

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition to deter- ) DOCKET NO. 920520-EQ  
mine need for electric power ) ORDER NO. PSC-92-0827-PHO-EQ  
plant to be located in Okeechobee ) ISSUED: 8/18/92  
County by Florida Power & Light )  
Company and Cypress Energy )  
Partners, Limited Partnership. )

Pursuant to Notice, a Prehearing Conference was held on August 5, 1992, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

MATTHEW M. CHILDS, Esquire, CHARLES A. GUYTON, Esquire and C. ALAN LAWSON, Esquire, Steel, Hector and Davis, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301-1804  
On behalf of Florida Power and Light Company.

RICHARD D. MELSON, Esquire, and DOUGLAS S. ROBERTS, Esquire, Hopping, Boyd, Green & Sams, Post Office Box 6526, Tallahassee, Florida 32314  
On behalf of Cypress Energy Partners, Limited Partnership.

ROSS S. BURNAMAN, Esquire, and DEBRA SWIM, Esquire, Legal Environmental Assistance Foundation, Inc., 1115 North Gadsden Street, Tallahassee, Florida 32303, AND TERRY BLACK, Esquire, Pace University Energy Project, Center for Environmental Legal Studies, 78 North Broadway, White Plains, New York 10603  
On behalf of Legal Environmental Assistance Foundation, Inc./Deborah B. Evans.

RICHARD T. DONELAN, JR., Assistant General Counsel, State of Florida, Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, FL 32399-2400  
On behalf of the Department of Environmental Regulations.

PATRICK K. WIGGINS, Esquire, and ROBERT SCHEFFEL WRIGHT, Class B Practitioner, Wiggins & Villacorta, P.A., Post Office Drawer 1657, Tallahassee, Florida 32302  
On behalf of Ark Energy, Inc./CSW Development-I, Inc..

JOSEPH A. MCGLOTHLIN, Esquire, VICKI GORDON KAUFMAN, Esquire, and KENNETH P. BROWN, Esquire, McWhirter, Grandoff & Reeves, 522 East Park Avenue, Suite 200, Tallahassee, Florida 32301  
On behalf of Nassau Power Corporation.

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JOHN D. CASSELS, JR., Esquire, Cassels & McCall, Post Office Box 968, 400 N.W. 2nd Street, Okeechobee, Florida 34973  
On behalf of Okeechobee County.

FREDERICK M. BRYANT, Esquire, Moore, Williams Bryant, Peebles & Gautier, P.A., 306 East College Avenue, Post Office Box 1169, Tallahassee, Florida 32302  
On behalf of Florida Municipal Power Agency.

MARY ANNE BIRCHFIELD, Esquire, and MICHAEL A. PALECKI, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

PRENTICE PRUITT, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862  
On behalf of the Commissioners.

#### PREHEARING ORDER

##### I. CASE BACKGROUND

On May 22, 1992, Florida Power & Light Company (FPL) and Cypress Energy Partners (Cypress) filed a joint petition for a determination of need for two 400 MW class pulverized coal power plants, and associated facilities to be located in Okeechobee County, Florida. The actual net rating of each may be in the range of 395 MW to 437 MW. Cypress will own and construct the proposed units as an independent power producer. The related facilities include transmission lines, an off-site access road, and an off-site rail access spur.

The following persons and/or entities have filed petitions to intervene in this proceeding: Springs Power Partners, L.P. (Springs), Legal Environmental Assistance Foundation, Inc./Deborah Evans (LEAF/Evans), Florida Gas Transmission Company (FGT), Panda Energy Corporation (Panda), Ark Energy, Inc./CSW Development-I, Inc. (ARK/CSW), Okeechobee County (Okeechobee), Nassau Power Corporation (Nassau), Department of Environmental Regulation (DER), and Florida Municipal Power Agency (FMPA). Springs, FGT, and Panda have each withdrawn its petition to intervene. Each of the other petitioners have been granted leave to intervene in this proceeding.

The substantive aspects of this proceeding are governed by Section 403.519, Florida Statutes. The procedural aspects of the case are governed by the provisions of Chapter 120, Florida statutes, and Chapter 25-22, Florida Administrative Code.

Section 403.519 states that:

The Florida Public Service Commission shall be the sole forum for the determination of need for electrical power plants and related facilities, which accordingly shall not be raised in any other forum or in the review of proceedings in such other forum. In making its determination, the commission shall take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, and whether the proposed plant is the most cost-effective alternative available. The commission shall also expressly consider the conservation measures taken by or reasonably available to the applicant or its members which might mitigate the need for the proposed plant and other matters within its jurisdiction which it deems relevant.

Only issues relating to the need for the proposed power plant as proscribed by section 403,519, Florida Statutes will be heard in this proceeding. Separate public hearings will be held by the Department of Environmental Regulation before the Division of Administrative Hearings to consider environmental and other impacts of the proposed plant and associated facilities.

The substantive and procedural issues of the case, as set forth in this prehearing order, will be framed accordingly.

## II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person

providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of an appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information.

Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.

- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

### III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

As set forth in the prehearing procedure issued in this docket, all parties are required to prefile both direct and rebuttal testimony. New or additional testimony is not permitted at the time the witness takes the stand at the hearing. Due to the nature of their testimony, adverse witnesses called by any party are not required to prefile testimony. All parties will give as much notice as possible of such witnesses. Each witness will be given an opportunity to summarize his prefiled testimony after it has been accepted in the record and before cross examination begins. Each witness is cautioned that the summary should be a short, concise statement of matters clearly included in his prefiled testimony. Counsel for each party is requested to review this matter with the witness as the case is prepared for hearing.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>FPL</u> S. R. Sim	FPL	2, 3, 13, 14, 16, 19, 20, 23, 24, 27, 68
G. W. Hammond	FPL	12, 32, 33, 34, 35, 66
S. S. Waters	FPL	1, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 24, 25, 26, 28, 42, 44
<u>CYPRESS</u> John A. Noer	Cypress	1,2,3,6,9,10, 12,13,14,16, 18,19,20,21,32,33, 34,35,42
Ronald J. Ott	Cypress	1,2,6,13,21 23,26,33,42
Manfred G. Raschke	Cypress	1,12,42
Roger McDaniel	Cypress	6,13,42
<u>LEAF/EVANS</u> John Plunkett	LEAF/Evans	
David J. White	LEAF/Evans	
Deborah Evans	LEAF/Evans	
Donald Hale	LEAF/Evans	
<u>DER</u> Hamilton S. Oven, Jr.	DER	19,21,41
<u>ARK/CSW</u> William R. Stratton	ARK/CSW	14,18,28,42,43,45 49,54,55,57,64
Arnold R. Klann	ARK/CSW	16,20,28,29,43,49,53

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
Michael C. Blaha	ARK/CSW	14,16,18,42,45,49,54,55,57
J. David Brown, P.E.	ARK/CSW	26,47,53,60,62,71
Scott P. Wiedermann	ARK/CSW	53,58,59,60,62
Thomas E. Reedy, P.E.	ARK/CSW	53,62,63
Richard A. Zwolak, AICP	ARK/CSW	53
Robert Sears	ARK/CSW Adverse witness	19,20
Roberto R. Denis	ARK/CSW Adverse witness	19,20
<u>NASSAU</u>		
Phillip N. Cantner	NASSAU	1, 8, 9, 14, 16, 18, 19, 20, 23, 26, 32, 33, 34, 35, 42, 46, 48, 50, 53A, 54A, 55A, 57A, 58A, 59A, 60A, 62A, 63A, 64A, 66A, 67, 68, 69, 70, 71
James A. Ross	NASSAU	14, 18, 46, 57A
Robert J. Weiss	NASSAU	1, 9, 23, 32, 33, 34, 35, 53A, 69, 70
Robert L. Brooks	NASSAU	26, 48, 53A, 60A, 67
A. J. Phipps	NASSAU	54A, 58A, 59A
<u>OKEECHOBEE</u>		
Stephen Porter	Okeechobee	23
Frank W. Williamson, Jr.	Okeechobee	9
Frank Marsocci	Okeechobee	30

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Rebuttal</u>		
<u>FPL</u>		
R. R. Denis	FPL	27, 43, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 68, 69, 70, 71
J. H. Landon	FPL	17, 22
J. H. Wile	FPL	2, 17, 36
N. G. Hawk	FPL	17, 22
S. S. Waters	FPL	17, 28, 36, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 67

#### V. BASIC POSITIONS

**FLORIDA POWER AND LIGHT COMPANY (FPL):** The joint petition for the determination of need should be granted. The information necessary to address the statutory criteria is before the Commission. The proposed units will enhance FPL's and the State's electric system reliability and integrity; will provide adequate electricity at a reasonable cost; and are the most cost-effective alternatives reasonably available to FPL. FPL has recognized in its assessment of need the conservation measures previously approved by the Commission in FPL's Demand Side Management Plan for the 90's as well as additional conservation potential. The remaining conservation potential FPL has subsequently proposed is not sufficient to offset the need for the proposed units.

The new proposals being offered by ARK/CSW and Falcon Seaboard/Nassau as more cost-effective than the proposed Cypress units have not been subjected to the scrutiny and review the Cypress units have been and cannot reasonably be assessed in this proceeding. The developers of these proposed projects had the opportunity to compete head-to-head with Cypress in FPL's evaluation of capacity alternatives and chose to pursue alternative courses and not present the proposals they now tout are more cost-effective. A rejection of the joint petition on the ground that either of the new projects is more cost-effective or more beneficial than the Cypress units would totally frustrate the



orderly, comprehensive review of capacity alternatives by FPL and put the Commission in the position of potentially facing an endless series of need petitions.

**CYPRESS ENERGY PARTNERS, LIMITED PARTNERSHIP (CYPRESS):** CEP's proposed pulverized coal fired project in Okeechobee County is the most cost-effective alternative for providing reliable capacity and energy to meet FPL's identified need for additional capacity in the 1998 to 1999 time frame. The Cypress Energy Project (Cypress) was selected by FPL through a detailed evaluation process that considered both economic and non-economic factors. After the selection of Cypress, CEP and FPL negotiated a comprehensive and detailed Contract for the Purchase of Firm Capacity and Energy under which CEP will provide approximately 832 MW (net) of capacity (790 MW to 874 MW depending on final design and performance testing) from two approximately 416 MW (net) pulverized coal fired units in Okeechobee County. The contract contains several financial incentives and operational requirements that ensure completion and reliable operation of Cypress, as well as close coordination with FPL. The purchase of capacity by FPL under the contract is more cost-effective than FPL's construction of its own generating units, and more cost-effective than any alternative power supply proposal made to FPL during the period that FPL was considering and evaluating purchase alternatives. When all relevant factors are considered, it is the most reliable, cost-effective alternative available.

The untimely proposals being offered by ARK/CSW and Nassau cannot be comprehensively evaluated in this proceeding and to attempt to do so would frustrate the orderly process by which utilities and the Commission evaluate purchased power alternatives. However, preliminary analysis of the new projects reveals several fundamental concerns regarding fuel supply, financeability, long term viability and other matters which preclude a finding that either project is a more reliable, cost-effective alternative than Cypress.

**LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION, INC./DEBORAH B. EVANS (LEAF/EVANS):** FPL/CEPL have not established that the CEP is the most viable, cost-effective and efficient means to meet future demand for energy and capacity. FPL has not adequately alleged, nor made an adequate showing, that it has satisfied the requirement that it take the conservation measures reasonably available to mitigate the need for new power plant construction or the requirement that the proposed plant be the most cost-effective alternative available to meet future need. FPL/CEPL's sole reliance upon FPL's Commission-approved conservation programs to meet the need mitigation requirement is legally insufficient and

inconsistent with the intent of FEECA. FPL/CEPL have not shown that they have adequately considered the costs of the CEP, including Clean Air Act compliance costs. The viability and feasibility of the CEP is adversely affected by the environmental characteristics of the proposed technology and site location, and CEPL has not adequately demonstrated that the CEPL is not jeopardized by compliance with the federal Endangered Species Act.

**DEPARTMENT OF ENVIRONMENTAL REGULATIONS (DER):** The Department urges that the Commission refrain from specifying any fuel type in the event that it determines that there is a need for Florida Power and Light Company to acquire additional electric generating capacity by means of a contractual power supply arrangement with an independent power producer. The type of fuel burned in an electrical power plant has a significant effect on the nature and amounts of air pollution, solid wastes, and waste water discharges emitted from the plant. The Commission should limit its need determination to the size of the plant necessary to meet FPL's need for capacity, if any, and leave to the Siting Board the ultimate decision of what type of fuel should be allowed as an essential element of the site certification's environmental impact evaluation made by the Board under Section 403.509, Florida Statutes, to protect the broad interests of the public.

**ARK ENERGY, INC./CSW DEVELOPMENT-I, INC. (ARK/CSW):** ARK/CSW's Pahokee Power Partners II Project will consist of 4 combustion turbine generators, 4 heat recovery steam generators, and 2 steam turbine generators, with a maximum total capacity of approximately 866 MW (net at 75 degrees Fahrenheit ambient temperature). This plant will be located in Okeechobee County Florida at the Enrico Dairy Site approximately 1.5 miles from the northern shore of Lake Okeechobee and approximately 6 miles east-southeast of Okeechobee. Associated facilities for the ARK/CSW PPP II Project include approximately 30 circuit miles (two separate 500 kV transmission lines of approximately 15 miles each) extending north and then east from the project site to the point of interconnection with FPL at the existing Martin-Poinsett 500 kV transmission line. The interconnection will consist of two 500 kV circuits which will loop the Martin-Poinsett transmission line into the ARK/CSW plant.

ARK/CSW's Pahokee Power Partners II Project presents the best, most cost-effective means of meeting the identified needs of Florida Power and Light Company (FPL) for approximately 800-900 MW of capacity in the 1998-1999 timeframe. When compared to the costs of FPL's avoided units (against which the Cypress contract was evaluated), the ARK/CSW Contract offers net present value savings of between \$373 million and more than \$440 million. When compared to the Cypress contract, FPL's customers realize additional savings

of \$302,000,000 (net present value in 1991 dollars). The ARK/CSW Contract also offers FPL's general body of ratepayers total savings of approximately \$1.54 billion over the life of the Contract when compared to the proposed Cypress contract.

**NASSAU POWER CORPORATION (NASSAU):** In this docket, Florida Power and Light Company (FPL) and Cypress Energy Partners (CEP) are seeking an affirmative determination of need pursuant to the Electrical Power Plant Siting Act for two coal-fired power plants to meet the capacity needs identified by FPL as occurring in 1998 and 1999. Pursuant to its statutory responsibility under section 403.519, Florida Statutes (1991), this Commission must evaluate whether the FPL/CEP proposal is the most "cost-effective alternative available." The Commission must also consider "other matters within its jurisdiction." It is Nassau Power's position that the CEP project is not the most cost-effective way for FPL to meet its capacity needs and that moreover, other considerations require the rejection of the FPL/CEP request for a need determination.

As to the issue of cost-effectiveness, FPL and CEP have executed a contract setting forth the payments which FPL proposes to make to CEP under the contract terms. Nassau Power offers to enter into a contract with substantially the same terms and conditions (i.e., completion security deposit, termination fund, maintenance fund, variable capacity payment formula based on performance, milestones, dispatchability, contract term, and location near FPL's load center) at a price millions of dollars lower than the CEP proposal. Thus, Nassau Power is offering a project that is more cost-effective than the CEP proposal.

Second, the Nassau Power unit will burn clean natural gas. It will have a heat rate of less than 7600 Btus/kWh (HHV) as compared to the CEP Unit's heat rate of 9965 Btus/kWh. Thus, the Nassau Power project will be 25% more efficient than the CEP unit. Additionally, the Nassau Power unit will not have the numerous adverse environmental consequences of a coal-fired plant, such as the need for unit trains to supply the large quantities of coal, emissions of SO<sub>2</sub>, mercury and other pollutants, or the need to dispose of large quantities of scrubber by-product and coal ash.

Nassau Power's 435 MW unit will be a Qualifying Facility (QF) while the CEP project is an independent power producer (IPP). Section 366.81, Florida Statutes (1991), requires this Commission to encourage the development of cogeneration in the state so as to foster efficient power generation.

Nassau Power is prepared to develop its project in an alternative configuration of two 435 MW units phased in a year apart if the Commission determines that a single determination of need encompassing the two increments of capacity identified by FPL is preferable. Thus, Nassau Power's proposal is more flexible than the proposed CEP contract.

All of these factors require that the FPL/CEP request for a determination of need be denied.

**OKEECHOBEE COUNTY (OKEECHOBEE):** It is the position of Okeechobee that there is a critical need for responsible, reliable and long term industry to be located within Okeechobee County, which has been severely impacted by State sponsored dairy relocations. Additionally, both the County and many of its residents are customers of Florida Power and Light Company. As such, the County has a substantial interest in the approval of reliable and cost effective sources of electricity to meet Florida Power and Light's needs while also cognizant of the need to ensure that any facility constructed is required to meet all Federal and State guidelines as to environmental externalities.

**FLORIDA MUNICIPAL POWER AGENCY (FMPA):** No position.

**STAFF:** None at this time.

## VI. ISSUES AND POSITIONS

**ISSUE 1:** Does FPL's and Cypress' need determination proposal appropriately address risk and other strategic concerns including, but not limited to fuel flexibility and transportation, adverse weather, assistance from the Southern Company, and constraints in transmission?

**FPL:** Yes. As to the specific items identified in the issue, FPL considers the availability of assistance from the Southern Company and transmission constraints in the determination of system reliability (Loss of Load Probability). Adverse weather is implicitly addressed by designing the system with adequate reserve margins using accepted reliability targets. Fuel flexibility and transportation risk are addressed from a system perspective by maintaining a diverse fuel mix (See Issue 10). (WATERS)

CYPRESS:

Yes. Cypress has an efficient design that uses coal which will be in abundant supply over the life of the project, thus conserving scarce fuels such as natural gas. Cypress has the ability to be served by two competing railroads, which will facilitate continued and reliable operation of the project and will minimize the risk of fuel supply interruptions for any reason, including adverse weather. Cypress' location close to FPL's load center minimizes any adverse impact on the transmission system or on FPL's ability to obtain tie-line assistance from the Southern Company.

Cypress will provide maximum operational flexibility to FPL, based on FPL's ability to dispatch the units and the requirement for close coordination of maintenance schedules. The contract between FPL and CEP contains numerous provisions which are designed to ensure continued and reliable operation over the term of the contract, thereby minimizing the risks to FPL and its customers. The potential for construction of further units on the Cypress site gives FPL the strategic flexibility to use the site in responding to future load growth.

CEP understands that FPL's evaluation of Cypress and the other non-utility power supply proposals included an analysis of the following non-economic aspects of each proposal: financial, environmental, fuel supply (including risk of interruption), plant reliability, dispatchability, and other considerations (including the developer's experience). Cypress is the top-ranked project when both economic and non-economic factors are considered. (Noer, Ott, Raschke)

LEAF/EVANS:

No. FPL alleges that it considers nine strategic factors in its planning process: protection of the environment, conservation of natural resources, customer retention and customer choice, economic risk to the customer, fuel flexibility, flexibility to respond to changes in demand growth, operational flexibility, financial integrity of FPL, and regulatory uncertainty. The strategic factors should be applied to supply side and demand side options, as recognized by FPL. Demand side options available to FPL would fare very well under the

strategic factors. According to FPL's 1991 planning study, pulverized coal units generally fared poorly, in relation to other supply and demand side alternatives, under the strategic factors. Since much of the regulatory uncertainty concerns environmental regulation, demand side alternatives are a much better risk than pulverized coal. (Plunkett)

DER: No position.

ARK/CSW: No, except with regard to adverse weather, assistance from the Southern Company and constraints on transmission.

NASSAU: No. The FPL/Cypress proposal fails to address the substantial environmental permitting risk which accompanies the CEP project. Permitting of a coal plant in Florida carries with it substantial risk that the project will not be brought on line or operate as planned, especially when compared to the permitting of a natural gas plant. A coal plant has substantial environmental permitting risk due to the fact that it will emit large quantities of SO<sub>2</sub> over the life of the project, it will have to dispose of millions of tons of scrubber by-product and coal ash, and it will emit significant quantities of mercury. Additionally, the FPL/Cypress project will require SO<sub>2</sub> allowances; because the EPA has not yet promulgated regulations on the SO<sub>2</sub> allowance system, it is unclear as to how and whether the FPL/Cypress project will be able to secure the necessary SO<sub>2</sub> allowances. Further, the effects of the CEP project on the sensitive Lake Okeechobee area magnifies the permitting risk relative to a gas-fired unit. (Weiss, Cantner)

OKEECHOBEE: No position.

FMPA: No. The need determination proposal does not appropriately address constraints in transmission.

STAFF: No position at this time.

ISSUE 2: Did FPL reasonably consider the costs of environmental compliance with the 1990 amendments to the Clean Air Act when it evaluated CEP's pulverized coal project?

FPL: Yes. (Sim, Wile)

CYPRESS: Yes. The cost of the Cypress Project includes the costs of compliance with all environmental requirements, including the cost of SO<sub>2</sub> allowances and a NO<sub>x</sub> reduction system.

CEP understands that FPL's evaluation of Cypress considered the total contract cost to FPL, including the fixed price of \$0.60/MWh for SO<sub>2</sub> allowances, and that the Cypress Project was found to be the most cost-effective alternative. (Noer, Ott, Day)

LEAF/EVANS: No. FPL apparently did not consider all Clean Air Act compliance costs. The cost of SO<sub>2</sub> allowances may rise, NO<sub>x</sub> reductions costs are not considered, air toxics reductions costs are not considered. Failure to consider such costs could affect FPL's ratepayers from a forced renegotiation of the contract with CEPL, increased risk of disruption of CEP power, and increased pressure on regional emissions limits. Risk to FPL's ratepayers, as to all residents, from increased regional emissions pressure would also increase. (Plunkett)

DER: No position.

ARK/CSW: No.

NASSAU: No. Because the sale and purchase of SO<sub>2</sub> allowances is a very new phenomenon and because the EPA has not yet promulgated regulations on this matter, the costs of environmental compliance with the Clean Air Act and their impact on the CEP's project's financial feasibility have not been appropriately considered.

OKEECHOBEE: No position.

FMFA: No position at this time.

STAFF: No position at this time.

ISSUE 3: Did FPL adequately and fairly address cost factors relating to the sale of combustion by-products from the proposed plant(s)?

FPL: Yes. FPL's economic comparison of proposals properly addressed the costs to be borne by FPL's customers. The pricing proposal submitted by Cypress resulted in the most cost-effective alternative to FPL's customers for satisfying the 1998-99 capacity need. (SIM)

CYPRESS: Yes. CEP prefers to sell combustion by-products from the proposed plant, but the contracted price of electricity is sufficient to enable combustion products to be disposed of on-site in an engineered landfill. Disposal costs in excess of CEP's estimate will be at CEP's risk, not FPL's. Disposal costs less than CEP's estimate, including any benefits from sales, would be used by CEP to offset this and other risks assumed by CEP under the contract. (Noer)

LEAF/EVANS: No position.

DER: No position.

ARK/CSW: No position.

NASSAU: No.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 4: Is the load forecast used by FPL to determine its need for approximately 800-900 MW of additional generated capacity in the 1998-1990 time frame reasonably adequate for planning purposes?

FPL: Yes. (Waters)

CYPRESS: Yes.



LEAF/EVANS: No. FPL unreasonably failed to factor in the capacity savings of all of its approved conservation programs. (Plunkett)

DER: Agree with Ark/CSW.

ARK/CSW: FPL's load forecast is reasonably adequate to support FPL's determination that it needs approximately 800-900 MW of capacity in 1998-1999 time period.

NASSAU: For purposes of the comparison between the CEP proposal and Nassau Power's Okeechobee alternative, Nassau Power does not take issue with the load forecast.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 5: As a utility interconnected with the statewide grid, does FPL exhibit a need for approximately 400-500 MW of capacity in 1998 and for approximately 400-500 MW of capacity in 1999?

FPL: Yes. (Waters)

CYPRESS: Yes. CEP understands that FPL's reliability analysis demonstrates a need for approximately 400-500 MW of additional capacity in both 1998 and 1999, with further capacity requirements in 2000 and each subsequent year. This identification of need is consistent with the Peninsular Florida Generation Expansion Study (February 1992) prepared by the Florida Electric Power Coordinating Group (FCG). That study identified statewide capacity needs in each year from 1995 through 2000, with needs of 840 MW in 1998 and 630 MW in 1999.

LEAF/EVANS: No. (Plunkett)

DER: Agree with Ark/CSW.

ARK/CSW: Yes, FPL exhibits a need for approximately 400-500 MW of capacity in both 1998 and 1999.

NASSAU: For purposes of the comparison between the CEP proposal and Nassau Power's Okeechobee alternative, Nassau Power does not take issue with the identification of the timing and quantity of need.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 6: Is the Joint Petition to determine the need for the proposed CEP pulverized coal units premature?

FPL: No. The current schedule will result in a Commission decision on the Joint Petition in the second half of 1992. The proposed in-service date for the first Cypress unit is no later than December 1, 1997. (WATERS)

CYPRESS: No. Cypress Unit 1 has a mandatory Capacity Delivery Date of December 1, 1997, and CEP is required to pay FPL liquidated damages of \$2,080,000 per month in the event that date is not met. Cypress Unit 1 will be constructed on an aggressive 41-month schedule running from January 1, 1994 through June 1, 1997, which is the earliest Capacity Delivery Date allowed by the power sales agreement. Having a reasonable period between the expected capacity delivery date and the mandatory capacity delivery date will be of concern to the project's lenders in order to assure that the project will not incur liability for liquidated damages. For the anticipated construction start date to occur, several preconstruction activities must first be completed. These include a need determination by the Commission, site certification by the Siting Board, project financing, and FERC approval of the power sales contract. In order to complete these preconstruction and construction activities in a timely manner, CEP filed its need determination petition on May 22, 1992 and its site certification application on July 27, 1992. Any delay in the need determination proceedings could jeopardize CEP's ability to meet its required construction start date.

Contrary to Nassau's position, it should be noted that FERC generally does not review utility/IPP contracts until all required state approvals have been obtained. (Noer, Ott, McDaniel)

LEAF/EVANS: Yes. FPL has an obligation to predicate the need for the pulverized coal project on a reasonable and up-to-date integrated resource plan. As indicated by the Joint FPL-CEPL Petition in this docket, FPL has nearly completed its 1992 planning study, but has not considered the 1992 study findings in determining the need for Cypress. Further, FPL's recent proposed amendments to its conservation programs have not been addressed in FPL/CEPL's Petition. Within six months, FPL could produce a revised integrated resource plan that could serve as a proper basis for a subsequent need determination petition. FPL's acquisition of additional available DSM would delay FPL's need for the Cypress purchase to meet projected peak demand. (Plunkett)

DER: No position.

ARK/CSW: No.

NASSAU: Yes. The contract between FPL and CEP is subject to approval by the Federal Energy Regulatory Commission (FERC). FPL and CEP do not contemplate contract submission to the FERC until after receipt of an affirmative determination of need. FPL/Cypress contract, section 2.2, page 21. Further, section 2.1.3, page 20, provides that the contract will be automatically terminated if not approved by the FERC. Because the contract may not be approved by the FERC or may be approved in a substantially different form, the FPL/Cypress petition is premature.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 7: Is approximately 800-900 MW of additional generating capacity needed for the 1998-1999 time frame to contribute to the reliability and integrity of the electric system of FPL and the state of Florida?

FPL: Yes. The need for new capacity in peninsular Florida was most recently studied by the Florida Electric Power Coordinating Group, Inc. (FCG) in 1991. The results were presented in the Peninsular Florida Generation Expansion Study Document dated February 12, 1992. The results of that study were consistent with the results of FPL's study. After the inclusion of certified or committed planned generating units into the FCG data base, the FCG identified 1995 as the first year that additional generating capacity would be needed from a statewide perspective. By 1998, the FCG identified a need of over 2,300 MW of new capacity with 840 MW added in 1998, and an additional 630 MW in 1999.

FPL's reliability analysis identified a need in each of the years 1998 and 1999. FPL's identification of need in these two years is well supported by the FCG's results. (WATERS)

CYPRESS: Yes. FPL's studies show a need for additional capacity in 1998 and 1999. Similarly, FCG's Peninsular Florida Generation Expansion Study (February 1992) identified a statewide need for 840 MW in additional capacity in 1998 and 630 MW in 1999 in order to meet a Peninsula Florida reliability criteria of 0.1 days per year loss of load probability (LOLP).

LEAF/EVANS: No. Additional lower cost conservation and demand side management could offset the need for additional capacity. A reasonable estimate of the savings available is that FPL can acquire an additional 500 MW of cost-effective resources from further conservation investment by 1999 (or an additional 424 MW by 1998), for a total of 922 MW of peak reduction (or 791 MW by 1998). (Plunkett)

DER: Yes.

ARK/CSW: Yes.

NASSAU: Nassau Power's position is that FPL's need for capacity is at least of this magnitude.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 8: Are the proposed 416 MW CEP pulverized coal units needed to contribute to the reliability and integrity of the electric system of FPL and the State of Florida?

FPL: Yes. The need for new capacity in peninsular Florida was most recently studied by the Florida Electric Power Coordinating Group, Inc. (FCG) in 1991. The results were presented in the Peninsular Florida Generation Expansion Study Document dated February 12, 1992. The results of that study were consistent with the results of FPL's study. After the inclusion of certified or committed planned generating units into the FCG data base, the FCG identified 1995 as the first year that additional generating capacity would be needed from a statewide perspective. By 1998, the FCG identified a need of over 2,300 MW of new capacity with 840 MW added in 1998, and an additional 630 MW in 1999.

FPL's reliability analysis identified a need in each of the years 1998 and 1999. FPL's identification of need in these two years is well supported by the FCG's results. (WATERS)

CYPRESS: Yes. FPL's studies show a need for additional capacity in 1998 and 1999. Similarly, FCG's Peninsular Florida Generation Expansion Study (February 1992) identified a statewide need for 840 MW in additional capacity in 1998 and 630 MW in 1999 in order to meet a Peninsula Florida reliability criteria of 0.1 days per year loss of load probability (LOLP). By meeting FPL's need, and a portion of the statewide need, the two proposed 416 MW CEP units will contribute to the reliability and integrity of the electric system of FPL and the State of Florida for the life of the facility.

LEAF/EVANS: No. (Plunkett)

DER: No.

ARK/CSW: No. They are not needed because ARK/CSW's Pahokee Power Partners II Project will provide a more cost-effective, more efficient, and more environmentally preferable alternative, and because the Pahokee Power Project will have a greater availability factor than the CEP units.

NASSAU: No. They are not needed because Nassau Power can provide a more desirable alternative. The Nassau Power project will contribute to the reliability and integrity of the electric system of Florida while at the same time providing a more cost-effective and environmentally sound option to FPL. (Cantner)

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 9: Are there any adverse consequences to FPL and its customers if either or both of the proposed CEP pulverized coal units are not completed in the approximate time frame requested by FPL and CEP?

FPL: Yes. A one year delay of the Cypress Energy Project will result in a net system LOLP substantially greater than 0.1 days/year in 1998 and 1999. This indicates less than desired system reliability and possible loss of customer load. (See Issue 7) (WATERS)

CYPRESS: Yes. CEP understands that a delay in the completion of either or both of the CEP units will result in an unacceptable decrease in the reliability of FPL's system and a corresponding increase in the likelihood of service interruptions. The contract recognizes these adverse consequences by requiring CEP to pay liquidated damages in the event the units are not completed on schedule. (Noer)

- LEAF/EVANS: No. Improved utilization of DSM and improved integrated planning could save energy and capacity represented by the CEP proposal; furthermore, the pulverized coal project is more costly and entails more risk than available DSM alternatives. (Plunkett)
- DER: No position.
- ARK/CSW: No. There are adverse consequences to FPL if approximately 400 to 500 MW of capacity is not added to FPL's system in both 1998 and 1999. The ARK/CSW Pahokee Power Partners II Project represents the best means of addressing the consequences of delay regarding this capacity since the component design of the Pahokee Power Project will allow FPL the maximum flexibility in meeting its projected capacity needs.
- NASSAU: No. The capacity needs identified by FPL can be met in a more cost-effective and environmentally sound way by the Nassau Power project. In that sense, there are no adverse consequences of not building the Cypress units. (Cantner, Weiss)
- OKEECHOBEE: A majority of the residents of Okeechobee County are FPL customers. These customers in particular will be greatly impacted by any delay in the project scheduling for the CEP project. (Williamson)
- FMPA: No position.
- STAFF: No position at this time.
- ISSUE 10: Will the CEP pulverized coal units contribute to fuel diversity for FPL's system and for peninsular Florida?
- FPL: Yes. Energy from coal-fired units owned by FPL and energy purchased on a firm basis from non-FPL coal-fired units is projected to account for 17% of FPL's energy mix in 1992. By 1999, when both Cypress units are operating, this is projected to increase to 26%, with 23% from nuclear energy, 11% from oil, 27% from gas, and 13% from small (<75 MW) Qualifying Facilities and net interchange. (WATERS)

CYPRESS: Yes. CEP understands that a significant percentage of the installed capacity of both FPL and peninsular Florida consists of oil and gas fired generating resources. The addition of approximately 832 MW of pulverized coal units would increase the fuel diversity of the FPL and peninsular Florida systems and decrease dependence on oil fired and natural gas fired units which have experienced significant fuel price volatility in the past. (Noer)

LEAF/EVANS: No. (Plunkett)

DER: No.

ARK/CSW: No.

NASSAU: No. Only 35 MW of FPL's non-utility sources of capacity are derived from gas-fired generation. Nassau Power's project provides the means of achieving the benefits of natural gas-fired generation on FPL's system and diversifying FPL's non-utility sources of capacity by adding 435 MW or 870 MW of natural gas-fired generation.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 11: Is the fuel price forecast used in the Need Determination Petition reasonably adequate for planning purposes?

FPL: Yes. FPL uses a scenario approach in the development of long-term fuel price forecasts. FPL's base case scenario reflects FPL's 1991 outlook on market conditions which are considered most likely to occur. In addition, FPL, in sensitivity cases, employed a fuel price forecast for oil and natural gas from Data Resources, Incorporated. (WATERS)

CYPRESS: Yes.

LEAF/EVANS: No position.



DER: No position.

ARK/CSW: No. ARK/CSW believe that the fuel price forecasts used by FPL in its base case are too high. The low band of the fuel price forecasts used in FPL's Sensitivity Analyses more closely match ARK/CSW's assessment of future fuel costs.

NASSAU: For purposes of demonstrating that it proposes an alternative that is better for the state and more economical for FPL's customers, Nassau Power takes no position on the fuel forecast used by FPL to determine its avoided unit.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 12: Is dual firing capability for CEP's pulverized coal fired generation facility reasonably necessary to assure an adequate supply of fuel at reasonable cost?

FPL: FPL's contract with Cypress is structured such that there are strong financial incentives for Cypress to procure adequate amounts of fuel to operate the units reliably over the life of the contract.

CYPRESS: No. The availability of abundant supplies of coal from competitive suppliers and the existence of two rail transportation alternatives provide reasonable assurance that an adequate supply of coal will be available to CEP's facility at a reasonable cost without the necessity of dual firing capability. (Noer, Raschke)

LEAF/EVANS: No. The CEPL pulverized coal project is not the most cost-effective alternative. (Plunkett).

DER: No position.

ARK/CSW: Yes.

NASSAU: No position at this time.

OKEECHOBEE: No position.  
FMPA: No position.  
STAFF: No position at this time.

ISSUE 13: Have FPL and CEP provided sufficient information on the project, including the site, design and engineering characteristics of the two 416 MW pulverized coal units to enable the PSC to adequately evaluate the proposal?

FPL: Yes. (Sim)

CYPRESS: Yes. The plant site is located in Okeechobee County, approximately 8 miles northwest of the city of Okeechobee. The site, comprising approximately 1,925 acres, is bounded on three sides by ranching operations and on the south by the CSX railroad. A special exception has been obtained under Okeechobee County's zoning ordinance to allow power generation at the site. CEP has an exclusive option to purchase the site from the present owner.

The Cypress units are based upon the detailed reference design, NRGpak 400<sup>TM</sup>. The project design involves two nominal 416 MW pulverized coal units (395 MW to 437 MW depending on final design and performance testing) designed to be capable of achieving a Capacity Billing Factor of 93 percent. The design calls for the use of appropriate emission control technology to assure that the project will comply with all applicable environmental requirements.

The energy generated at Cypress will be transmitted to FPL's system through 500 KV transmission lines which will loop the existing Poinsett-Martin transmission line through the site.

The project's sponsors are subsidiaries of Northern States Power Company and Black and Veatch. Both companies have extensive experience in the engineering, construction, and operation of

pulverized coal facilities. Black and Veatch and Northern States Power have previously worked together to complete similar pulverized coal power plants.

The financial structure of the project includes an expected equity commitment of \$150 to \$300 million, and the project is financeable on a project finance basis. (Ott, Noer, McDaniel, Day)

LEAF/EVANS: No. (Plunkett)  
DER: No position.  
ARK/CSW: No position at this time.  
NASSAU: No position at this time.  
OKEECHOBEE: No position.  
FMPA: No position.  
STAFF: No position at this time.

ISSUE 14: Would the pulverized coal units being proposed by FPL and Cypress contribute to the provision of adequate electricity to FPL and the state of Florida at a reasonable cost?

FPL: Yes. Additional capacity is needed in the 1998/1999 time frame to ensure FPL's customers of a reliable and adequate supply of electricity. The CEP proposal is more cost effective than any FPL construction alternative and is more cost effective than any proposal submitted to FPL to meet this need during the FPL evaluation process that led to the Cypress contract. (WATERS) (SIM)

CYPRESS: Yes. The proposed Cypress pulverized coal units will provide approximately 832 MW of capacity, designed and maintained to be capable of achieving a 93 percent capacity billing factor. The units will be dispatchable by FPL and the contract between CEP and FPL provides incentives for on-peak performance to ensure that the units will meet FPL's needs. This capacity and energy comes at a reasonable cost, at a cumulative present value

revenue requirements savings of approximately \$144 million compared to FPL's least cost alternative of constructing its own pulverized coal unit. The CEP proposal is more cost-effective than any other proposal submitted to and evaluated by FPL. While ARK/CSW and Nassau claim that their projects will provide electricity to FPL at a more reasonable cost, there are significant fundamental uncertainties regarding the viability of those projects that make it impossible to conclude that they are reliable alternatives to Cypress or that their claimed savings will ever be realized. (Noer, Raschke, McDaniel)

LEAF/EVANS: No. Based upon the FPL/CEPL Petition and testimony, the Commission cannot reasonably find that the pulverized coal project will contribute to adequate, reasonable cost electricity. (Plunkett)

DER: No.

ARK/CSW: No. ARK/CSW's Pahokee Power Partners II Project presents the best, most cost-effective means of meeting the identified needs of Florida Power and Light Company (FPL) for approximately 800-900 MW of capacity in the 1998-1999 timeframe. When compared to the costs of FPL's avoided units (against which the Cypress contract was evaluated), the ARK/CSW Contract offers net present value savings of between \$373 million and more than \$440 million. When compared to the Cypress contract, FPL's customers realize additional savings of \$302,000,000 (net present value in 1991 dollars). The ARK/CSW Contract also offers FPL's general body of ratepayers total savings of approximately \$1.54 billion over the life of the Contract when compared to the proposed Cypress contract. Accordingly, because of the significant savings available to FPL's ratepayers from the ARK/CSW Contract, the Cypress coal project cannot claim to provide electricity "to FPL and to the State of Florida at a reasonable cost."

NASSAU: No. FPL has available to it the Nassau Power project which will provide adequate electricity to FPL and the state of Florida in a more advantageous manner and at a much more economical cost than the CEP pulverized coal units. In view of the Nassau

Power alternative, the CEP proposal is not reasonable from the ratepayers' perspective. (Cantner, Ross)

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 15: Has FPL adequately explored and evaluated alternative FPL-owned supply side sources of capacity?

FPL: Yes. FPL evaluated 38 alternative supply-side technologies, including renewable technologies, in creating a short list of five options for detailed economic evaluation. These five alternatives were then examined under base and sensitivity assumptions. (WATERS)

CYPRESS: Agree with FPL.

LEAF/EVANS: No position.

DER: No position.

ARK/CSW: Yes, FPL has adequately screened and evaluated alternative supply-side options modeled in the generation expansion plans used in this docket.

NASSAU: No position at this time.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 16: Has the availability of purchased power from other sources been adequately considered by FPL?

FPL: Yes. FPL continually investigates the possibility of cost-effective purchased power from other utilities. In addition, FPL conducted an extensive evaluation of all power supply proposals submitted

from non-utility sources and determined that the Cypress proposal was the most cost-effective alternative reasonably available to meet FPL's projected capacity need in 1998 and 1999 with reliable capacity and energy. (WATERS) (SIM)

CYPRESS:

Yes. FPL conducted a 1989 Capacity Solicitation (RFP) which solicited bids from utilities and non-utility sources, including purchased power from in-state and out-of-state utilities. Cypress was one of the projects submitted in response to that RFP. As a result of that solicitation process, FPL purchased an interest in Scherer Unit No. 4. Subsequent to that bid process, FPL evaluated 15 proposals from non-utility generators, including Cypress, and determined that Cypress was the best purchased power alternative, taking into account both economic and non-economic factors.

In order to preserve the integrity of the power supply planning process in Florida, the Commission should not give equal consideration to untimely projects that have not been subjected to the utility's evaluation process and which submitted "bids" for new projects only after the price, terms and conditions of the contract with the best evaluated project had been made public. (Noer)

LEAF/EVANS:

No position.

DER:

No position.

ARK/CSW:

No.

NASSAU:

No. (Cantner)

OKEECHOBEE:

No position.

FMPA:

No position.

STAFF:

No position at this time.

ISSUE 17: What conservation measures taken by or reasonably available to FPL might mitigate the need for FPL's proposed 832 MW?

FPL: In its planning study FPL recognized all of the conservation measures the Commission approved in its review of FPL's Demand Side Management Plan for the 90's. The Commission has previously determined FPL's DSM Plan for the 90's to be consistent with the Commission's FEECA goals. At the time the planning study for Cypress was performed, it reflected all conservation measures taken by or reasonably available to FPL and demonstrated a need for additional capacity of 800-900 MW in the 1998-1999 time frame. (WATERS, HAWK)

Subsequent to the planning study, FPL has filed petitions for the approval of four conservation programs. Three of these petitions are pending before the Commission. Other conservation measures are being reviewed as part of FPL's continuing conservation research and development efforts. (HAWK)

Even if no adjustment is made for potential overstatement of conservation measure savings and even if the impact of all additional, cost-effective conservation measures not in FPL's planning study was recognized, FPL still needs the Cypress capacity. (HAWK, WATERS, LANDON, WILE)

CYPRESS: None. CEP understands that FPL has already included all reasonably available, cost-effective conservation and other demand side management (DSM) measures in its power supply planning process and that those measures do not mitigate the need for the approximately 832 MW to be provided by Cypress. CEP is not aware of any other cost-effective conservation and DSM measures reasonably available to FPL which would mitigate that need.

LEAF/EVANS: There are numerous measures available to FPL to mitigate the need for CEP, which should be ascertained by FPL in an updated and reasonable integrated resource planning process. Two

important examples are: increased participation in FPL's C/I Lighting Program, and development of a targeted Residential New Construction Program. (Plunkett)

DER: No position.

ARK/CSW: No position.

NASSAU: It is Nassau Power's position that FPL has adequately considered conservation measures in the determination of its need for capacity resources.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 18: Is the Cypress Energy Project and the purchased power agreement between CEP and FPL the most cost effective alternative available for FPL's customers and peninsular Florida?

FPL: Yes. The CEP proposal is the most cost-effective proposal received in connection with FPL's evaluation of power supply alternatives and is more cost-effective than FPL's construction alternatives. (WATERS)

CYPRESS: Yes. FPL's analysis shows that Cypress is \$144 million less costly, on a cumulative present value of revenue requirements (CPVRR) basis, than FPL's least cost generation alternative consisting of two pulverized coal units. This does not include FPL's purchased power penalty factor. This FPL-constructed pulverized coal alternative in turn is \$585 million CPVRR less costly than an alternative that includes natural gas-fired combined cycle units. Cypress also is less costly than any of the other purchase power proposals which were presented to FPL and against which Cypress was evaluated. Given the fundamental risks and uncertainties surrounding the ARK/CSW and Nassau projects, their early stage of development, and the lack of a detailed evaluation similar to the one that FPL made of Cypress and the other projects proposed to



FPL, there can be no confidence that the savings they claim to offer could ever be realized. (Noer, Raschke, McDaniel)

LEAF/EVANS: No. FPL/CEPL have failed to show that FPL's Cypress purchase can meet needs more cost-effectively than available DSM, or a combination of DSM and other less costly supply options. In large part, that failure results from FPL's biased DSM screening process: FPL uses the Rate Impact Measure (RIM) test to eliminate cost-effective conservation programs from further consideration by the utility and the PSC. FPL has also failed to maximize energy and capacity savings available from its existing conservation programs which cost less than energy and capacity represented by the Cypress pulverized coal project. (Plunkett)

DER: No.

ARK/CSW: No. ARK/CSW's Pahokee Power Partners II Project and associated Power Purchase Contract offers the best, most cost-effective means of meeting the identified needs of Florida Power and Light Company (FPL) for approximately 800-900 MW of capacity in the 1998-1999 timeframe. When compared to the costs of FPL's avoided units (against which the Cypress contract was evaluated), the ARK/CSW Contract offers net present value savings of between \$373 million and more than \$440 million. When compared to the Cypress contract, FPL's customers realize additional savings of \$302,000,000 (net present value in 1991 dollars). The ARK/CSW Contract also offers FPL's general body of ratepayers total savings of approximately \$1.54 billion over the life of the Contract when compared to the proposed Cypress contract.

NASSAU: No. The Nassau Power project presents the most cost-effective alternative for FPL's customers and the state of Florida, taking into account permitting risk, flexibility of project scope, back-up fuel supply, policy priorities in the area of cogeneration and efficiency, and the dramatic savings associated with Nassau Power relative to the cost of Cypress. (Cantner, Ross)

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 19: Was the evaluation process used by FPL in the selection of the Cypress Energy Project appropriate?

FPL: Yes. The evaluation process included both economic and non-economic criteria in order to identify the best overall proposal available to FPL. (SIM)

CYPRESS: Yes. FPL's systematic approach to evaluating all competing proposals on an equal basis resulted in the selection of the most cost-effective purchased power alternative for its ratepayers. The evaluation process included a preliminary economic and feasibility screening, followed by a detailed economic and non-economic analysis of the projects that survived the initial screening. (Noer)

LEAF/EVANS: No. Although FPL termed it's planning process as "integrated", and purported to examine reasonably available demand-side and supply-side options on a comparable basis, FPL did not employ integrated resource planning in a way that evaluates the options in a fair and consistent manner. One example of the defective FPL analysis was the use of the RIM test to screen out conservation measures that are more cost-effective and reliable than new supply. (Plunkett)

DER: No.

ARK/CSW: No.

NASSAU: No. In its screening, FPL eliminated all gas-fired projects at the initial screening level. Such a process fails to appropriately consider gas-fired resources. (Cantner)

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 20: Was FPL's selection of the Cypress Energy project in its evaluation appropriate?

FPL: Yes. (Sim)

CYPRESS: Yes. The evaluation process used by FPL was thorough and evaluated all proposals on an equal basis. The Cypress Project was determined to be the best purchased power option for FPL based on total savings, savings per KW, and total economic and non-economic scoring. (Noer)

LEAF/EVANS: No. FPL's planning process suffered from the flaws described in our response to issue 19. Furthermore, FPL's planning process is obviously incomplete, as alleged in Paragraph 20 of the Joint Petition. FPL/CEPL's Petition also fails to account for the "capacity deferral benefits" of all Commission-approved conservation programs. FPL has recently petitioned the Commission for approval of three additional programs which are not referenced in the Petition. (Plunkett)

DER: No.

ARK/CSW: No.

NASSAU: No. It is Nassau Power's position that FPL's evaluation process was flawed from the outset. See Issue 20. (Cantner)

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 21: What associated facilities are required in conjunction with the Cypress Energy Project?

FPL: Two single-circuit 500 KV lines totalling approximately 30 miles in length each, with a minimum rating of 3,988 MVA and associated terminal equipment (e.g., circuit breakers, switches, etc.) will be required to interconnect the Cypress units into FPL's 500 KV system. (WATERS)

CYPRESS: The associated facilities required in connection with the Cypress Energy Project are two single circuit 500 KV transmission lines approximately 28 miles long to loop the existing FPL Poinsett-Martin 500 KV line through the site; an approximate 30 mile railroad access spur from the Florida East-Coast Railway; and an approximate 1.7 mile plant access road. CEP has proposed separate corridors for the transmission line and rail spur, after consulting with local landowners, in an effort to minimize the impact on existing agricultural activities while making no change in the amount of right of way to be acquired or in the environmental impacts of the corridors. (Ott, Noer, Day)

LEAF/EVANS: In addition to the associated facilities described in FPL and CEPL's positions on this issue, a number of other pollution control or environmental facilities will be required. These facilities are approximated in CEPL's application for site certification, subject to change from regulatory requirements. Some of the major associated facilities include: 110 acre coal handling and storage facilities, including a coal pile and runoff basin; 30 acres of collection basins; 35 acres for an on-site substation and corridor; 300 acres for an ash and scrubber solids landfill; a drainage system for collection and discharge of runoff; and endangered species and wetland "mitigation" areas.

DER: Multiple separate linear facility corridors, as proposed by FPL and CEP, are not required. A single linear facility corridor would be less expensive to acquire and construct, more cost-effective, and have fewer potential environmental impacts.

ARK/CSW: No position.

NASSAU: No position at this time.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 22: Has FPL adequately considered and implemented all cost-effective conservation and non-generation alternatives which would mitigate all or part of the need for approximately 800-900 MW in the 1998-1999 timeframe?

FPL: Yes. (Hawk, Landon, Wile)

CYPRESS: Yes.

LEAF/EVANS: No. FPL has failed to adequately or reasonably consider all cost-effective conservation and non-generation alternatives which would mitigate the need for additional capacity. The planning process used to justify Cypress was not true integrated resource planning, was not comprehensive, and is not up-to-date. Further, FPL's evaluation of DSM is biased due in part to RIM prescreening and failure to account for avoided costs. FPL's consideration of conservation was biased toward peak savings and load control, and baseload energy savings received inadequate consideration.

FPL has also failed to implement all cost-effective conservation and non-generation alternatives which would mitigate the need for Cypress capacity. FPL's market penetration rates are too low for existing programs. Most of FPL's incentives for existing programs are set too low. FPL's existing delivery mechanisms are insufficient. FPL does not adequately combine measures to reduce delivery and administrative costs.

Clearly, better planning and implementation could mitigate the need for the Cypress pulverized coal project. "Mitigate" should not be interpreted to mean "totally eliminate" in this context. (Plunkett)

DER: No position.

ARK/CSW: No position.

NASSAU: No position at this time.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 23: Is the viability and feasibility of the FPL/CEP proposal for the two 416 MW pulverized coal-fired units adversely affected by the environmental characteristics of the proposed technology and site location?

FPL: No. FPL considers this issue to address whether the Cypress project is capable of obtaining the necessary licenses and permits for construction and operation of the facility. The environmental aspect of the evaluation of the CEP proposal concluded that the CEP project could receive the necessary construction and operating licenses and permits in time to achieve a January 1, 1998 in-service date. (SIM)

CYPRESS: No. Neither the viability nor the feasibility of the Cypress Project is adversely affected by the environmental characteristics of either the proposed technology or the site location. Pulverized coal is a proven technology and the February, 1992 certification of the Indiantown Cogeneration Project and the December, 1991 certification of Stanton Unit 2 demonstrate that such units are capable of complying with applicable environmental requirements and successfully obtaining certification.

CEP has submitted its application for site certification to the Florida Department of Environmental Regulation. That application demonstrates that the Cypress Project will meet all applicable environmental requirements.

The lack of detailed environmental evaluations of the ARK/CSW and Nassau projects makes it impossible to judge the relative permitability of their gas-fired projects. (Day, Ott)

LEAF/EVANS: Yes. The viability and the feasibility of the Cypress project is adversely affected by the environmental characteristics of the proposed technology and site location. The site is proximate

to the Kissimmee River, Lake Okeechobee and the Everglades Ecosystem. Emissions and discharges from the facility can reasonably be expected to receive strict scrutiny during certification and in federal permit proceedings, in light of concerns over mercury contamination and impacts to listed wildlife species. The proposed waste treatment and disposal facilities are risky and possible compliance costs of new regulations adversely affect the reliability of the proposal. According to FPL's strategic concerns, the Cypress project entails greater risk than other alternatives.  
(Plunkett, White)

DER: Yes.

ARK/CSW: Yes.

NASSAU: No. Neither the viability nor the feasibility of the Cypress Project is adversely affected by the environmental characteristics of either the proposed technology or the site location. Pulverized coal is a proven technology and the recent certifications of the Indiantown cogeneration project and Stanton Unit #2 demonstrate that such units are capable of complying with applicable environmental requirements.

CEP has submitted its application for site certification to the Florida Department of Environmental Regulation. That application demonstrates that the Cypress Project will meet all applicable environmental requirements. (Ott, Noer)

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 24: In evaluating resource alternatives, did FPL compare demand-side and supply-side options on a similar basis?

FPL: Yes. (Waters, Sim)

CYPRESS: Agree with FPL.

LEAF/EVANS: No. FPL's evaluation treated supply-side and demand-side options differently in several ways. First, FPL used different measures of cost-effectiveness in its evaluation of supply-side and demand-side alternatives. FPL used the RIM test to screen out cost-effective conservation measures, and the utility did not properly account for the avoided costs of demand-side alternatives.

Second, FPL's application of its strategic criteria to supply-side and demand-side alternatives was not evenhanded.

Third, FPL's low load factor of its energy saving resources indicates that FPL considered the demand-side equivalent of a peaking, rather than a baseload, plant. (Plunkett)

DER: No position.

ARK/CSW: No position.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 25: Should the PSC's evaluation of "fuel diversity" include consideration of utility promotion of the use of renewable energy resources, demand-side management and end-use efficiency?

FPL: Such a consideration would only be appropriate if it addresses the promotion of alternatives that are both available and cost-effective. It would not be appropriate to consider alternatives that fail to meet either of these two criteria. (WATERS)

CYPRESS: Agree with FPL.



LEAF/EVANS: Yes. This is a policy/legal issue. One good justification for such a policy regarding solar energy development is found in Section 377.705 (2), Florida Statutes (1991). Another good reason concerns the consideration of risk, such as found in FPL's strategic concerns. An expanded DSM commitment would fare very well under the strategic concerns. (Plunkett)

DER: No position.

ARK/CSW: No position.

NASSAU: No position at this time.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

ISSUE 26: Does the Cypress project adequately address the criterion of promoting more efficient generation of electricity in Florida? (NASSAU ISSUE 40)

FPL: To the extent the Cypress project needs to address the promotion of more efficient generation of electricity in Florida, yes. (WATERS)

CYPRESS: Yes. Cypress is an efficient state of the art pulverized coal unit with an expected initial net plant heat rate of 9,812 Btu/kWh and an expected lifetime net plant heat rate of 9,965 Btu/kWh. Cypress efficiently burns coal in a base load unit, conserving natural gas and oil for intermediate and peaking generation, as well as for more valuable end uses such as home heating and water heating. (Ott)

LEAF/EVANS: LEAF and EVANS object to the issue as phrased. FEECA requires the PSC to adopt goals to increase the efficiency of energy consumption, and FEECA expresses an intent that "highly-efficient systems" be encouraged.

DER: No position.

ARK/CSW: No. Both ARK/CSW's Pahokee Power Project and Nassau's proposed project offer generating alternatives that are significantly (25 to 26 percent) more efficient than the Cypress project.

NASSAU: No. Choosing the Cypress project would fail to satisfy the statutory directive, in view of the availability of the Nassau Power Okeechobee project. The Nassau Power project is 25% more efficient than the proposed CEP project. Nassau Power's plant will have a heat rate of better (lower) than 7500 Btus/kWh (HHV) compared to CEP's heat rate of 9965 Btus/kWh. Thus, the Nassau Power project is clearly more efficient. (Cantner, Brooks)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 27: Does the Cypress project adequately address the criterion of promoting cogeneration in the State of Florida? (NASSAU ISSUE 41)

FPL: FPL's process for selecting Cypress adequately addressed the criterion of promotion of cogeneration. (SIM, DENIS)

CYPRESS: Yes.

LEAF/EVANS: No position.

DER: No position.

ARK/CSW: No.

NASSAU: No. The proposed Cypress project would not be a cogeneration facility. In light of the availability of Nassau Power's project, choosing Cypress would not satisfy the statutory directive to liberally construe Section 403.519 so as to encourage cogeneration.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 28: Is it appropriate for the Commission to consider in this proceeding contract proposals that were not presented to FPL during its evaluation of power supply alternatives, which resulted in FPL's selection of the Cypress project? (FPL ISSUE 40)

FPL: No. (Waters, Denis)

CYPRESS: No. It is inappropriate to consider eleventh-hour contract proposals from parties who did not participate in the extensive evaluation process conducted by FPL. This is particularly true where those project developers submitted proposals in this proceeding only after the price, terms and conditions of FPL's contract with CEP, the best evaluated proposer, became a part of the public record. To allow such new proposals to be entertained at this stage in the process would destroy the integrity of the power supply planning process in Florida and drive ethical project developers from the state, to the detriment of Florida ratepayers. (Noer, McDaniel)

LEAF/EVANS: No position.

DER: Yes.

ARK/CSW: Yes. It is incumbent on the Commission in fulfilling its statutory responsibilities, and on FPL in fulfilling its obligations to its ratepayers, to consider projects and contract proposals that offer additional savings to FPL's customers in this proceeding. This need determination proceeding is specifically the appropriate forum for consideration of these proposals.

NASSAU: Yes. The role of the Commission under the Electric Power Plant Siting Act is to insure that the best means available for satisfying the customers need for capacity and energy is chosen, not to guarantee the prerogatives claimed by the regulated utility. The statutory criteria of section 403.519--

including whether the proposed plant is the most cost-effective alternative available--are not limited to those screened by the utility. Further, this case involves implementing section 403.519. section 366.81 requires the Commission to liberally construe section 403.519 so as to promote cogeneration and greater efficiency in generation. That provision precludes the limiting and self-serving view advanced by FPL and Cypress. That the argument of Cypress and FPL is wrong is also shown by section 403.519 under which a "determination of need" proceeding can be initiated by the Commission on its own motion. Finally, the consideration of all proposals and all alternatives is consistent with the process described by parties and contemplated by the Commission in previous proceedings.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 29: Have ARK/CSW proven that their substantial interests are adversely affected by this proceeding so that they are entitled to intervene in this docket. (FPL ISSUE 41)

FPL: No.

CYPRESS: No.

LEAF/EVANS: Yes.

DER: Yes.

ARK/CSW: Yes.

NASSAU: Yes.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 30: Has Nassau Power proven that its substantial interests are adversely affected by this proceeding so that it is entitled to intervene in this docket. (FPL ISSUE 43)

FPL: No.

CYPRESS: No.

LEAF/EVANS: Yes.

DER: Yes.

ARK/CSW: Yes.

NASSAU: Yes.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 31: Has Legal Environmental Assistance Foundation, Inc. proven that its substantial interests are adversely affected by this proceeding so that it is entitled to intervene in this docket. (FPL ISSUE 44)

FPL: No.

CYPRESS: No.

LEAF/EVANS: Yes. In the Stanton 2 case, the PSC entered its need determination order pursuant to Chapters 120 and 366, Florida Statutes, Section 403.519, Florida Statutes, and Chapter 25-22, Florida Administrative Code. The PSC found that the Sierra Club, Inc. Florida Chapter was a non-profit corporation with members throughout the State, some of whom were customers of the utility, and as such the members substantial interests were affected. LEAF has alleged and proved that it is entitled to intervene. (Hale).

DER: Yes.

ARK/CSW: Yes.

NASSAU: No position at this time.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 32: Does FPL's contract with Cypress contain adequate assurances that the Cypress facility will operate reliably throughout the life of the contract? (FPL ISSUE 45)

FPL: Yes. (HAMMOND)

CYPRESS: Yes. The contract is tailored to the proposed coal-fired project and contains numerous provisions that give Cypress the economic incentive to operate its facility reliably throughout the 30-year life of the contract and the 10-year extension period. Due to the mismatch between a coal-based revenue stream and a natural gas-based expense stream, the same contract pricing structure does not provide natural-gas fired projects such as those proposed by ARK/CSW and Nassau similar incentives to perform their contractual obligations, particularly in the later years of the contract. Instead, there would be a financial incentive to abandon such projects when fuel costs get out of line with the fuel revenues specified under their proposed power sales contracts. (Noer, McDaniel, Raschke)

LEAF/EVANS: LEAF and Evans object to this issue. The contract, as proposed, is subject to PSC and FERC approval in separate proceedings and so its terms are speculative with respect to this proceeding.

DER: No.

ARK/CSW: Yes.

NASSAU: The contract terms provide incentives to operate; the contract terms cannot modify the permitting and operational risk inherent in the coal-fired technology at the proposed location. (Cantner, Weiss)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 33: Has Cypress provided adequate assurances that its facility will be completed and available to meet FPL's projected need? (FPL ISSUE 46)

FPL: Yes. (HAMMOND)

CYPRESS: Yes. Cypress has provided a detailed schedule including the events necessary to assure completion to meet FPL's projected need. Northern States Power and Black & Veatch have substantial experience in completing similar pulverized coal units on schedule. (Noer, Ott)

LEAF/EVANS: No. (Plunkett, White).

DER: No.

ARK/CSW: No.

NASSAU: The contract terms provide for payment to FPL if Cypress is not completed; the contract terms cannot modify the permitting risk inherent in the coal-fired technology at the proposed location. (Cantner, Weiss)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 34: Does FPL's contract with Cypress provide adequate assurances that the Cypress facility will be made available to FPL in a way that will allow FPL to minimize its total system operating costs and meet its peak system demands? (FPL ISSUE 47)

FPL: Yes. (HAMMOND)

CYPRESS: Yes. The contract contains provisions which allow FPL to fully dispatch and commit and decommit the Cypress units. The contract requires scheduled maintenance outages to be approved by FPL, prohibits scheduled maintenance during specified peak load periods, and includes financial incentives for on-peak operation. (Noer)

LEAF/EVANS: LEAF and Evans object to this issue, as the contract is subject to PSC and FERC approval in other proceedings, and the terms of the contract are speculative in this proceeding.

DER: No position.

ARK/CSW: Yes.

NASSAU: The contract terms provide incentives for on-peak performance; the contract terms cannot modify the permitting risk inherent in the coal-fired technology at the proposed location. (Cantner, Weiss)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 35: Does FPL's contract with Cypress contain adequate security to protect FPL's customers in the event that Cypress does not perform its contract as anticipated? (FPL ISSUE 48)

FPL: Yes. (HAMMOND)

CYPRESS: Yes. The contract requires completion security of \$24,960,000 which will be forfeited at the rate of \$2,080,000 per month if the Capacity Delivery Dates of December 1, 1997 and December 1, 1998 for Units 1 and 2, respectively, are not met. The contract requires a termination fee which will be secured by direct pay letters of credit, performance bonds, or other comparable security acceptable to FPL in an amount of up to \$154,100,000. The contract also requires CEP to provide a maintenance reserve fund of \$30,000,000. (Noer)



LEAF/EVANS: LEAF and Evans object to this issue, as the contract is subject to PSC and FERC approval in other proceedings, and the terms of the contract are speculative in this proceeding.

DER: No position.

ARK/CSW: Yes.

NASSAU: The contract terms provide a termination fund if Cypress does not perform as anticipated; the contract terms cannot modify the permitting risk inherent in the coal-fired technology at the proposed location. (Cantner, Weiss)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

**POLICY ISSUE**  
**ISSUE 36:**

Should the PSC consider the costs and benefits associated with environmental externalities in its evaluation of cost-effectiveness in need determinations?

FPL: No. The PSC should not consider the inclusion of environmental externalities in any need determination until after the subject has been fully discussed and decisions reached in a docket solely devoted to the appropriateness of externalities in utility planning, and the underlying legal issue of whether the Commission may, under the Siting Act, examine environmental externalities in a need determination proceeding has been resolved. (WATERS, WILE)

CYPRESS: Agree with FPL.

LEAF/EVANS: Yes. The Commission is obligated to consider the costs and benefits of environmental externalities in its decision-making. Further, as a matter of policy the Commission should recognize that environmental values are not presently properly considered in the approval of conservation plans and programs. FEECA's mandates regarding the PSC's

adoption of rules on conservation goals are presently not fulfilled. The adoption of the "goals" in the "Order on Conservation" [Order 22176], does not comply with FEECA, and the order is an unlawful statement of agency policy of general applicability that is required to be adopted as a rule. Further, the "goals" in Rule 25-17.001, Florida Administrative Code, do not comply with the requirements of Section 366.82 (2), Florida Statutes (1991). In addition, although the Commission has adopted three tests of "cost-effectiveness", it has allowed utilities to prescreen conservation alternatives with the RIM test, to the detriment of the application of the other two tests. The Total Resources Test, if adjusted into a Societal Test, would allow for PSC consideration of the costs and benefits of externalities. Environmental externalities can be reasonably quantified. (Plunkett)

DER: Yes.  
ARK/CSW: Yes.  
NASSAU: Yes, see Issue 37.  
OKEECHOBEE: No position.  
FMPA: No position at this time.  
STAFF: No position at this time.

LEGAL ISSUE  
ISSUE 37:

Is the PSC authorized to consider environmental externalities in need determinations?

FPL: It is not clear what the term "environmental externalities" means in this context. This is a legal issue, and FPL reserves its right to state its position in brief after an adequate opportunity to research the issue.

CYPRESS: No. Section 403.519 directs the PSC to consider four specifically identified factors and "other matters within its jurisdiction which it deems relevant." Environmental externalities are not among the four factors specifically identified, and

their consideration is not otherwise "within its jurisdiction."

LEAF/EVANS:

Yes. In a need determination, the costs of environmental externalities can be considered both quantitatively and qualitatively. The primary legislative intent in FEECA is that the PSC require utilities to utilize the most efficient and cost-effective energy conservation systems in order to protect the health, prosperity and general welfare of the State, and FEECA is to be "liberally construed". Although not defined in the statute, the phrase "cost-effective" may be construed to include the costs of environmental externalities. The Legislature has determined that the production of electricity from solid waste represents an "effective conservation effort" and defined "cost-effective" in that context in terms of a "no greater than" cost test vis-a-vis the cost to a utility of producing a like amount of capacity and energy. Many states have incorporated the estimated cost of environmental externalities into their approval of integrated resource plans. Since such costs can be reasonably quantified, they can be considered in the evaluation of cost-effectiveness.

Further, the PSC can, and must, consider the qualitative aspects of environmental externalities. The Florida Constitution establishes that it "is the policy of the State to protect its natural resources and scenic beauty". Further, the Legislature has found that the development of solar energy source must be encouraged. Section 377.705 (2), FS. In addition, the Legislature has directed that in approving the plans of utilities...the PSC shall take into consideration the compatibility of the plan of each utility and all related utility plans taken together with the adopted state comprehensive plan. There are numerous environmental considerations in the State Comprehensive Plan, Chapter 187, Florida Statutes, which pertain to the externalities issue. FPL's planning process and DSM plan must be evaluated for compatibility with the State Comprehensive Plan.

DER:

No position at this time.

ARK/CSW: Yes.

NASSAU: Yes. For instance, the risk that a unit may not be permitted or allowed to operate as planned because of environmental concerns affects the ability of the Commission to be assured that the energy and reliable capacity which customers need will be provided. This is certainly a matter within the Commission's jurisdiction.

OKEECHOBEE: The County is confident that any project receiving a final operational permit will be constructed to all applicable Federal and State emissions and environmental regulations. Assuming competent foundation evidence by the Petitioners that such a facility can be constructed within those standards, the need petition should not be denied based upon the speculation for an inability to do so. (Marsocci)

FMPA: No position at this time.

STAFF: No position at this time.

LEGAL ISSUE  
ISSUE 38:

In order to decide which resource alternative is most cost-effective, is it necessary that alternatives be compared on a similar basis?

FPL: This is a legal issue. FPL reserves its right to state its position in brief after an adequate opportunity to research this issue.

CYPRESS: Agree with FPL.

LEAF/EVANS: Yes. Given the legislative intent expressed in FEECA, and other Legislative expressions of "cost-effective", it is clear that supply-side and demand-side options must be evaluated on a "level playing field". In FEECA, the Legislature directed "that the use of solar energy, renewable energy sources, highly efficient systems, cogeneration, and load control systems be encouraged" and that rate structures which discriminate against any class of customers on account of the use of such facilities, systems or devices be prohibited. Thus, for rate purposes, FEECA requires that efficiency

and renewable resources be considered on par with supply alternatives. According to the Commission's rules on cost-effectiveness, conservation programs must be considered in terms of "a utility's proposed generating unit that is avoided in whole or in part by the demand side management program". Otherwise "avoided capacity charges" must be used.

DER: No position.  
ARK/CSW: No position.  
NASSAU: No position.  
OKEECHOBEE: No position.  
FMPA: No position at this time.  
STAFF: No position at this time.

LEGAL ISSUE  
ISSUE 39:

Can a proposed resource option be determined to be the most cost-effective without a comparison of conservation and non-generation alternatives that were not implemented?

FPL: In formulating its DSM Plan for the 90's and in its subsequent program research and development efforts, FPL has examined other conservation and non-generation alternatives. Those alternatives that have not been implemented are either still being researched and are not ready for development, or FPL has determined that the alternatives are not cost-effective or have some other impediment that makes implementation unwarranted.

It is not feasible or appropriate in determining cost-effectiveness in this proceeding to ignore FPL's program screening efforts and its continuing efforts to evaluate and develop cost-effective DSM programs. The suggestion that a comparison of Cypress with every conceivable DSM option not already implemented by FPL is necessary to determine cost-effectiveness, ignores the Commission's review of approved conservation plans and programs and FPL's continuing screening efforts. Essentially, the comparison has been made

on an ongoing basis pursuant to Commission directives and no further specific showing is required in this proceeding.

CYPRESS: Agree with FPL.

LEAF/EVANS: No. FEECA imposes an affirmative obligation upon an electric utility to "develop plans and implement programs for increasing energy efficiency and conservation within its service area". In a need determination, a utility has a burden to show the Commission that it has taken the cost-effective conservation measures reasonably available to mitigate the need for new generation.

"Mitigate" does not mean eliminate, but rather to lessen the need for generation capacity. Thus, prior to seeking a need determination, a utility must engage in a reasonable planning process to determine what conservation measures are available and are more cost-effective than the proposed supply alternative. Without an analysis of the cost-effectiveness of measures which are not a part of the utility's then-approved conservation menu, the utility cannot show the PSC that it has taken the conservation measures reasonably available to mitigate the need.

The PSC's rule on cost-effectiveness defines an "avoided generating unit" as a utility's proposed generating unit that is avoided in whole or in part by a demand side management program.

DER: No position.

ARK/CSW: No position.

NASSAU: No position at this time.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

**LEGAL ISSUE**  
**ISSUE 40:**

Is a Qualifying Facility (QF) a statutorily preferable alternative to an independent power producer (IPP)? (NASSAU ISSUE 39)

FPL: This is a legal issue. FPL reserves its right to state its position in brief after an adequate opportunity to research this issue.

CYPRESS: No. Section 403.519 specifies the matters to be taken into account by the Commission in making its determination of need. These criteria give no preference to cogeneration projects, and a generating unit's ability to meet these criteria is independent of whether the project is a utility-constructed unit, a qualifying facility, or an independent power producer.

LEAF/EVANS: No position.

DER: No position.

ARK/CSW: Other things being equal, yes.

NASSAU: Yes. Section 366.81, Florida Statutes, requires the Commission to encourage cogeneration in Florida so as to realize the efficiencies inherent in the cogeneration process. Further, PURPA imposes a federal requirement upon utilities to purchase from QFs.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

**LEGAL ISSUE**  
**ISSUE 41:**

Is the PSC authorized by Section 403.519, Florida Statutes, to determine in this docket that a need exists for additional generating capacity for FPL's system within the 1998-1999 time frame, without specifying that any proposed plant of a specific fuel type is needed?

FPL: This is a legal issue. FPL reserves its right to state its position in brief after an adequate opportunity to research this issue.

CYPRESS: No. Under the Power Plant Siting Act (ss. 403.501-403.518, F.S.), a determination of need for a specific plant is a statutory prerequisite to consideration of that project by the Siting Board. The Commission cannot discharge its statutory responsibility to consider the factors enumerated in section 403.519 by a generic finding of need, since reliability and cost-effectiveness, among other factors, are influenced by the particular project and fuel type under consideration.

LEAF/EVANS: It appears that the PSC may have that authority, since the PSC "on its own motion" may initiate a need determination, and that it can consider other matters within its jurisdiction which it deems relevant. Since the PSC may be faced with three mutually-exclusive need determinations related to FPL's alleged need for energy and capacity in this docket, it should be permissible to address the need on a more generic basis if the PSC initiates such a docket.

DER: Yes. The Commission has the statutory responsibility to determine, as a threshold issue, whether a regulated utility such as FPL has an identifiable need for additional generating capacity in order to determine whether any particular plant is needed by FPL. This threshold determination is the same whether the plant in question is utility-owned or, as in the case of CEP, utility-controlled, or independent.

Nothing in Section 403.519, Florida Statutes, prohibits the Commission, after it makes this threshold determination of need, from entertaining and evaluating competitive proposals to fulfill the need horizon in a bifurcated proceeding, which proceeding should properly follow rather than precede consideration of the proposals through the Power Plant Siting Act.

ARK/CSW: Yes.



NASSAU: This issue must be viewed in the context of the situation in which three independent petitions to determine need have been submitted in the form of proposals to meet the same identified need for capacity and consolidated for purposes of evidentiary hearing, and statutory reports. Under those circumstances, the Commission could consider submitting a consolidated report containing findings concerning relative technical feasibility relative economics, relative reliability, and relative cost-effectiveness with respect to all three proposals, along with a determination of the amount and timing of the need for capacity. Nassau Power believes this approach would be permissible because on a consolidated basis the Commission would be evaluating alternative plants rather than a single proposed plant.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 42: Based on the resolution of the previous factual and legal issues, should FPL's and Cypress' petition for determination of need for two 416 MW pulverized coal fired units granted?

FPL: Yes. (Waters)

CYPRESS: Yes. FPL and CEP have established that the FPL system will require approximately 832 MW of additional capacity in the 1998 to 1999 time frame to ensure continued reliability and integrity of the FPL system. This need exists after all reasonably available cost-effective demand side alternatives are implemented. Cypress is the most cost-effective alternative, is consistent with non-economic strategic considerations, and provides additional diversity to FPL's fuel mix. The power sales agreement contains numerous provisions to assure the reliability of the project. Cypress

will utilize proven technology, designed, constructed and operated by experienced sponsors, which will provide low cost, reliable power over the duration of the power sales agreement. (Noer, Ott, Raschke, McDaniel, Day)

LEAF/EVANS: No. (Plunkett)

DER: No.

ARK/CSW: No.

NASSAU: No. (Cantner)

OKEECHOBEE: Assuming satisfactory response to the factual and legal issues identified and stated in the draft prehearing issue list, the Petition for Determination of Need should be granted allowing the project to move into the next phase of the permitting process. (Porter)

FMPA: No position.

STAFF: No position at this time.

ISSUE 43: What action, if any, should the Commission take if need for capacity and energy is determined by the Commission, but the Cypress/FPL project is not approved?

FPL: The FPSC should direct FPL to undertake the re-examination of all options available to meet the needs of its customers and inform the FPSC of the timely actions it will undertake to satisfy those needs. This directive should be consistent with the long standing practice of allowing the utility management to propose and the FPSC to approve or disapprove of such proposals. (DENIS)

CYPRESS: None. The responsibility for selecting the best power supply alternative should continue to rest with the utility unless and until the Commission finds, after notice and opportunity for a hearing, that the utility's failure to act is in imminent danger of impairing the reliability and integrity of the electric system.

LEAF/EVANS: The PSC should order FPL to prepare an integrated resource plan within six months which cures the defects which have been found, and to use that plan as the basis for a subsequent need determination.

DER: The Commission should order FPL to negotiate with the proponent of any proposal demonstrated to be more cost-effective than the CEP proposal so that the need for generating capacity can be fulfilled in a cost-effective and environmentally sound manner.

ARK/CSW: Pursuant to its powers under Chapter 366, F.S., the Commission should require that FPL enter into the contract submitted to FPL and this Commission in this proceeding which reflects the most cost-effective alternative available to FPL's ratepayers for the provision of electricity in the 1998 to 1999 timeframe: the contract of ARK/CSW.

NASSAU: If on reconsideration Nassau Power's petition to determine need is consolidated with the Cypress case, the Commission should grant Nassau Power's petition. If it is not consolidated, the Commission should deny the Cypress petition, enter findings recognizing the advantages and overall cost-effectiveness of the Nassau Power proposal, and proceed expeditiously to process Nassau Power's petition to determine need and related petition for approval of contract.

In the event the Commission refuses to process Nassau Power's petition to determine need for any reason, it should deny Cypress and direct FPL to negotiate any portions of the proposed contract submitted by Nassau Power which FPL demonstrates are not satisfactory within a time certain and schedule a proceeding designed to resolve any disagreements in the event no contract is forthcoming within a specified time frame. Inasmuch as Nassau Power has agreed to virtually every material provision of the contract which FPL finds satisfactory, the schedule should be prompt.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

VII. STIPULATED ISSUE

ISSUE 44: Are the reliability criteria used by FPL to determine its need for approximately 800-900 MW of additional generating capacity in the 1998-1999 time frame reasonable for planning purposes?

FPL: Yes. FPL uses dual reliability criteria of 15% minimum summer peak reserve margin and maximum 0.1 days/year Loss of Load Probability to determine resource needs. These criteria have been presented to the Commission in previous need proceedings and have been found to be reasonable for planning purposes. (WATERS)

CYPRESS: Yes.

LEAF/EVANS: No position.

DER: Yes. Agree with Ark/CSW.

ARK/CSW: FPL's reliability criteria of 15% reserve margin and 0.1 LOLP are reasonable for planning purposes and reasonable as applied to FPL's determination that it needs approximately 800-900 MW of capacity in 1998-99 time period.

NASSAU: Nassau Power agrees that the dual reliability criteria of 0.1 days per year loss of load probability (LOLP) and a 15% reserve margin based on summer peak demand used by FPL to determine its future need are appropriate.

OKEECHOBEE: No position.

FMPA: No position.

STAFF: No position at this time.

VIII. CONDITIONAL ISSUES

The issues in this section shall be stricken if the Motion for Reconsideration of the Prehearing Officer's ruling not to consolidate or bifurcate is denied. These issues are being proffered by Nassau Power and ARK/CSW.

ISSUE 45: Is ARK/CSW's project the most cost-effective alternative available to FPL to meet its identified need for 800 MW to 900 MW of additional generating capacity in the 1998-1999 time-frame?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding. (DENIS, WATERS)

CYPRESS: No. There are fundamental risks and uncertainties regarding the ARK/CSW project which, coupled with its early stage of development, provide substantial reasons to doubt that the project is a reliable alternative or that the savings it claims to offer could ever be realized. (Noer, Raschke, McDaniel)

LEAF/EVANS: No.

DER: No position.

ARK/CSW: Yes. ARK/CSW's Pahokee Power Partners II Project and associated Power Purchase Contract offers the best, most cost-effective means of meeting the identified needs of Florida Power and Light Company (FPL) for approximately 800-900 MW of capacity in the 1998-1999 timeframe. When compared to the costs of FPL's avoided units (against which the Cypress contract was evaluated), the ARK/CSW Contract offers net present value savings of between \$373 million and more than \$440 million. When compared to the Cypress contract, FPL's

customers realize additional savings of \$302,000,000 (net present value in 1991 dollars). The ARK/CSW Contract also offers FPL's general body of ratepayers total savings of approximately \$1.54 billion over the life of the Contract when compared to the proposed Cypress contract.

NASSAU: No.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 46: Is Nassau's project the most cost-effective alternative available to FPL to meet its identified need for 800 MW to 900 MW of additional generating capacity in the 1998-1999 time-frame?

FPL: FPL objects to this issue. If the Commission considers this issue, FPL's position is "no." Nassau has not tendered a proposal to FPL nor has it provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of Nassau's new project. (DENIS, WATERS)

CYPRESS: No. There are fundamental risks and uncertainties regarding the Nassau project which, coupled with its early stage of development, provide substantial reasons to doubt that the project is a reliable alternative or that the savings it claims to offer could ever be realized. (Noer, Raschke, McDaniel)

LEAF/EVANS: No.

DER: No position.

ARK/CSW: No.

NASSAU: Yes. (Cantner, Ross)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 47: Is ARK/CSW's project the most energy-efficient alternative available to FPL for meeting its identified need for additional generating capacity?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. Additionally, as with ARK/CSW's other proposed issues, ARK/CSW has not provided information in time for the Commission, FPL or any other party to this docket to carefully evaluate ARK/CSW's new project concept. (WATERS, DENIS)

CYPRESS: No.

LEAF/EVANS: No position.

DER: No position.

ARK/CSW: Yes.

NASSAU: No.

OKEECHOBEE: No position.

STAFF: No position at this time.

ISSUE 48: Is Nassau's project the most energy-efficient alternative available to FPL for meeting its identified need for additional generating capacity?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. Additionally, as with ARK/CSW's other proposed issues, ARK/CSW has not provided information in time for the Commission, FPL or any other party to this docket to carefully evaluate ARK/CSW's new project concept. (WATERS, DENIS)

CYPRESS: No.

LEAF/EVANS: No position yet.

DER: No position.

ARK/CSW: No.

NASSAU: Yes. (Cantner, Brooks)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 49: Is ARK/CSW's project the generating alternative that is most in the public interest of the state of Florida, its citizens, and its electric ratepayers?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing on a petition to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was ranked lower than the Cypress projects in a number of categories evaluated by FPL. Additionally, ARK/CSW's proposal to FPL was not cost-effective compared to the Cypress proposal. Additionally, it would not be in the best interest of utility customers in Florida to allow developers to use a determination of need proceeding to circumvent and disrupt the planning process by which electric utilities in Florida evaluate and select power supply alternatives. (WATERS, DENIS)

CYPRESS: No. There are fundamental risks and uncertainties regarding the ARK/CSW project which, coupled with its early stage of development, provide substantial reasons to doubt that the project is a reliable alternative or that the savings it claims to offer could ever be realized. Further, consideration of the ARK/CSW project, which was unveiled only after the price, terms and conditions of the contract between FPL and CEP, the best evaluated proposal, were made public, would destroy the integrity of the power supply planning process in Florida, contrary to the interest of the state of Florida and its ratepayers. (Noer, Raschke, McDaniel)

LEAF/EVANS: No position yet.



DER: No position.

ARK/CSW: Yes.

NASSAU: No.

OKEECHOBEE: No position.

STAFF: No position at this time.

ISSUE 50: Is Nassau's project the generating alternative that is most in the public interest of the state of Florida, its citizens, and its electric ratepayers?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing on a petition to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is: No. Nassau has not tendered a proposal to FPL, and its submission to the Commission is too late for meaningful evaluation. (WATERS, DENIS)

CYPRESS: No. There are fundamental risks and uncertainties regarding the Nassau project which, coupled with its early stage of development, provide substantial reason to doubt that the project is a reliable alternative or that the savings it claims to offer could ever be realized. Further, consideration of the Nassau project, which was unveiled only after the price, terms and conditions of the contract between FPL and CEP, the best evaluated proposal, were made public, would destroy the integrity of the power supply planning process in Florida, contrary to the interest of the state of Florida and its ratepayers. (Noer, Raschke, McDaniel)

LEAF/EVANS: No position yet.

DER: No position at this time.

ARK/CSW: No.

NASSAU: Yes. (Cantner)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 51: Is ARK/CSW's project the generation alternative that is most consistent with the statewide need for additional electric generating resources?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding.  
(WATERS, DENIS)

CYPRESS: No.

LEAF/EVANS: No position yet.

DER: No position at this time.

ARK/CSW: Yes. The study done by the Florida Electric Coordinating Group (FCG) in February of 1992 identified combined cycle\IGCC capacity as the most cost-effective means of meeting the statewide need for additional electric generating capacity. ARK/CSW's proposed Pahokee Power Partners II Project is natural gas-fired combined cycle capacity and therefore most consistent with the FCG study.

NASSAU: No.

OKEECHOBEE: No position.

STAFF: No position at this time.

ISSUE 52: Is Nassau's project the generation alternative that is most consistent with the statewide need for additional electric generating resources?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing on a petition to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is: No. Nassau has not tendered a proposal to FPL, and its submission to the Commission is too late for meaningful evaluation.  
(WATERS, DENIS)

CYPRESS: No.

LEAF/EVANS: No position yet.

DER: No position.

ARK/CSW: No.

NASSAU: Yes.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 53: Has ARK/CSW timely provided sufficient information on the site, design and engineering characteristics of the Pahokee Power Partners II Project to enable the FPSC and other parties to adequately evaluate this proposal?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding.

ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)

CYPRESS: No. In the short time since ARK/CSW first unveiled its proposal, there has been insufficient opportunity for the Commission and the other parties to properly evaluate its proposal. However, preliminary analysis reveals significant fundamental risks and uncertainties which cast doubt on the reliability and cost-effectiveness of the project. (Noer, Raschke, McDaniel)

LEAF/EVANS: No.

DER: No position.

ARK/CSW: Yes.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 53A: Has Nassau Power timely provided sufficient information on the site, design and engineering characteristics of the Nassau Power Project to enable the FPSC and other parties to adequately evaluate this proposal?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes. (Cantner, Weiss, Brooks)

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 54: Has ARK/CSW provided sufficient information on its project costs, financing arrangements and costs and revenues for the Pahokee Power Partners II Project to enable the FPSC to evaluate the project's financial integrity?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding. ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)

CYPRESS: No. In the short time since ARK/CSW first unveiled its proposal, there has been insufficient opportunity for the Commission and the other parties to properly evaluate its proposal. However, preliminary analysis of financeability reveals significant fundamental risks and uncertainties which cast doubt on financial integrity of the project. (McDaniel)

LEAF/EVANS: No.

DER: No position.

ARK/CSW: Yes.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 54A: Has Nassau Power provided sufficient information on its project costs, financing arrangements and costs and revenues for the Nassau Power Project to enable the FPSC to evaluate the project's financial integrity?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes. (Cantner, Phipps)

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 55: Would the proposed Pahokee Power Partners II Project and the purchase of power pursuant to the Contract Between Florida Power and Light Company and Pahokee Power Partners II, Limited Partnership contribute to the reliability and integrity of FPL's electric system over the life of the Contract?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW

to present a new project in this proceeding. ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)

CYPRESS: No. There are significant fundamental risks and uncertainties regarding the ARK/CSW project which cast doubt on the project's ability and incentive to reliably provide power to FPL over the life of the proposed contract. (Noer, Raschke, McDaniel)

LEAF/EVANS: Objection. The contract is not signed, or approved.

DER: No position.

ARK/CSW: Yes.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 55A: Would the proposed Nassau Power Project and the purchase of power pursuant to the Contract Between Florida Power and Light Company and Nassau Power contribute to the reliability and integrity of FPL's electric system over the life of the Contract?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes. (Cantner)

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 56: Is the Pahokee Power Partners II Project consistent with the need to provide adequate electric system reliability and integrity on a statewide basis over the life of the contract?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding. ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)

CYPRESS: No. See response to Issue 55. (Noer, Raschke, McDaniel)

LEAF/EVANS: Objection. The contract is not signed, or approved.

DER: No position.

ARK/CSW: Yes.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.



**ISSUE 56A:** Is the Nassau Power Project consistent with the need to provide adequate electric system reliability and integrity on a statewide basis over the life of the contract?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes.

OKEECHOBEE:

FMPA:

STAFF:

**ISSUE 57:** Is the Pahokee Power Partners II Project and the purchase of power pursuant to the Contract Between FPL and Pahokee Power Partners II, Limited Partnership needed to reliably provide adequate electricity to FPL at a reasonable cost?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding. ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)

CYPRESS: No.

LEAF/EVANS: No.  
DER: No position.  
ARK/CSW: Yes.  
NASSAU: No.  
OKEECHOBEE: No position.  
FMPA: No position at this time.  
STAFF: No position at this time.

ISSUE 57A: Is the Nassau Power Project and the purchase of power pursuant to the Contract Between FPL and Nassau Power needed to reliably provide adequate electricity to FPL at a reasonable cost?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes. (Cantner, Ross)

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 58: Has ARK/CSW provided appropriate assurances that there will be an adequate gas supply available for its project?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by

ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding. ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)

CYPRESS: No. In particular, there is no assurance that natural gas supplies will be available on terms and conditions which are consistent with the pricing provisions of the power sales agreement proposed by ARK/CSW so as to make its project viable and financeable. (Raschke, McDaniel)

LEAF/EVANS: No position yet.

DER: No position.

ARK/CSW: Yes.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 58A: Has Nassau Power provided appropriate assurances that there will be an adequate gas supply available for its project?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes. (Cantner, Phipps)

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 59: Has ARK/CSW provided appropriate assurance that there will be adequate transportation available to transport gas to its project?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding. ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)

CYPRESS: No. A letter of interest from a pipeline that is not yet constructed or permitted is not appropriate assurance of adequate gas transportation. (Raschke)

LEAF/EVANS: No position yet.

DER: No position.

ARK/CSW: Yes.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 59A: Has Nassau Power provided appropriate assurance that there will be adequate transportation available to transport gas to its project?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes. (Cantner, Phipps)

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 60: Has ARK/CSW provided sufficient information on its agreements with equipment suppliers and fuel suppliers for the Pahokee Power Partners II Project to enable the FPSC to evaluate its proposal?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding. ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)

CYPRESS: No.

LEAF/EVANS: No position yet.

DER: No position.  
ARK/CSW: Yes.  
NASSAU: No position.  
OKEECHOBEE: No position.  
FMPA: No position at this time.  
STAFF: No position at this time.

ISSUE 60A: Has Nassau Power provided sufficient information on its agreements with equipment suppliers and fuel suppliers for the Nassau Power Project to enable the FPSC to evaluate its proposal?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes. (Cantner, Brooks)

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 61: Will the Pahokee Power Partners II Project contribute to fuel diversity on FPL's system?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress

proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding. ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)

CYPRESS: No, it will increase the use of natural gas, which already accounts for a higher percentage of FPL's electric generation than does coal.

LEAF/EVANS: No position yet.

DER: No position.

ARK/CSW: Yes.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 61A: Will the Nassau Power Project contribute to fuel diversity on FPL's system?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes.

OKEECHOBEE:

FMPA:

STAFF:

- ISSUE 62: What facilities, including fuel delivery facilities, are required in conjunction with the Pahoee Power Partners II Project?
- FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding. ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)
- CYPRESS: No position at this time pending completion of discovery.
- LEAF/EVANS: No position yet.
- DER: No position.
- ARK/CSW: Two 500 kV transmission lines, each approximately 15 miles in length, plus a natural gas pipeline lateral, connecting the Pahoee Power Project with the proposed Sun Coast Pipeline or to FGT's Pipeline.
- NASSAU: No position.
- OKEECHOBEE: No position.
- FMPA: No position at this time.
- STAFF: No position at this time.



ISSUE 62A: What facilities, including fuel delivery facilities, are required in conjunction with the Nassau Power Project?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: The Nassau Power project will require a 4 mile transmission line to interconnect to FPL's grid. The project will also require interconnection to a gas pipeline which is not part of the QF. (Cantner)

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 63: Does the interconnection of the Pahokee Power Partners II Project to FPL's system through a looping of the Martin-Poinsett 500 kV line provide a reliable means of interconnection consistent with Prudent Utility Practices?

FPL: FPL objects to this issue. This is not an appropriate issue for resolution in a hearing to determine the need for the Cypress project. If the Commission considers this issue, FPL's position is "no." The original proposal tendered to FPL by ARK/CSW, in connection with FPL's review of alternatives for meeting a projected 1998-99 need, was not cost-effective compared to the Cypress proposal. With respect to ARK/CSW's new proposal and project, clearly different from the one evaluated by FPL, it is not appropriate for ARK/CSW to present a new project in this proceeding. ARK/CSW have not provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of ARK/CSW's new project concept. (DENIS, WATERS)

CYPRESS: No position at this time pending completion of discovery.

LEAF/EVANS: No position yet.

DER: No position.

ARK/CSW: Yes.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 63A: Does the interconnection of the Nassau Power project to FPL's system through a double circuit 240 kv line to FPL's Sherman substation (and if a second unit is deemed needed, through a third 240 kv line to FPL's Midway substation) provide a reliable means of interconnection consistent with Prudent Utility Practices?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW: Yes.

NASSAU: Yes. (Cantner)

OKEECHOBEE:

FMPA:

STAFF: No position at this time.

ISSUE 64: Should the FPSC require FPL to enter into the Contract filed in this docket for the Purchase of Firm Capacity and Energy with the Pahoee Power Partners II, Limited Partnership?

FPL: No. (Denis)

CYPRESS: No. Even if the Commission had the authority to require a utility to enter into a specific contract for purchase of capacity and energy, it should not require FPL to sign the proposed contract with ARK/CSW. First, it is inappropriate for a utility to enter a power purchase contract that contains a fundamental mismatch between the project's revenue structure and its cost structure. Second, due to the untimeliness of ARK/CSW's filing, no party, including FPL, has had an adequate opportunity to evaluate the ARK/CSW project.

LEAF/EVANS: No.

DER: No position.

ARK/CSW: Yes.

NASSAU: No.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 64A: Should the FPSC require FPL to enter into the Contract filed in this docket for the Purchase of Firm Capacity and Energy with Nassau Power?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes. (Cantner)

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 65: Does the FPSC have the authority to require FPL to enter into the Contract for the Purchase of Firm Capacity and Energy with Pahokee Power Partners II, Limited Partnership?

FPL: This is a legal issue. FPL reserves its right to state its position in brief after an adequate opportunity to research this issue.

CYPRESS: No.

LEAF/EVANS: No position yet.

DER: No position.

ARK/CSW: Yes.

NASSAU: Yes.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 65A: Does the FPSC have the authority to require FPL to enter into the Contract for the Purchase of Firm Capacity and Energy with Nassau Power?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes.

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 66: Are there other aspects of the Pahokee Power Partners II Project that constitute matters within the FPSC's jurisdiction and which are relevant to the Commission's decision?

FPL: No. In the Commission's decision whether to grant a determination of need for the Cypress project, the Pahokee Power Partners II project is irrelevant. ARK unveiled its proposal for the first time to the Commission as part of this Cypress Need Determination proceeding. It is not appropriate for ARK to present a new project outside of FPL's normal planning/evaluation process. Additionally, it would not be in the best interest of utility customers in Florida to allow developers to use a determination of need proceeding to circumvent and disrupt the planning by which electric utilities in Florida evaluate and select power supply alternatives. (HAMMOND)

CYPRESS: No.

LEAF/EVANS: No position yet.

DER: No position.

ARK/CSW: Yes.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 66A: Are there other aspects of the Nassau Power Project that constitute matters within the FPSC's jurisdiction and which are relevant to the Commission's decision?

FPL:

CYPRESS:

LEAF/EVANS:

DER:

ARK/CSW:

NASSAU: Yes. (Cantner)

OKEECHOBEE:

FMPA:

STAFF:

ISSUE 67: Does the Nassau Power project best meet the criterion of promoting more efficient generation of electricity in Florida? (NASSAU ISSUE 40)

FPL: FPL's process for selecting Cypress adequately addressed the criterion of more efficient generation of electricity in Florida. (SIM, DENIS)

CYPRESS: No.

LEAF/EVANS: Object to statement of criteria.

DER: No position.

ARK/CSW: No.

NASSAU: Yes. The Nassau Power project is 25% more efficient than the proposed CEP project. Nassau Power's plant will have a heat rate of better (lower) than 7500 Btus/kWh (HHV) compared to CEP's heat rate of 9965 Btus/kWh. Thus, the Nassau Power project is clearly more efficient. (Cantner, Brooks)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 68: Does the Nassau Power project best meet the criterion of promoting cogeneration in the State of Florida? (NASSAU ISSUE 41)

FPL: FPL's process for selecting Cypress adequately addressed the criterion of promotion of cogeneration. (SIM, DENIS)

CYPRESS: No.

LEAF/EVANS: No position yet.

DER: No position.

ARK/CSW: No position.

NASSAU: Yes. The Nassau Power 435 MW project (one unit) will be a QF while CEP is an IPP. Therefore, the Nassau Power project will best meet the statutory criterion of promoting cogeneration in Florida. (Cantner)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 69: Is the Nassau Power project environmentally superior to the Cypress project? (NASSAU ISSUE 42)

FPL: FPL objects to this issue. If the Commission considers this issue, FPL's position is "no." Nassau has not tendered a proposal to FPL nor has it provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of Nassau's new project. (DENIS, WATERS)

CYPRESS: Cypress objects to this issue on the grounds that it is beyond the proper scope of the Commission's jurisdiction and its mandate under Section 403.519, F.S. Cypress has demonstrated that the viability of its project is not adversely affected by environmental permitting issues, and no additional inquiry into the relative environmental impacts of the two projects is necessary or appropriate in this proceeding. (Day)

LEAF/EVANS: No position yet.

DER: Yes.

ARK/CSW: Both the Nassau Power and Pahokee Power Partners II project are environmentally superior to the Cypress project since they both are natural gas fired units.

NASSAU: No position.

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 70: Does the Nassau Power project present a lower permitting risk than the Cypress project? (NASSAU ISSUE 43)

FPL: FPL objects to this issue. If the Commission considers this issue, FPL's position is "no." Nassau has not tendered a proposal to FPL nor has it provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of Nassau's new project. (DENIS, WATERS)

CYPRESS: No. Cypress has completed the studies necessary to support the filing of its Site Certification Application, which demonstrates that its project will comply will all applicable environmental requirements and is permissible. Nassau has not yet begun the detailed environmental evaluations necessary to determine its permitting risk. (Day)



LEAF/EVANS: No position yet.

DER: Yes.

ARK/CSW: Yes, both Pahoee Power Partners II project and Nassau Power's project burn natural gas and therefore present a lower permitting risk than the Cypress project.

NASSAU: Yes. Because the Nassau Power project will burn natural gas and will not have the adverse environmental impact of a coal plant, it will present a lower risk in the permitting phase of the project than the Cypress project. (Cantner, Weiss)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

ISSUE 71: Does the Nassau Power project provide more flexibility than the CEP project? (NASSAU ISSUE 44)

FPL: FPL objects to this issue. If the Commission considers this issue, FPL's position is "no." Nassau has not tendered a proposal to FPL nor has it provided information in time for the Commission, FPL or any other party to this docket to evaluate any aspect of Nassau's new project. (DENIS, WATERS)

CYPRESS: Nassau does not provide any required flexibility. Cypress will meet FPL's need for additional capacity in 1998 and 1999 by construction of a two-phase project which closely matches FPL's needs. Further, the Cypress site is capable of accommodating additional generating units to meet FPL's future generating needs. Nassau has committed in its proposed contract to only a single unit, which does not adequately address FPL's identified capacity requirements. (Noer)

LEAF/EVANS: No position yet.

DER: No position.

ARK/CSW: Due to its configuration, two power blocks consisting of 2 combustion turbines, 2 heat recovery steam generators and a steam recovery generator, the ARK/CSW Pahoee Power Project presents the most flexible means of meeting FPL's 1998 to 1999 capacity needs.

NASSAU: Yes. The CEP contract is for 832 MW. Nassau Power has proposed a project in alternative one and two unit configurations. Thus, the Nassau Power project provides more flexibility to enable FPL to react to changes. (Cantner)

OKEECHOBEE: No position.

FMPA: No position at this time.

STAFF: No position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Sim	FPL	(SRS-1)	Summary Of Proposals
Sim	FPL	(SRS-2)	Summary Of Proposals Remaining After Initial Screening
Sim	FPL	(SRS-3)	Summary Of Proposals After SO <sub>2</sub> And SNCR/SCR Adjustments
Sim	FPL	(SRS-4)	Summary Of Final Economic Analysis (Savings/KW)
Sim	FPL	(SRS-5)	Final Total Scoring Of Remaining Proposals
Sim	FPL	(SRS-6)	FPL Payments At Time Of Proposal Evaluation And At Time Of Contract Evaluation

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Sim	FPL	(SRS-7)	Portions of Exhibit 1 to Joint Petition for a Determination of Need
Hammond	FPL	(GWH-1)	Contract Between FPL And Cypress
Hammond	FPL	(GWH-2)	Illustration Of Performance-Based Capacity Payment Provision In Cypress Contract
Waters	FPL	(SSW-1)	FPL 1991 Load Forecast
Waters	FPL	(SSW-2)	1991 to 2019 Fossil Fuel Price Forecast
Waters	FPL	(SSW-3)	1991 Projection Of Demand Reduction From Load Control Programs
Waters	FPL	(SSW-4)	Summary of Financial And Economic Assumptions
Waters	FPL	(SSW-5)	Cost Parameters Used In Screening Curves
Waters	FPL	(SSW-6)	Cogeneration And Small Power Producer Forecast
Waters	FPL	(SSW-7)	Graph Of Base Plan LOLP Without Capacity Additions
Waters	FPL	(SSW-8)	Graph Of Base Plan Reserve Margin Without Capacity Additions
Waters	FPL	(SSW-9)	Graph Of Base Plan LOLP With Capacity Additions

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Waters	FPL	(SSW-10)	Graph Of Base Plan Reserve Margin With Capacity Additions
Waters	FPL	(SSW-11)	Graphic Comparison Of Cypress Plan vs. Pulverized Coal (Economic Analysis)
Waters	FPL	(SSW-12)	Graphic Comparison Of Cypress Plan vs. Combined Cycle (Economic Analysis; Lower Gas And Oil Price Sensitivity)
Waters	FPL	(SSW-13)	Excerpt From Standard & Poors Credit Week Publication
Waters	FPL	(SSW-14)	Portions of Exhibit 1 to Joint Petition for a Determination of Need  Executive Summary; Sections I, II, III, IV, VI, VII; Appendices A, B, C
Noer	Cypress		Portions of Exhibit 2 to Joint Petition for a Determination of Need <ul style="list-style-type: none"> <li>o Section 1.0</li> <li>o Section 2.0</li> <li>o Section 3.1 and 3.2</li> <li>o Section 4.3</li> <li>o Section 4.5.3</li> <li>o Section 4.8</li> <li>o Section 4.10</li> <li>o Section 5.0</li> <li>o Appendix A</li> </ul>

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Noer	Cypress	(JAN-1)	CEP Management and Ownership
Noer	Cypress	(JAN-2)	Site Vicinity Plan
Noer	Cypress	(JAN-3)	Monthly Capacity Payments Chart
Ott	Cypress		Portions of Exhibit 2 to Joint Petition for a Determination of Need  o Section 3.3 o Sections 4.1 and 4.2 o Section 4.4 o Sections 4.6 and 4.7
Ott	Cypress	(RJO-1)	Site Vicinity Plan
Ott	Cypress	(RJO-2)	Artist's Rendering of Plant
Ott	Cypress	(RJO-3)	Milestone Schedule
Raschke	Cypress		Portions of Exhibit 2 to Joint Petition for a Determination of Need  o Sections 4.5.1 and 4.5.2
McDaniel	Cypress		Portions of Exhibit 2 to Joint Petition for a Determination of Need  o Section 4.9
McDaniel	Cypress	(RM-1)	Lehman Brothers Selected Project Financing and Independent Power Assignments
Day	Cypress	(SMD-1)	Status of Power Plant Siting Applications and Certifications

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Day	Cypress	(SMD-2)	Cypress' Site Certification Application (Three Volumes)
Raschke	Cypress	(MGR-1)	Comparison of SES Projections of Fossil Fuel Prices (Summer)
Raschke	Cypress	(MGR-2)	Comparison of SES Projections of Fossil Fuel Prices (Winter)
Raschke	Cypress	(MGR-3)	Typical Production Decline for a Natural Gas Well
Raschke	Cypress	(MGR-4)	Delivered Fuel Costs (1987-1992)
McDaniel	Cypress	(RM-2)	New York Times Article re Ethanol (August 3, 1992)
Plunkett	LEAF/Evans	(JP-1)	Statement of Qualifications of John J. Plunkett
Plunkett	LEAF/Evans	(JP-2)	Collaborative Utilities' DSM Savings
Plunkett	LEAF/Evans	(JP-3)	Cost of Conserved Energy, Based on DSM Plans of Leading Utilities
Plunkett	LEAF/Evans	(JP-4)	Incentives Paid in Collaboratively Designed Commercial/Industrial Energy Conservation Programs
Plunkett	LEAF/Evans	(JP-5)	Specifics of Collaboratively Designed DSM Programs
Plunkett	LEAF/Evans	(JP-6)	FPL's DSM Resources Compared with Forecasted Peak Load and Sales

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Plunkett	LEAF/Evans	(JP-7)	Comparison of Transmission and Distribution Costs
Plunkett	LEAF/Evans	(JP-8)	Florida Public Service Commission, Externalities of Electric Power Production, May, 1991
Plunkett	LEAF/Evans	(JP-9)	Summary of Health and Environmental Effects of Power Plant Emissions
Plunkett	LEAF/Evans	(JP-10)	Summary of Externality Values
Plunkett	LEAF/Evans	(JP-11)	Participation Rates for FPL's Conservation and Load Management Programs
Plunkett	LEAF/Evans	(JP-12)	FPL's Conservation Resources Based on Average DSM as Percent of Sales by Utilities with Comprehensively Designed Programs
Plunkett	LEAF/Evans	(JP-13)	FPL's Current Load and Resources Balance
Plunkett	LEAF/Evans	(JP-14)	Illustration of Level of Savings FPL Can Achieve Through Comprehensive Conservation Programs
White	LEAF/Evans	(DJW-1)	Resume of David J. White
White	LEAF/Evans	(DJW-2)	Mercury Contamination in Florida Panthers

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
White	LEAF/Evans	(DJW-3)	Letter from Glitzenstein and Maddock to Lujan, Turner and Kilbourne, Re: 60 Day Notice of Violations of the Endangered Species Act, dated July 13, 1992.
Hale	LEAF/Evans	(DH-1)	LEAF Energy Advocacy Program Summary
	LEAF/Evans		FPL's Response to LEAF's First Interrogatories
	LEAF/Evans		Cypress Energy Partners' Response to LEAF's First Interrogatories
Stratton	ARK/CSW	(WRS-1)	Central and South West Corp. 1991 Annual Report
Stratton	ARK/CSW	(WRS-2)	Ownership and Contracting Structure
Klann	ARK/CSW	(ARK-1)	Organization Structure
Klann	ARK/CSW	(ARK-2)	Site Location
Klann	ARK/CSW	(ARK-3)	Facility Profile and Location
Klann	ARK/CSW	(ARK-4)	Project Design and Performance Characteristics
Klann	ARK/CSW	(ARK-5)	Overall Project Schedule
Blaha	ARK/CSW	(MCB-1)	Contract For the Purchase of Firm Capacity and Energy Between PPP II, Limited Partnership and FPL
Blaha	ARK/CSW	(MCB-2)	Cost comparison, Pahoee vs. Cypress



<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Brown	ARK/CSW	(JDB-1)	Engineering Exhibits for Pahoee Power Project
Wiedermann	ARK/CSW	(SPW-1)	Suncoast letter of interest
Reedy	ARK/CSW	(TER-1)	Map of proposed interconnection facilities
Reedy	ARK/CSW	(TER-2)	Interconnection capital cost estimate
Zwolak	ARK/CSW	(RAZ-1)	Preliminary Site Screening Report and Licensing Plan, Pahoee Power Partners II, Limited Partnership
Cantner	NASSAU	(PNC-1)	Site Location Map
Cantner	NASSAU	(PNC-2)	Component Parts Diagram
Cantner	NASSAU	(PNC-3)	CBI Letter of Intent
Cantner	NASSAU	(PNC-4)	CO <sub>2</sub> Process Flow Diagram
Cantner	NASSAU	(PNC-5)	Letter from City Administrator John Drago
Cantner	NASSAU	(PNC-6)	Landowners Letters re Irrigation
Cantner	NASSAU	(PNC-7)	SunCoast Letter
Cantner	NASSAU	(PNC-8)	FGT Letter & Nassau Power Request for Service
Cantner	NASSAU	(PNC-9)	Gas Suppliers' Letters
Cantner	NASSAU	(PNC-10)	Transmission Line Route
Cantner	NASSAU	(PNC-11)	Nassau Power Contract
Cantner	NASSAU	(PNC-12)	Interconnection Analysis

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Cantner	NASSAU	(PNC-13)	Fuel Supply Letter of Intent with Chevron
Cantner	NASSAU	(PNC-14)	Fuel Supply Letter of Intent with J. Aron & Co.
Cantner	NASSAU	(PNC-15)	ANR Letter re Pipeline
Cantner	NASSAU	(PNC-16)	FGT Validation Letter
Ross	NASSAU	withdrawn	Comparison of Contract Costs (435 MW)
Ross	NASSAU	withdrawn	Comparison of Contract Costs (870 MW)
Ross	NASSAU	(Rev.JAR-3)	Comparison of Contract Costs (435 MW)
Ross	NASSAU	(Rev.JAR-4)	Comparison of Contract Costs (870 MW)
Weiss	NASSAU	(RJW-1)	Breedlove, Dennis & Associates, Inc. Preliminary Environmental Review (with corrected Figure 5)
Phipps	NASSAU	(AJP-1)	Multi-Client Forecast of Natural Gas Prices, 1992-2010
Phipps	NASSAU	(AJP-2)	Purvin & Gertz Current Natural Gas Price Forecast to 2015
Phipps	NASSAU	(AJP-3)	Graph of U.S. Natural Gas Supply and Demand to 2010
Marsocci	OKEECHOBEE	(FM-1)	Report on Okeechobee County, resources and critical needs presented to a conference of State and Federal Agencies on November 19, 1991.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
	Staff		Cypress Energy Partners' response to Staff's First Set of Interrogatories (Nos. 1-2)
	Staff		Cypress Energy Partners' response to Staff's Second Set of Interrogatories (Nos. 3-20)
	Staff		Florida Power & Light Company's response to Staff's First Set of Interrogatories (Nos. 1-80)

Rebuttal

FPL Landon	FPL	(JHL-1)	Resumé
Wile	FPL	(JHW-1)	Resumé
Wile	FPL	(JHW-2)	Results of Discount Rate Study
Wile	FPL	(JHW-3)	Energy Efficiency for Appliances
Wile	FPL	(JHW-4)	Free Rider Assumptions
Wile	FPL	(JHW-5)	Free Rider Effects
Wile	FPL	(JHW-6)	Ratio Engineering to Measured Savings
Wile	FPL	(JHW-7)	Cost Per KWH Saved for DSM Programs
Hawk	FPL	(NGH-1)	End-Use Contribution to Summer Peaks
Hawk	FPL	(NGH-2)	FEO - Study - Utility DSM

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Hawk	FPL	(NGH-3)	1990: Electrical Sales: Residential, Commercial/ FPL and non-Florida
Hawk	FPL	(NGH-4)	DSM Resources Comparison - Various Utilities
Hawk	FPL	(NGH-5)	Normal Monthly Heating and Cooling Degree Days
Hawk	FPL	(NGH-6)	FPL Residential Programs
Waters	FPL	(SSW-Reb. 1)	Calculation of Total Payments to Nassau Using 10% Discount from Cypress Capacity Charge
Waters	FPL	(SSW-Reb. 2)	Calculation of Total Payments to Nassau Using the ARK Proposed Pricing for Capacity
Waters	FPL	(SSW-Reb. 3)	Calculation of Project Costs for Nassau Using FPL Base Fuel Price Forecast
Waters	FPL	(SSW-Reb. 4)	Calculation of Nassau Project Costs Using FPL Sensitivity (DRI) Fuel Price Forecast
Waters	FPL	(SSW-Reb. 5)	Calculation of Total Payments to ARK Using ARK's Proposed Discounts from Cypress Energy Project
Waters	FPL	(SSW-Reb. 6)	Calculation of ARK's Project Costs Using FPL's Base Fuel Price Forecast
Waters	FPL	(SSW-Reb. 7)	Calculation of ARK's Project Costs Using FPL Sensitivity (DRI) Fuel Price Forecast

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PENDING MOTIONS

Since the Prehearing Conference the parties have filed the following motions:

- Ark Energy and CSW Development-I's Motion for Reconsideration - Dated: August 7, 1992
- Nassau Power Corporation's Motion for Reconsideration - Dated: August 11, 1992
- Nassau Power Corporation's Motion to File Supplemental Testimony - Dated: August 11, 1992
- Nassau Power Corporation's Request for Confidential Classification and Motion for Permanent Protective Order - Dated: August 11, 1992
- Notice of Intent to Request Confidential Classification - Dated: August 11, 1992
- Petition for Leave to Intervene of J. Makowski Associates, Inc. - Dated: August 12, 1992
- Sponsorship by Vicki Gordon Kaufman of Out-of-state Counsel on Behalf of Nassau Power Corporation - Dated: August 13, 1992
- Nassau Power Corporation's Motion for Official Recognition - Dated: August 13, 1992
- Nassau Power Corporation's Motion for Reconsideration - Dated: August 14, 1992

XI. RULINGS

The Prehearing Officer, entered Orders on the following motions which were considered and ruled on at the Prehearing Conference:

1. ARK'S MOTION TO CONSOLIDATE, FILED JULY 27, 1992  
NASSAU'S MOTION TO CONSOLIDATE AND BIFURCATE, FILED JULY 30,  
1992

Both Ark and Nassau have filed Petitions for Determination of Need for their respective projects, and both seek a consolidated hearing so that the three projects (Cypress, Ark, and Nassau) can be comparatively evaluated. Ark and Nassau contend that this scheme will allow the Commission to select, and determine need for the best project, without conducting a plethora of separate hearings.

Ark and Nassau also seek to bifurcate the hearing in this docket so that FPL's need for capacity and energy will be evaluated at the August 19, 20 and 21, 1992, hearing, leaving the comparative evaluation, and selection of a particular plant to fill FPL's need, for a future date.

I choose not to consolidate the Nassau and Ark need petitions with this proceeding for several reasons. First of all, it does not appear that the Siting Act anticipates the filing of a need petition by a non-utility. Section 403.503 of the act defines, "applicant" as an electric utility, and defines "electric utility" as:

cities and towns, counties, public utility districts, regulated electric companies, electric cooperatives, and joint operating agencies, or combinations thereof, engaged in, or authorized to engage in, the business of generating, transmitting, or distributing electric energy.

Neither Ark nor Nassau meet the statutory definition.

In addition, the principal Florida case relied upon by Nassau and Ark, Bio Medical Application of Clearwater, Inc. v. Dept. of Health and Rehabilitative Service, 370 So.2d 19 (Fla. 2 D.C.A. 1979), does not apply to the statutory scheme for determination of power plant need. In Bio Med., the agency was required to determine between competing medical facilities which would provide direct service to the public. By comparison, the statutory scheme for power plant need determination recognizes the utility's planning and evaluation process and requires either approval or denial of the utility's selection of generation alternatives. No Bio-Med type hearing is required since the Commission is called

upon to approve or deny the choice a single applicant, the utility, rather than select from a number of competing applicants. This scheme recognizes that it is the utility's need, resulting from its duty to serve customers, which must be fulfilled. A non-utility generator has no such need since it is required to serve no customers.

Finally, even assuming arguendo that a non-utility could file a need petition, here the need petitions were filed late in these proceedings and our staff hasn't had sufficient time to adequately analyze Ark's and Nassau's projects and conduct the level of discovery necessary for a need determination proceeding.

Therefore, I deny the motions to consolidate filed by Ark and Nassau. In addition, since the primary purpose of the proceeding in this docket is to determine whether need exists for the Cypress/FPL project, I find it unnecessary to bifurcate these proceedings into separate need, and comparative evaluation components. Ark and Nassau's requests to bifurcate are therefore denied.

2. ARK'S MOTION FOR CLARIFICATION, FILED JULY 27, 1992

Ark has requested an order stating that responses to all outstanding discovery shall be served by hand delivery or fax on or before August 12, 1992. The Order on Prehearing Procedure previously entered in this docket required that discovery be completed by August 12, 1992. I therefore grant Ark's Motion for Clarification to the extent that we will require that all outstanding discovery shall be served by hand delivery or fax on or before August 12, 1992, or if the party making delivery is not local, that the materials be presented to a courier or special messenger by August 12, 1992, for next day delivery on August 13, 1992.

3. NASSAU'S MOTION FOR LEAVE TO SUPPLEMENT AND NASSAU'S MOTION TO ADD EXHIBIT INADVERTENTLY OMITTED, FILED JULY 29, 1992

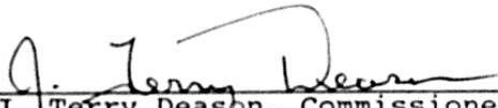
The Commission is afforded substantial discretion in handling evidentiary matters such as this. It appears that fairness, and an interest in the development of a complete record would dictate the granting of this motion, which was not opposed by any party. I therefore grant Nassau's Motion to Supplement and Motion to Add Exhibit, as filed by Nassau July 29, 1992.

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It is therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 18th day of AUGUST, 1992.

  
J. Terry Deason, Commissioner  
and Prehearing Officer

( S E A L )

MAB:bmi

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), 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 Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary,



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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.