

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Approval of ) DOCKET NO. 920880-EQ  
Lee County Resource Recovery ) ORDER NO. PSC-92-1188-FOF-EQ  
Facility Electric Power Purchase ) ISSUED: 10/20/92  
Agreement for As-Available Energy)  
between Lee County and Florida )  
Power and Light Company. )  
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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING PETITION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On January 7, 1991, we issued Proposed Agency Action (PAA) Order No. 23963 stating our intent to grant Lee County's petition for determination of need for a solid waste-fired cogeneration power plant. The PAA order was contested on January 28, 1991 and a formal administrative hearing was requested. However, on May 20, 1991 the protesting party and Lee County filed a joint stipulation dismissing the request for an administrative hearing. We accepted the dismissal of the protest and made Order No. 23963 final on July 16, 1991, thereby granting Lee County's petition for determination of need.

Florida Power and Light Company (FPL) now petitions for approval of a negotiated contract between FPL and Lee County for As-Available Energy.

Lee County's 39.7 megawatt resource recovery facility has a scheduled in-service date of 1995. The facility is a "qualifying facility" pursuant to Federal Energy Regulatory Commission guidelines. The negotiated contract between FPL and Lee County was signed August 19, 1992, with a term from the execution date to December 31, 2015. A condition precedent to the enforceability of

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the provisions of the contract is approval of the contract by the Commission. The contract also requires the Commission to determine that (a) the agreement is reasonable, prudent and in the best interest of FPL's customers, (b) no cost in excess of FPL's avoided energy cost is likely to be incurred over the term of the agreement, and (c) FPL may recover from its customers all payments for as-available energy.

In evaluating this as-available energy negotiated contract, we refer to Commission Rule 25-17.0825(6), Florida Administrative Code, which states in part;

Utility payments for as-available energy made to qualifying facilities pursuant to a separately negotiated contract shall be recoverable by the utility through the Commission's periodic review of fuel and purchased power costs if the payments are not reasonably projected to result in higher cost electric service to the utility's general body of ratepayers or adversely affect the adequacy or reliability of electric service to all customers.

The agreement provides that as-available energy payments by FPL to Lee County shall be in accordance with Rate Schedule COG-1 as approved by the Commission. The price paid shall be ninety-eight percent (98%) of FPL's avoided energy cost. Therefore FPL will pay less than it otherwise would, had FPL generated the energy itself, or purchased the energy at avoided cost. Based on this condition, we find that the payments will not result in higher cost electricity to FPL's customers.

Currently, the parties are negotiating a separate interconnection agreement. The negotiated contract contains provisions for the safe operation of the facility in connection with FPL's system. We find that the purchase of energy from this facility will not adversely affect the adequacy or reliability of electric service to FPL's customers.

We approve the negotiated contract between FPL and Lee County. We find that the agreement is reasonable, prudent and in the best interest of FPL's customers, no cost in excess of FPL's avoided energy cost is likely to be incurred over the term of the agreement, and FPL may recover from its customers all payments for as-available energy. It is therefore,

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ORDERED that the Petition for approval of Lee County Resource Recovery Facility Electric Power Purchase Agreement for As-Available Energy between Lee County and Florida Power and Light Company is approved. It is further

ORDERED that if no substantially affected person files a timely request for a Section 120.57, Florida Statutes, hearing within twenty-one days of the date of this order, no further action will be required and this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 20th day of October, 1992.

  
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STEVE TRIBBIE, Director  
Division of Records and Reporting

( S E A L )

MCB: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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on November 10, 1992.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.