no standing to

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participate, *e.g.*, by serving discovery, unless and until granted intervention, and only then if it can do so in accordance with the procedures that govern the case. See Rule 25-22.039; Panda Energy International v. E. Leon Jacobs, et al, citing, Coast Cities Coaches, Inc. v. Dade County, 178 So. 2d 703 (Fla. 1965). Because PACE did not and could not obtain party status the day it filed its petition (without denying Florida Power an opportunity to respond), there was no way PACE could timely serve discovery under the existing ground rules in the case, as established by the Prehearing Officer and well known to PACE or any other interested person.

On November 8, 2002, the Prehearing Officer denied PACE's intervention. This confirmed conclusively that Florida Power had no obligation whatsoever to respond to PACE's discovery. Indeed, it would have been irresponsible for Florida Power to expend the time and resources to do so.

Following this, PACE waited until 5:30 p.m. on Friday, November 15, 2002 to file its Amended Petition to Intervene. And although Florida Power would usually have had 7 days to respond to PACE's petition, it did so in less than 2 business days and prior to the November 20, 2002 Prehearing Conference, as a courtesy to PACE and the Prehearing Officer, even though Florida Power's lead attorney was out of the state from Saturday, November 16 through late on Monday, November 18.

At the Prehearing conference, the Prehearing Officer granted PACE's Amended Petition to Intervene and also granted PACE the extraordinary relief of permitting it discovery outside the timeframe permitted in the prehearing order even though PACE by its late filing was solely responsible for creating the timing issues it faced at that time and made no showing of good cause. Specifically, the Prehearing Officer ordered Florida Power to submit these objections to PACE's written discovery by Friday, November 22, 2002, and provide responses – as ordered by

the Prehearing officer on Monday, November 25, 2002 – on November 27, 2002, in just 5 business days.

Given the time constraints imposed by the extraordinary relief provided by the Prehearing Officer to PACE and the virtual impossibility of providing PACE with the overbroad, immaterial, irrelevant, and sometimes harassing amount of information requested, Florida Power makes its general and specific objections as follows:

FPC objects to any interrogatory that calls for information protected by the attorney-client privilege, the work-product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time the response is first made to these interrogatories or is later determined to be applicable based on the discovery of documents, investigation, or analysis. FPC in no way intends to waive any such privilege or protection.

In certain circumstances, FPC may determine upon investigation and analysis that information responsive to certain interrogatories to which objections are not otherwise asserted are confidential and proprietary and should not be produced or should be produced only under an appropriate confidentiality agreement and protective order. Certain confidential, proprietary, business information, held by Florida Power (such as information and documents relating to specific contracts or negotiations for contracts relating to Hines 3 or other business operations) contain competitively sensitive information that FPC should not be required to produce to competitors such as the members of PACE who seek to contract for the same kinds of services that FPC does on a regular basis. This information should be protected from disclosure entirely where indicated as the harm to FPC's present and future ability to obtain similar contracts or favorable terms outweighs PACE's need for this level of detailed information in this proceeding.

As to any other confidential, proprietary, business information, by agreeing or refusing to provide such information in response to such interrogatory, FPC is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement and protective order. FPC hereby asserts its right to require such protection of any and all documents and information it has agreed to or may be required to produce that may qualify for protection under the Florida Rules of Civil Procedure and other applicable statutes, rules, and legal principles.

FPC further objects to producing any information or documents reflecting the confidential information received from bidder to its RFP solicitation. FPC has issued a letter to each bidder indicating that PACE has obtained leave to intervene in the proceeding and requesting that each Bidder take a position as to whether PACE can be provided with the Bidder's confidential, proprietary, competitively sensitive bid information. FPC does not intend to produce such information absent an order of the Commission or the express written consent of the individual bidder. FPC would specifically note that no Bidder is currently participating in this proceeding and even those Bidders who may be members of PACE have not – to date – authorized PACE to waive the confidential nature of their bid information. Perhaps more importantly, non-PACE member bidders who have expressly chosen not to participate in this proceeding may strongly object to the release to its competitors (*i.e.*, PACE's members) their confidential, proprietary, bid information.

FPC would specifically request that the Prehearing Officer refrain from requiring FPC to provide any confidential bidder information to PACE until such time as each bidder has had the opportunity either to waive its confidentiality claims in connection with this information or to seek an appropriate protective order from this Commission. FPC would note that in the recent

need determination proceedings filed by Florida Power & Light, several Bidders who chose not to participate in the proceeding filed motions for protective order, which were granted to protect their confidential bid information from disclosure to their direct competitors. See Order PSC-02-0611-PCO-EI in docket numbers 020262-EI and 020263-EI.

Attached to these objections is a letter provided to Bidders advising each Bidder of PACE's intervention in the proceeding and suggesting that each Bidder take action to protect the confidential information contained in its bid. However, in fairness to the Bidders, FPC cannot be certain – especially in light of the upcoming Thanksgiving Holiday – that Bidders have been afforded an adequate opportunity to respond to Florida Power's letter. Florida Power will attempt also to contact Bidders by phone to alert them to the present circumstances, but cannot assure the Commission that it will be able to reach all necessary persons in the timeframe presently allowed.

FPC objects to these interrogatories and any definitions and instructions that purport to expand FPC's obligations under applicable law.

FPC objects to the interrogatories and the definition of "you," "your," and "yours" to the extent they purport to require FPC to provide responses on behalf of Florida Progress Corporation, Progress Energy, Inc., Progress Energy Service Company, LLC, or any other affiliates. FPC does not have an obligation under the rules to respond to interrogatories on behalf of these companies.

FPC also objects to these interrogatories to the extent they purport to require FPC to prepare information or perform calculations not previously prepared or performed as an attempt to expand FPC's obligations under applicable law. FPC will comply with its obligations under the applicable rules of procedure.

FPC further objects to these interrogatories to the extent they purport to seek the production of documents, which is inappropriate to an interrogatory.

FPC incorporates by reference all of the foregoing general objections into each of its specific objections set forth below as though pleaded therein.

INTERROGATORIES

Interrogatory No. 1:

Identify the fuel forecast or forecasts you used in evaluating the proposals received in response to the Request for Proposal.

Interrogatory No. 2:

Is the fuel cost forecast or forecasts you used in evaluating proposals received in response to the Request for Proposal the same fuel cost forecast you used in your recently concluded rate case and your most recent ten-year site plan filing? If not, why not? Are these fuel forecasts the same as used in your most recent fuel and purchased power cost recovery filings made at the PSC? If not, why not?

Interrogatory No. 3:

Identify the load forecast or forecasts you used:

- (a) in evaluating the proposals received in response to the Request for Proposal;
- (b) in evaluating the Hines 3 unit;
- (c) in your most recent ten-year site plan filing; and
- (d) in your most recent rate case.

If more than one forecast was used, describe how the analysis was performed using multiple forecasts.

Interrogatory No. 4:

Is the load forecast you used in evaluating proposals received in response to the Request for Proposal the same load forecast you used in your recently concluded rate case? If not, why not?

Interrogatory No. 5:

Please indicate, for each of the past 15 years, whether your reserve margin forecasts have been underestimated, overestimated or precisely on target.

Florida Power does not forecast reserve margins. Florida Power plans to meet its reserve margin-planning criterion as set forth in the testimony of Mr. John B. Crisp. To the extent that PACE is seeking some other information through this interrogatory, we do not understand the interrogatory and must object to it as vague, ambiguous, overbroad, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 6:

Identify when and who made the decision to select the Hines 3 unit to meet the Company's alleged need for which this need determination has been filed. If the decision was made by a committee, please identify the members of the committee and the Chairman of the committee.

Interrogatory No. 7:

Identify all documents relied upon by the person, persons or committee who made the decision to select the Hines 3 Plant to meet the Company's alleged need for which this need determination has been filed.

Interrogatory No. 8:

Describe how you evaluated the proposals received in response to your Request for Proposal, including all of the criteria that were used during the evaluation process, and the relative significance of each criterion used.

Interrogatory No. 9:

In evaluating the proposals received in response to your Request for Proposal, did you evaluate the proposals differently from your self-build option, the Hines 3 unit? If so, how?

Interrogatory No. 10:

Identify the equipment components of the Hines 3 Unit (the combustion turbine, the steam turbine, and the heat recovery steam generator) under firm contract by FPC? What is the contracted price for each component, equipment only, no erection? If a firm contract is not in place, what is the estimated price for each component, equipment only, no erection?

FPC objects to this interrogatory in part to the extent it requires FPC to provide detailed price estimates for equipment as confidential, proprietary business information, that PACE is seeking in connection with the competitive interests of its members. FPC is willing to comment on the status of contracts for such equipment, but does not believe that detail relating to the specific price of components is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into exact cost – if known – of components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence.

Interrogatory No. 11:

Describe how the costs of facilities described by witness James Murphy at page 6, lines 1-5, have been allocated between the Hines 1 unit, the Hines 2 unit, and the Hines 3 unit. Identify any documents related to this allocation.

Interrogatory No. 12:

How do you plan to obtain ground water for use at the Hines 3 unit? If following a plan proposed by Peter Schroeder, identify the plan, its costs, and how those costs will be

apportioned or otherwise allocated.

Interrogatory No. 13:

Were there any proposals received by FPC that offer capacity prior to the date FPC will have the Hines 3 unit on-line? If so, was any value given to this capacity? Was any penalty attributed to this capacity?

Interrogatory No. 14:

What are the specific milestones for the Hines 3 project? Please identify and provide a detailed milestone schedule for the project, including the construction start date, equipment delivery dates, and the date for first firing of each new unit.

Interrogatory No. 15:

Does FPC have a strategy for acquiring capacity should the Hines 3 unit be delayed? What is the estimated cost of acquiring this capacity?

Interrogatory No. 16:

Are the costs identified in the Need Determination filings a guaranteed cost cap or simply estimates of costs associated with the Hines 3 unit? If actual costs are higher than those reflected in FPC's Need Determination filings, is FPC going to seek recovery of the higher costs?

Interrogatory No. 17:

If FPC's Hines 3 petition is granted based on its forecast revenue requirements over the full evaluation period in which the cost effectiveness of Hines 3 was compared to the cost effectiveness of outside proposals submitted in response to FPC's RFP, is FPC willing to accept a PSC order in this case binding FPC to recover no more than these forecasted revenue requirements? If not, why not?

Interrogatory No. 18:

Has FPC completed the studies associated with the FPC Hines 3 unit Generator Interconnection Service request listed on the FPC GIS queue? If so, please identify and provide a copy of those studies. What is the cost estimate associated with this GIS request?

Interrogatory No. 19:

What is the total, all-in, cost for the FPC Hines 3 unit (including all equipment, construction, administrative, financing, permitting and development, start-up, testing, system integration, and commission costs) as FPC would expect to place such costs into rate base pursuant to standard accounting practices and principles? Identify documents which reflect a more detailed cost breakdown of the project's costs set forth in Exhibit JJM-5.

FPC objects to this interrogatory in part to the extent it requires FPC to provide detailed cost estimates for Hines 3 as confidential, proprietary business information, that PACE is seeking in connection with the competitive interests of its members. FPC is willing to comment on the status of contracts for such various aspects of the project, but does not believe that detail relating to the specific price of components is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into exact cost – if known – of components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence. Moreover, the untimely disclosure of such cost estimates could impair Florida Power's ability to obtain more favorable prices from suppliers as the process progresses. Florida Power is currently in negotiations in connection with certain aspects of the Hines 3 project that may be impaired by the early and unnecessary disclosure of these preliminary detailed cost estimates – if any.

Interrogatory No. 20:

What are your plans relative to your future participation in the Florida wholesale

market? Identify any documents that relate to these plans.

Florida Power objects to this interrogatory as irrelevant, immaterial, outside the proper scope of this need proceeding, and an improper fishing expedition to obtain competitive information that is not reasonably calculated to lead to the discovery of admissible evidence. The need for Hines 3 is driven by firm load.

Interrogatory No. 21:

Identify and describe your plans to increase wholesale power or capacity sales to Florida-based municipal utilities and electric cooperatives.

See objection to interrogatory No. 20, which is incorporated by reference herein.

Interrogatory No. 22:

With respect to any expert witness who will testify on your behalf in this matter, please list the expert and identify the following:

- (a) the subject matter about which the expert is expected to testify;**
- (b) the fact or facts upon which the expert bases any opinion or opinions;**
- (c) the substance of the facts relied upon by each such expert in arriving at his/her opinion;**
- (d) a summary of the grounds relied upon by each such expert in reaching his/her opinion;**
- (e) all objects, if any, including documents, the expert has tested, analyzed, examined, inspected, reviewed or relied upon in formulating his/her opinion; and**
- (f) any report prepared by the expert with regard to the subject about which the expert will testify.**

Interrogatory No. 23:

Please identify any purchased power contract, in the last three (3) years, that FPC or its affiliates, acting either as a purchaser or seller, has been accused of not completing, has been unable to complete or has otherwise failed to perform or has been accused of failing to perform.

FPC objects to this interrogatory as overbroad, irrelevant, immaterial, outside the scope of this need proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 24:

Please list any and all litigation, including the court and case number, that ensued as a result of any item identified in your response to the previous Interrogatory, and state the present status or resolution of the litigation and whether any judgment or settlement resulted.

FPC objects to this interrogatory as overbroad, irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 25:

Please identify any power project FPC or affiliates of Progress Energy are currently constructing, including the FPC manager or coordinator of any such project, the project's projected date of completion (original and current), whether such project is on schedule, and if not on schedule, the total number of days such project is delayed.

FPC objects to this interrogatory as overbroad, irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

This also amounts to an improper attempt to seek proprietary, confidential information.

Interrogatory No. 26:

Please identify every Invitation to Bid ("ITB") or Request for Proposal ("RFP") for electrical energy and/or capacity to which FPC or affiliates or subsidiaries of Progress Energy has responded in the last three (3) years. For such ITB or RFP indicate: (i) whether FPC or its affiliates was the winning bidder or proposer; and (ii) whether the ITB or RFP resulted in the execution of a purchased power contract.

FPC objects to this interrogatory as overbroad, unduly burdensome, irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery

of admissible evidence.

Interrogatory No. 27:

Please describe all steps taken, if any, to explore, evaluate or otherwise consider a short-term purchase or purchases to or defer your need as set forth in this case. Identify any documents related to this effort.

Interrogatory No. 28:

Please identify for the remainder of 2002 and each year 2003, 2004, and 2005 any anticipated acquisition or construction of power plants by you and the capacity of each.

Florida Power objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 29:

For each project identified in response to the previous Interrogatory, explain how FPC proposes to finance such acquisitions, including the anticipated ratio of equity and debt as well as the plan for raising the financing.

Florida Power objects to this request as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 30:

Please identify by project and by year, any capital expenditure in excess of One Hundred Thousand Dollars (\$100,000) you anticipate making at any of its power plants (operating plants, plants under construction, planned plants) in the next three (3) years, including, but not limited to, any expenditure anticipated to comply with any government regulations.

FPC objects to this interrogatory as overbroad, unduly burdensome, irrelevant, immaterial,

outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 31:

Describe FPC's financial condition, and list any changes in FPC's financial condition, its liquidity, and its capital resources over the last three (3) years and any existing conditions likely to result in a significant change in FPC's financial condition, liquidity or capital resources over the next three (3) years.

FPC objects to this interrogatory as irrelevant, immaterial, overbroad, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 32:

State the amount and types of monetary or in kind support FPC has directly or indirectly (including contributions through an entity of which FPC is a member) provided for Citizens For Rational Energy Policy.

FPC objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 33:

How many combustion turbines have you ordered in the last five (5) years? How many of these orders have you cancelled?

FPC objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 34:

Do you support competitive wholesale energy markets in the state of Florida? Identify any state in which you do not support a competitive wholesale energy market.

FPC objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 35:

Did you utilize an “equity penalty” in evaluating the proposals received by bidders? If not, why not? If so, why?

Interrogatory No. 36:

Please list all off-system wholesale energy sales (energy and/or capacity) made by FPC within the last three (3) years. List the price per megawatt hour, the quantity bought or sold, the duration of the transaction, and the parties to the transaction.

FPC objects to this interrogatory as irrelevant, immaterial, overbroad, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, Florida Power would direct PACE to FPC’s response to Staff interrogatory number 29, which identifies the winter 2005 and summer 2006 wholesale peak demands that are included in Florida Power’s demand forecast in the year Hines 3 comes on line. FPC also believes that some of the information requested may be publicly available in its fuel docket filings, however irrelevant to this proceeding.

Interrogatory No. 37:

List all capacity and/or energy FPC is presently seeking outside these Need Determination proceedings. What is the current bid price, the current ask price, the commencement date, the termination date, and the duration of each transaction?

Florida Power objects to this request as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 38:

Has FPC or its affiliates engaged in any “wash trade” or “round trip trade” transactions (i.e., selling energy or capacity, then promptly buying back the same portion of energy or capacity at the same price) within the last three (3) years? If so, identify all documents relating to these trades.

Florida Power objects to this request as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 39:

Have you experienced cost overruns during construction of the Hines 1 unit? If so, what are the amounts of the cost overruns or delays and identify any documents related to these cost overruns or delays.

Florida Power objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 40:

Have you experienced cost overruns during construction of the Hines 2 unit? If so, what are the amounts of the cost overruns or delays and identify any documents related to these cost overruns or delays.

Florida Power objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 41:

Did you complete the Hines 1 project on time as set forth in initial construction schedule documents? If not, why not? Please identify and produce all documents related to the construction schedule for the Hines 1 project.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 42:

Did you complete the Hines 1 project on time as set forth in the need determination petition for the Hines 1 unit filed with the PSC? If not, why not?

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 43:

Is the Hines 2 project on time as set forth in initial construction schedule documents? If not, why not? Please identify and produce all documents related to the construction schedule for the Hines 2 project.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 44:

Is the Hines 2 project on time as set forth in the need determination for the Hines 2 unit filed with the PSC? If not, why not? Please identify and produce all documents related to the construction schedule for the Hines 2 project.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 45:

Regarding the Hines 1 project, what was the dollar figure for contingencies set forth in the engineering, procurement and construction contract? Has that amount been exceeded, and, if so, by how much? Identify the EPC contract.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 46:

Regarding the Hines 2 project, what was the dollar figure for contingencies set forth in the engineering, procurement and construction contract? Has that amount been exceeded, and, if so, by how much? Identify the EPC contract.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 47:

If the actual engineering, procurement, and construction cost for the Hines 1 project is greater than the sums originally projected, how, if at all, will these costs be recovered?

Identify all documents relating to recovery of cost overruns for the project.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 48:

If the actual engineering, procurement, and construction cost for the Hines 2 project is greater than the sums originally projected, how, if at all, will these costs be recovered? Identify all documents relating to recovery of cost overruns for the project.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 49:

Identify all change orders for the Hines 1 project submitted by your engineering, procurement, construction contractor or other entity.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 50:

Identify all change orders for the Hines 2 project submitted by your engineering, procurement, construction contractor or other entity.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of

admissible evidence.

Interrogatory No. 51:

Please identify all documents in which FPC will rely or introduce as exhibits at the final hearing in this case.

Interrogatory No. 52:

Please identify all analyses performed by or for FPC regarding the risks that would be borne by, or imposed upon, FPC's retail customers if FPC were to build its own unit, e.g., the Hines unit 3, and if FPC were to purchase power from independent power producers. In answering this interrogatory, please construe the term "risks" to include any and all risks identified and considered by FPC, including, without limitation, the risk of construction cost overruns, the risk of fixed operating and maintenance costs being greater than projected, the risk of variable operating and maintenance costs being greater than projected, the risk of any power plant (regardless whether an FPC unit or an independent power producers' unit) not performing at as high an availability factor as projected, the risk of any power plant not performing at as low a heat rate as projected, and any other risks of any type or nature whatsoever. In identifying any such analyses, please state whether such analyses addressed the revenue requirements impact on FPC's retail customers of the various risks considered, who performed such analyses, when such analyses were performed, and who now has possession of such analyses in any format. If FPC performed no such analyses, please so state.

Interrogatory No. 53:

Please identify all analyses conducted or performed by or for FPC regarding the possible option value (defined here as the value of the opportunity to terminate a PPA after a certain number of years, e.g., 10 or 15 years, and then purchase power at lower prices than were available at the time the original obligation, e.g., either the long-term revenue requirements associated with owning a self-built plant or the contract payments under a longer-term PPA, was incurred) that could or would accrue to FPC's retail customers if FPC were to enter into power purchase agreements for various terms of years less than the projected life of FPC's Hines 3 unit. In identifying any such analyses, please state who performed such analyses, when such analyses were performed, and who now has possession of such analyses in any format. If FPC performed no such analyses, please so state.

Interrogatory No. 54:

Please identify all analyses performed by or for FPC of stranded benefits or stranded costs relating to FPC's proposed Hines 3 unit, including risk exposure (a) to FPC; and (b) to FPC's retail customers under any scenario considered. In identifying any such analyses, please state whether such analyses addressed the revenue requirements impact on FPC's customers of the various risks considered, who performed such analyses, when such analyses were performed, and who now has possession of all such analyses in any format. If FPC performed no such analyses, please so state.

Interrogatory No. 55:

Please identify all analyses performed by or for FPC of stranded benefits or stranded costs relating to any FPC power plant, including risk exposure (a) to FPC; and (b) to FPC's retail customers under any scenario considered. In identifying any such analyses, please state who performed such analyses, when such analyses were performed, and who now has possession of all such analyses in any format. If FPC performed no such analyses, please so state.

FPC objects to this request as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 56:

If Hines 3 were delayed one (1) year, what would FPC's reserve margin be during the period of time represented by the one (1) year delay? Would such a delay materially affect your obligations to serve?

Interrogatory No. 57:

Do you have a desired or targeted percentage of energy and capacity of your overall energy and capacity resources to be derived from purchased power agreements? If so, what is that figure? If not, why not?

Interrogatory No. 58:

Do you have a desired or targeted percentage of market share for generating capacity owned or controlled by FPC in the FRCC region or the State of Florida? If so, what is that figure?

Interrogatory No. 59:

Do you have a desired or targeted percentage of market share for energy produced in the FRCC region or the State of Florida? If so, what is that figure?

Interrogatory No. 60:

Please list the factors that you know rating agencies (such as Standard and Poor's and Moody's) use or otherwise consider in determining a bond rating for FPC.

FPC objects to this request as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. FPC has not based its resource selection in this case on such issues. Notably, the Commission Staff withdrew its own discovery concerning this topic for just this reason.

Interrogatory No. 61:

Paragraph 11 of your Petition for Determination of Need refers to certain existing infrastructure and states these will save the Company and its customers significant engineering, construction and operating costs in the construction and operation of Hines 3. Identify these cost savings in detail and the anticipated savings associated with each component. Identify any document related to or supporting these projected cost savings.

Interrogatory No. 62:

Did you offer the use of the Hines Energy Complex to outside bidders? If not, why not?

Interrogatory No. 63:

Why did you not use the EGEAS computer model when evaluating the proposals received from outside bidders? What advantages do you see in PROVIEW and PROMOD over EGEAS?

Interrogatory No. 64:

Please describe, identify and produce all documents, including contracts, related to your “opportunity to take advantage of substantial price and other contract benefits from (your) combined cycle technology supplier” as that phrase is used in paragraph 23 of your petition.

Interrogatory No. 65:

What was the “more current and detailed cost information received from an EPC contractor” that prompted you to lower your cost estimates for Hines 3 referenced in paragraph 35 of your petition? Identify and produce any documents related to this decision to lower your cost estimates for Hines 3.

Interrogatory No. 66:

If the PSC did not approve your petition, would you still be able to maintain system reliability and integrity in winter 2005/2006? If so, how? If not, why not?

Interrogatory No. 67:

Why would FPC’s production costs increase by \$25 million if Hines 3 were delayed for one (1) year? Identify and produce all documents related to this alleged increase in production costs.

Interrogatory No. 68:

When did you first begin work on your supplemental site certification for the Hines 3 unit?

Interrogatory No. 69:

On page 4 of witness James Murphy's testimony, he states, "In summary, Hines 3 allows the Company to meet its reliability needs with the most efficient technology on the market at a below market cost, giving the Company and its ratepayers substantial economic benefits in terms of technology, efficiency, and flexibility in operation, and cost of generating power." What is the market cost and how far below market cost, in percentage terms, is FPC below market cost? Identify and produce all documents that support Mr. Murphy's statement.

Interrogatory No. 70:

Do you support Rule 25-22.082, F.A.C., as it currently exists? If not, why not?

FPC objects to this request as irrelevant, immaterial, outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. FPC complied with this rule in this proceeding. This interrogatory plainly reveals that PACE's true agenda in this proceeding is to obtain discovery in aid of its position in the Bid Rule docket.

Interrogatory No. 71:

What is your definition of a "System Power Proposal" as that term is used at page 14, line 19 of Daniel Roeder's testimony?

Interrogatory No. 72:

Identify the members of each technical evaluation team, indicate which team or teams the individual was on, the title of each person, and provide a brief description of each individual's background and experience.

Interrogatory No. 73:

Did you subject the Hines 3 unit to the minimum evaluation requirements? If so, identify and produce all documents you relied upon in determining that Hines 3 met the

minimum evaluation requirements. If not, why not?

Interrogatory No. 74:

What are the terms and conditions of the Hines 3 fuel supply and transportation arrangements?

Interrogatory 75:

If a bidder proposed project financing for its proposal, did you consider the bidder's bond rating as part of your determination of the bidder's financial viability? If not, why not?

Interrogatory No. 76:

Do you believe Rule 25-22.081 requires you to consider an equity penalty adjustment when evaluating outside proposals which contemplate a purchased power agreement?

Interrogatory No. 77:

Do you believe your system reliability and integrity is jeopardized at a 15 percent reserve margin? If so, why? If not, why not?

Interrogatory No. 78:

Assuming a reserve margin of 20 percent, what is your planning goal, in percentage terms, to meet this reserve margin with physical reserves as compared to demand-side management?

Interrogatory No. 79:

Explain how the addition of the Hines 3 unit will help you comply with current environmental regulations.

Interrogatory No. 80:

At what point in the evaluation process did you evaluate Hines 3 in relation to the outside proposals? Describe all steps you took in evaluating, scoring, and ranking the Hines 3 unit.

Interrogatory No. 81:

If the accelerated 230 KV line from Hines to Florida Power's West Lake Wales Substation was needed, how much would it cost?

Interrogatory No. 82:

Have you ever had the construction costs of a power plant project increase by 20 percent or more over the initial estimated costs of the project? If so, identify the project or projects and the percentage increase of said construction costs.

FPC objects to this interrogatory as irrelevant, overbroad, and unduly burdensome. Florida Power has been constructing power plants in this state for over 100 years. It would be impossible to compile this information in the time frame provided or to determine the extent to which such information exists. However, as noted in the testimony of Mr. Daniel Roeder, FPC did perform a sensitivity analysis and determine that the direct construction costs of Hines 3 would have to increase approximately 35% before the cost advantage of Hines 3 over the next best alternative would be eliminated.

Interrogatory No. 83:

Have you ever had fixed O&M costs of a power plant project increase by 20 percent or more over the initial estimated costs of the project? If so, identify the project or projects and the percentage increase of said O&M costs.

FPC objects to this interrogatory as irrelevant, overbroad, and unduly burdensome. Florida

Power has been operating power plants in this state for over 100 years. It would be impossible to compile this information in the time frame provided or to determine the extent to which such information exists.

Interrogatory No. 84:

If the PSC grants FPC's Hines 3 need petition, is FPC willing to be bound by the Commission's Order to the use of the Hines 3 heat rate, as projected by FPC in its cost-effectiveness evaluations submitted to the PSC in this docket, as a guaranteed maximum heat rate for all regulatory purposes, including, without limitation, the calculation of FPC's Fuel and Purchased Power Cost Recovery Charges over the life of the Hines 3 unit? If not, why not?

Interrogatory No. 85:

In evaluating the cost-effectiveness of Hines 3 and outside proposals, did FPC conduct any sensitivity analyses with regard to the actual achieved heat rate of Hines 3 as compared to the contractually guaranteed heat rates associated with the outside proposals? If so, please identify and explain any such analyses. If not, why not?

FPC objects to this interrogatory as ambiguous. Hines 3 has not been built and a question relating to the "achieved" heat rate for Hines 3 is thus impossible to respond to at this time. Further, no bidder "contractually guaranteed" any heat rate.

Interrogatory No. 86:

If the PSC grants FPC's Hines 3 need petition, is FPC willing to be bound by the Commission's Order to the use of the Hines 3 overall or total outage rate, as projected by FPC in its cost-effectiveness evaluations submitted to the PSC in this docket, as a guaranteed maximum overall or total outage rate for all regulatory purposes, including without limitation, the calculation of FPC's Fuel and Purchased Power Cost Recovery Charges over the life of the Hines 3 unit? If not, why not?

Interrogatory No. 87:

In evaluating the cost-effectiveness of Hines 3 and outside proposals, did FPC

conduct any sensitivity analyses with regard to the actual achieved outage rate of Hines 3 as compared to the contractually guaranteed outage rates associated with the outside proposals? If so, please identify and explain any such analyses. If not, why not?

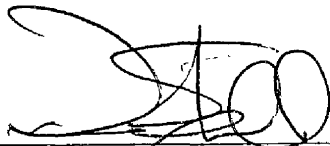
FPC objects to this interrogatory as ambiguous. Hines 3 has not been built and a question relating to the “achieved” outage rate for Hines 3 is thus impossible to respond to at this time. Further, no bidder “contractually guaranteed” anything.

Interrogatory No. 88:

Do you believe your system reliability and integrity is jeopardized at a 17 percent reserve margin? If so, why? If not, why not?

Respectfully submitted this 22nd day of November 2002.

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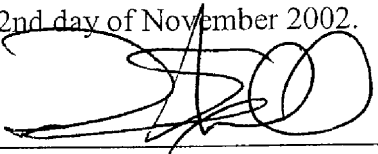

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a true and correct copy of the foregoing has been served by Facsimile and U.S. Mail to the parties with an asterisk by their name; and by U.S. Mail to the other interested parties of record as listed below on this 22nd day of November 2002.



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November 22, 2002
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Re: In re: Petition for Determination of Need of Hines Unit 3 Power Plant
Docket No. 020953-EI

Dear Bidder:

November 22, 2002

Page 2

We are writing to advise you that the Partnership for Affordable Competitive Energy, ("PACE"), has been granted intervention in the above styled docket filed by Florida Power Corporation seeking a determination of need to build Hines Power Block 3. Because you submitted a bid during Florida Power's RFP solicitation relating to this project, pricing information contained in your detailed bid submission has been submitted to the Commission and its Staff as a part of Florida Power's case. This pricing information is presently protected from public disclosure by an Order granting Florida Power's request that this information be treated as confidential in this proceeding in accord with the provisions of Chapter 366.093 and Rule 25-22.006, F.A.C.

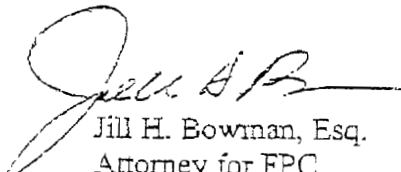
Please be advised, however, that PACE has now requested access to the confidential bid information on file with the Commission as well as access to all bid documents and all documents relating to Florida Power's evaluation of such bids. Florida Power intends to object to producing your confidential, proprietary, bid information to this association of independent power producers, however, Florida Power strongly suggests that each bidder who does not wish its confidential bid information to be disclosed to this association file a separate motion for protective order in this proceeding. **The Prehearing Officer is scheduled to rule on Florida Power's objection to providing your confidential bid information to PACE on Monday, November 25, 2002.**

If you are willing to waive the confidentiality of your bid information at this time so that PACE and/or others may have access to it, please advise Florida Power of this in writing on or before the close of business, Monday, November 25, 2002.

Please understand that Florida Power cannot guarantee that the Prehearing Officer will sustain its objection to providing your confidential bid information to PACE.

We appreciate your prompt attention to this matter in the short timeframe it is required.

Regards,


Jill H. Bowman, Esq.
Attorney for FPC

Regards,


Daniel J. Roeder
RFP Project Manager for FPC