

M E M O R A N D U M

MAY 3, 1995

TO: DIVISION OF RECORDS AND REPORTING  
FROM: DIVISION OF LEGAL SERVICES (BROWN) MCB  
RE: DOCKET NO. 941101-EQ - PETITION FOR DETERMINATION THAT  
ITS PLAN FOR CURTAILING PURCHASES FROM QUALIFYING  
FACILITIES IN MINIMUM LOAD CONDITIONS IS CONSISTENT WITH  
RULE 25-17.086, F.A.C., BY FLORIDA POWER CORPORATION

0550-PHO

Attached is a PREHEARING ORDER with attachments, to be issued  
in the above-referenced docket. (Number of pages in Order -35)

MCB/LW/js  
Attachment  
cc: Division of Electric and Gas  
I: 941101P4.MCB

**MUST GO TODAY**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for ) DOCKET NO. 941101-EQ  
determination that plan for ) ORDER NO. PSC-95-0550-PHO-EQ  
curtailing purchases from ) ISSUED: May 5, 1995  
qualifying facilities in minimum )  
load conditions is consistent )  
with Rule 25-17.086, F.A.C., by )  
FLORIDA POWER CORPORATION. )  
\_\_\_\_\_)

Pursuant to Notice, a Prehearing Conference was held on April 26, 1995, in Tallahassee, Florida, before Chairman Susan F. Clark, as Prehearing Officer.

APPEARANCES:

JAMES P. FAMA, Esquire, and JAMES A. MCGEE, Esquire, Florida Power Corporation, Post Office Box 14042, St. Petersburg, Florida 33733-4042, and GARY L. SASSO, Esquire, and RONALD J. TENPAS, Esquire, Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Post Office Box 2861 St. Petersburg, Florida 33731  
On behalf of Florida Power Corporation.

D. BRUCE MAY, Esquire, and KAREN WALKER, Esquire, Holland & Knight, 315 South Calhoun Street, Suite 600, Tallahassee, Florida 32302  
On behalf of Auburndale Power Partners, Limited Partnership.

GAIL P. FELS, Esquire, Assistant County Attorney, Office of the County Attorney, Aviation Division, Post Office Box 592075 AMF, Miami, Florida 33159, and ROBERT SCHEFFEL WRIGHT, Esquire, Landers & Parsons, 310 West College Avenue, Tallahassee, Florida 32302  
On behalf of Montenay-Dade, Ltd. and Metropolitan Dade County.

ROBERT SCHEFFEL WRIGHT, Esquire, Landers & Parsons, 310 West College Avenue, Tallahassee, Florida 32302  
On behalf of Lake Cogen, Ltd..

PATRICK K. WIGGINS, Esquire, and MARSHA RULE, Esquire, Wiggins & Villacorta, P.A., Post Office Box 1657, Tallahassee, Florida 32302  
On behalf of Orange Cogeneration Limited Partnership, Polk Power Partners, L.P., and Tiger Bay Limited Partnership.

DOCUMENT FILED DATE

0444 | MAY-5 95

FFSC-RECORDS/REPORTING

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RICHARD A. ZAMBO, Esquire, Richard A. Zambo, P.A., 598  
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On behalf of Ridge Generating Station, L.P..

JOSEPH A. MCGLOTHLIN and VICKI GORDON KAUFMAN, McWhirter,  
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and GREGORY A. PRESNELL and LINDA PEREZ, Akerman,  
Senterfitt & Eidson, P.A., Firststate Tower, 17th Floor,  
255 S. Orange Avenue, P.O. Box 231, Orlando, Florida  
32802  
On Behalf of Orlando CoGen Limited, L.P..

ANSLEY WATSON, JR., Esquire, Macfarlane Ausley Ferguson  
& McMullen, P. O. Box 1531, Tampa, Florida 33601  
On behalf of Pasco Cogen, Ltd..

BARRETT JOHNSON, Esquire, KARA OAKLEY, Esquire, Johnson  
and Associates, Post Office Box 1308, Tallahassee,  
Florida 32302  
On behalf of Panda-Kathleen.

MARTHA CARTER BROWN, Esquire, and VICKI D. JOHNSON,  
Esquire, LORNA R. WAGNER, 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 October 14, 1994, Florida Power Corporation (FPC) filed a petition asking the Commission to determine that its plan for curtailing purchases from Qualifying Facilities (QF's) during minimum load conditions is consistent with Rule 25-17.086, Florida Administrative Code. A prehearing conference was held on April 26, 1995. A hearing is scheduled for May 8-10, 1995.

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 any 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.

#### Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

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.

Parties are permitted to make oral arguments. Rule 25-22.058, Florida Administrative Code. Oral argument shall be limited to 20 minutes per side.

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.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Issue #'s</u>	<u>Subject Matter</u>
<u>Direct</u>		
Florida Power Corporation		
Robert D. Dolan	1, 4, 7	Background of FPC capacity and energy purchase arrangements with QFs; Federal and State rules governing utility right to curtail; Summary of efforts to avoid events of curtailment.

<u>Witness</u>	<u>Issue #'s</u>	<u>Subject Matter</u>
Charles J. Harper	2, 5	Description of FPC's Curtailment Plan and the actions taken by FPC's system operating personnel in response to minimum load conditions.
Steven L. Lefton	6	Demonstrate that increased cycling of coal-fired baseload power units caused plant damage and results in significant increases in operational costs and decreases unit reliability.
Henry I. Southwick, III	1 - 7	FPC's principle policy witness on minimum load conditions and FPC's efforts to deal responsibly with minimum load issues.
<b>Orlando Cogen, Ltd., L.P. Pasco Cogen, Ltd.</b>		
Roy J. Shanker, Ph.D.	1, 2, 2B, 2C, 6A, 7, 8	Failures of FPC's proposed curtailment plan to comply with regulations implementing PURPA.
Kenneth J. Slater (direct and supplemental testimony)	1 - 3, 5 - 6B, 8	Operations-based deficiencies with FPC's proposed curtailment plan; absence of negative avoided costs that would be required to support curtailment.
<b>Orlando Cogen, Ltd., L.P.</b>		
Roger A. Yott	4, 8	Unfair and discriminatory aspects of FPC's proposed allocation of involuntary curtailments.

<u>Witness</u>	<u>Issue #'s</u>	<u>Subject Matter</u>
<b>Auburndale Power Partners Montenay/Dade County Lake Cogen, Ltd. Tiger Bay</b>		
L. Roy Smith	6	Whether the priority system for curtailment outlined in FPC's General Curtailment Plan is unduly discriminatory.

Rebuttal

**FPC**

Robert D. Dolan	1, 4, 8	To demonstrate that OCL and Pasco have falsely claimed that PURPA prohibits the Commission's approval of Florida Power's Curtailment Plan and to rebut their claims that the Minimum load problems being experienced by Florida Power are the result of bad planning and the failure to insist on QF dispatchability as a pre-condition to purchasing QF power.
Steven L. Lefton	6	To address questions relating to the validity of avoided cost comparisons which account for the incremental costs of cycling baseload generating units during minimum load conditions and to demonstrate that it is appropriate for Florida Power to capture its unit impact costs in its comparison of the system operating costs with and without QF purchases.



<u>Witness</u>	<u>Issue #'s</u>	<u>Subject Matter</u>
Linda D. Brousseau	6	To respond to questions relating to the Unit Commit simulations which Florida Power developed for each of the first seven curtailment events and the conclusion that negative avoided costs would have existed during each event in the absence of curtailments.
Henry I. Southwick, III	1 - 6, 8	To demonstrate that Florida Power is correctly implementing the Commission's rules for curtailing QF purchases under minimum load conditions and to answer contentions made on behalf of OCL that Florida Power is unfairly treating those of its QF suppliers who have not entered into written voluntary output reduction arrangements.

V. BASIC POSITIONS

FPC: This Commission should approve FPC's October 12, 1994 Curtailment Plan because it is fully consistent with Commission Rule 25-17.086; it is a fair and reasonable response to operational circumstances occurring from time to time on FPC's system during minimum load conditions; and if QF curtailments are not authorized under these conditions, FPC and its ratepayers will be forced unreasonably and unlawfully to incur net increased operating costs otherwise referred to as negative avoided costs. Florida Power has taken and, under the plan, will continue to take reasonable and cost effective steps to minimize the need for curtailments. No further mitigation measures should be required as a matter of law or regulatory policy. To date, the plan's procedures have been implemented efficiently and effectively, thereby in fact minimizing the need for curtailments and successfully controlling the minimum load problem during the seven required curtailment events.

**APP:** APP takes on whether FPC's Plan complies and is consistent with Rule 25-17.086, Florida Administrative Code.

APP, however, believes that the curtailment priority system in the Plan is not unduly discriminatory.

**DADE:** Florida Power Corporation has not adequately demonstrated that the minimum load conditions outlined in its Generation Curtailment Plan for Minimum Load Conditions (hereinafter "Curtailment Plan" or "Plan") satisfy the criteria to permit utility curtailment of Qualifying Facility ("QF") purchases set forth in Commission Rule 25-17.086, Florida Administrative Code.

Assuming that curtailments are permitted by Rule 25-17.086, the Plan treats the identified groups of QFs fairly and is not unduly discriminatory as between the identified groups of QFs.

**LAKE:** Florida Power Corporation has not adequately demonstrated that the minimum load conditions outlined in its Generation Curtailment Plan for Minimum Load Conditions (hereinafter "Curtailment Plan" or "Plan") satisfy the criteria to permit utility curtailment of Qualifying Facility ("QF") purchases set forth in Commission Rule 25-17.086, Florida Administrative Code.

When curtailments are permitted by Rule 25-17.086, the Plan treats the identified groups of QFs fairly and is not unduly discriminatory as between the identified groups of QFs.

**ORANGE:** Orange Cogen has no objection to FPC's proposed curtailment plan, given Orange's understanding that the plan requires FPC to take its peaking and intermediate generating units off-line before curtailing QF purchases, unless a particular unit is required for system stability. Orange believes that the plan allocates justifiable curtailments among QF's in a fair and not unduly discriminatory manner.

**POLK:** Polk Power Partners has no objection to FPC's proposed curtailment plan, given Polk's understanding that the plan requires FPC to take its peaking and intermediate generating units off-line before curtailing QF purchases, unless a particular unit is required for system

stability. Polk believes that the plan allocates justifiable curtailments among QF's in a fair and not unduly discriminatory manner.

**RIDGE:** The need for low load period generation curtailments on the FPC system appears to have resulted from a variety of factors, none of which are directly attributable to Ridge. In a spirit of cooperation, Ridge has entered into a curtailment agreement with FPC (which is now pending Commission approval in Docket No. 950797-EQ) which, along with similar agreements between FPC and other QF's, should contribute significantly to the alleviation of the low load problems anticipated by FPC. Indeed, the curtailment agreements negotiated by FPC form an integral part of FPC's curtailment plan. So long as the referenced curtailment agreements are approved by the Commission, it is Ridge's position that FPC's curtailment plan as submitted, offers a reasonable solution to what appears to be a temporary problem. Ridge reserves the right to modify, amend or otherwise revise its basic position as may be appropriate as the case proceeds.

**TIGER:** Based on the assumptions inherent in the FPC plan, Tiger Bay finds no reason to object to its implementation. Existing curtailment agreements are treated fairly and equitably under the plan.

**OCL:** The Commission should not approve the curtailment plan submitted by Florida Power Corporation. In order to come under the narrow exception to PURPA's clear statutory mandate requiring utilities to purchase from QFs, FPC must demonstrate that it will experience unforeseen "operational circumstances" which give rise to "negative avoided costs" and that it has taken all available measures to mitigate the circumstances. FPC has failed to fulfill any of these requirements. Its plan is simply an attempt to extract from QFs dispatchability rights which, as a matter of deliberate long-term planning, it chose not to negotiate and pay for at the time it entered into the QF contracts. The attempt is an abuse of the curtailment regulation.

The curtailment plan proposed by FPC improperly subordinates firm QF purchases to FPC's purchases from other utilities. The plan does not include any forward planning to attempt to eliminate minimum load situations through realistic unit commitment. The plan fails to require FPC to market excess generation at a price

designed to ensure a sale. Even if the Commission were to determine that "operational circumstances" were present and that FPC had exhausted all avenues to balance load and generation, FPC has improperly quantified the avoided costs associated with firm QF purchases. Correctly viewed, FPC would not have incurred any negative costs as a result of QF purchases in any of the curtailments to date.

**PABCO:** Florida Power Corporation's ("FPC's") petition filed herein should be denied because its Generation Curtailment Plan for Minimum Load Conditions (the "Plan") is inconsistent with PURPA and the Federal Energy Regulatory Commission's ("FERC's") regulations promulgated thereunder. Because Rule 25-17.086 was adopted by the Commission to implement FERC's regulations, the Plan is therefore inconsistent with Rule 25-17.086.

**PANDA:** No position.

**STAFF:** Staff has no basic position at this time. Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing on the issues set out below. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

## VI. ISSUES AND POSITIONS

**ISSUE 1:** Has Florida Power Corporation adequately demonstrated that the minimum load conditions for curtailment outlined in its plan comply with Commission Rule 25-17.086, Florida Administrative Code?

### POSITIONS

**FPC:** Yes. Both the FERC and this Commission have clearly recognized that the "operational circumstances" referred to in the curtailment rules of each agency include minimum load conditions where a utility would be forced to reduce its baseload generating units below their minimum generating levels. This precisely describes the operational circumstances that FPC is seeking to resolve. The minimum load problem being confronted by FPC is real. It affects both reliability and system costs. It is

occurring despite prudent planning and reasonable operating practices. FPC has taken, and will continue to take, reasonable and appropriate measures to avoid curtailments. But in the circumstances described in the plan, a failure to curtail QF purchases would result in increased net operating costs or a negative avoided cost.

APP: No position.

DADE: No. Florida Power Corporation has not adequately demonstrated that it would incur negative avoided costs if it continued to purchase QF power during low load conditions. Moreover, FPC cannot require dispatchability of QFs by invoking the Commission's rule because it consciously decided not to negotiate for dispatchable QF contracts.

LAKE: No. Florida Power Corporation has not adequately demonstrated that it would incur negative avoided costs if it continued to purchase QF power during low load conditions. Moreover, FPC cannot require dispatchability of QFs by invoking the Commission's rule because it consciously decided not to negotiate for dispatchable QF contracts.

ORANGE: Orange does not object to FPC's curtailment plan.

POLK: Polk does not object to FPC's curtailment plan.

RIDGE: No position.

TIGER: Based on the assumptions inherent in the FPC plan, Tiger Bay finds no reason to object to its implementation.

OCL: No. The very limited kind of curtailment envisioned by the FERC regulation, upon which rule 25-17.086 is based, must be the result of extraordinary, unforeseen operational circumstances. FPC's alleged minimum load situation is instead the result of a conscious long-term planning decision not to incur the cost associated with contractual dispatchability provisions. FPC's attempt to gain these rights through 25-17.086 is an abuse of the rule. Nor has FPC demonstrated the existence of any "system emergency" which would entitle it to curtail pursuant to the only other standard which federal regulations governing curtailments would permit to be included in rule 25-17.086.

**PASCO:** No. Among other things, FPC's "minimum load" conditions result from a conscious planning decision not to pursue or to pay the costs associated with dispatchable contracts with QFs, and are not "operational circumstances" of the type envisioned by the FERC's regulations implementing PURPA. Those regulations, which Rule 25-17.086 implements, create only two narrow exceptions to FPC's obligation to purchase from Pasco and other QFs with firm contracts. FPC has failed to support either its Plan or individual curtailments thereunder on the basis of either exception. (Shanker, Slater)

**PANDA:** No position.

**STAFF:** Yes. In developing Rule 25-17.086, Florida Administrative Code, the Commission included low-load conditions as being an operational circumstance contemplated under the rule.

**ISSUE 2:** Has Florida Power Corporation adequately demonstrated that its plan incorporates all appropriate measures to mitigate the need for curtailment during minimum load conditions?

**POSITIONS**

**FPC:** The plan contains all measures to be taken by FPC as a sufficient predicate to involuntary QF curtailments. Any further efforts to avoid QF curtailments would increase costs for FPC's native load customers, causing them to subsidize continued purchases from QFs.

The plan reflects all reasonable and appropriate measures to be taken by FPC as a predicate to involuntary QF curtailments. Before filing the plan, FPC engaged in extensive efforts to reduce the likelihood of curtailments, including off-system sales, reconfiguration of unit operating parameters, negotiation of voluntary QF output arrangements, evaluation of possible retail sales incentives, etc. Since filing the plan, FPC has continued to aggressively pursue that objective and has, for example, entered into off-peak sale agreements with Oglethorpe Power Cooperative and the Southeastern Power Administration, as well as a new minimum load energy sell-back arrangement with the Southern Companies. Under the plan, aggressive mitigation will continue. Before any curtailments, FPC will reduce its own generation

(including the University of Florida cogeneration unit) to minimum acceptable operating levels, reduce firm power purchases as much as the contracts will allow, and continue off-system energy marketing efforts under conditions that do not harm FPC's ratepayers. Any further efforts to avoid QF curtailments would increase costs for FPC's native load customers, causing them to subsidize continued purchases from QFs.

APP: No position.

DADE: No.

LAKE: No.

ORANGE: Given Orange's position in Issue 2B, Orange does not object to FPC's curtailment plan.

POLK: Given Polk's position in Issue 2B, Polk does not object to FPC's curtailment plan.

RIDGE: No position.

TIGER: Based on the assumptions inherent in the FPC plan, Tiger Bay finds no reason to object to its implementation.

OCL: No. FPC has not adequately demonstrated that its plan incorporates all appropriate measures to mitigate the need for curtailment during minimum load conditions.

FASCO: No. Although FPC's Plan contains certain procedures designed to mitigate the need to curtail firm QF purchases, those measures are deficient when viewed in the context of the intent of PURPA and the FERC regulations implementing PURPA's requirements. (Shanker, Slater)

PANDA: No position.

STAFF: Yes, however, minimum load conditions are event specific and not all situations can be anticipated in advance. As such, any affected QF may still request a staff investigation of a specific event pursuant to Rule 25-17.086, Florida Administrative Code even if FPC followed the procedures contained in its plan for its own generation resources.

ISSUE 2a. Has Florida Power Corporation adequately demonstrated that it has attempted to mitigate any foreseeable imbalance between generation and load during minimum load conditions by committing the most appropriate combination of generation resources for the circumstances?

POSITIONS

FPC: Yes. FPC appropriately dispatches its generating resources with the dual objectives of system reliability and sound economic dispatch. In minimum load conditions, reliability concerns require, among other things, that generation and load remain in balance, that sufficient generating capacity be maintained on Automatic Generation Control ("AGC"), that transmission constraints be accommodated, that dispatch decisions take account of individual unit availability and operating conditions, and that sufficient capacity be readily available to meet peak system demands later in the day. Economic dispatch also means that the available resources will be utilized in a manner that is cost-effective to ratepayers. Neither PURPA nor any related regulations require that the system be operated in a sub-optimal manner. Furthermore, no intervenor has proven that FPC's system dispatch priorities are inappropriate from either a reliability or a cost perspective. Alternative dispatch scenarios loosely suggested by OCL/Pasco would cause FPC (and its ratepayers) to incur unreasonable costs and potential reliability risks.

APP: No position.

DADE: No.

LAKE: No.

ORANGE: Orange does not object to FPC's curtailment plan.

POLK: Polk does not object to FPC's curtailment plan.

RIDGE: No position.

TIGER: Based on the assumptions inherent in the FPC plan, Tiger Bay finds no reason to object to its implementation.



**OCL:** No. FPC has the responsibility to commit the feasible least cost combination of units for the circumstances. In all of the curtailment episodes to date, FPC failed to use forward planning to manage foreseeable low load situations. FPC over committed base load units, thereby creating the imbalance to which it points as justification to curtail firm QFs.

**PASCO:** No. FPC's unit commitment practices ignore the minimum load periods FPC has acknowledged it anticipates. FPC's failure to manage these low load periods has caused it to over commit base load units, thereby creating the imbalance between generation and load on which it relies as justification for curtailment of firm QF purchases. (Slater)

**PANDA:** No position.

**STAFF:** Yes, however, minimum load conditions are event specific and not all situations can be anticipated in advance. As such, any affected QF may still request a staff investigation of a specific event pursuant to Rule 25-17.086, Florida Administrative Code even if FPC followed the procedures contained in its plan for its own generation resources.

**ISSUE 2b.** Does the proposed curtailment plan properly require Florida Power Corporation to take all appropriate measures to decrease other sources of generation to mitigate any imbalance between generation and load?

**POSITIONS**

**FPC:** Yes. Neither PURPA nor any related regulations designate specific mitigation measures as a prerequisite to QF curtailments during minimum load conditions. Nevertheless, FPC's curtailment plan commits the Company to a policy of reducing power purchases from other utilities down to the levels permitted by the existing contracts with those utilities before initiating any QF curtailments. The contract with TECO is a non-issue because FPC can and will avoid the entire TECO purchase before it initiates curtailments. The contract with the Southern Companies contains specified minimum purchase requirements with which FPC must comply unless the

Southern Companies release FPC from part or all of its purchase commitment on a given occasion. In order to voluntarily mitigate the impact on QFs of the minimum purchases from the Southern Companies, FPC has entered into a new arrangement which may enable FPC to sell back some of the minimum purchase amounts when neither FPC nor the Southern Companies will incur an economic loss due to the sell-back transaction. FPC's policies concerning the treatment of purchases from the Southern Companies is reasonable and goes beyond any specific PURPA requirement.

APP: No position.

DADE: No.

LAKE: No.

ORANGE: Orange understands that FPC's curtailment plan requires FPC to take its peaking and intermediate generating units off-line before curtailing QF purchases, unless a particular unit is required for system stability. Therefore, Orange does not object to FPC's curtailment plan.

POLK: Polk understands that FPC's curtailment plan requires FPC to take its peaking and intermediate generating units off-line before curtailing QF purchases, unless a particular unit is required for system stability. Therefore, Polk does not object to FPC's curtailment plan.

RIDGE: No position.

TIGER: Based on the assumptions inherent in the FPC plan, Tiger Bay finds no reason to object to its implementation, including the assumption that FPC will take its peaking and intermediate generating units off-line before it begins to curtail purchases from QF's.

OCL: No. The Plan subordinates firm QF purchases to FPC's minimum obligations under its UPS contract with Southern Company. As the New York PUC ruled in 1989, in order to comply with requirements of regulations implementing PURPA, a utility must interrupt all purchases from other utilities prior to curtailing firm purchases from QFs.

**PASCO:** No. The intent of the FERC rule which Rule 25-17.086 implements is that firm purchases from other utilities (such as the Southern Companies) be interrupted before curtailment of firm purchases from QFs. FPC's Plan subordinates firm purchases required from QFs to its purchases from other utilities, contrary to the intent of PURPA and the FERC's implementing regulations. (Shanker, Slater)

**PANDA:** No position.

**STAFF:** Yes, however, minimum load conditions are event specific and not all situations can be anticipated in advance. As such, any affected QF may still request a staff investigation of a specific event pursuant to Rule 25-17.086, F.A.C. even if FPC followed the procedures contained in its plan for its own generation resources.

**ISSUE 2c.** Does the proposed curtailment plan properly require Florida Power Corporation to take all appropriate measures to increase sales to mitigate any imbalance between generation and load?

**POSITIONS**

**FPC:** Yes. Neither PURPA nor any related regulations require specific mitigation measures as a prerequisite to QF curtailments during minimum load conditions. Nevertheless, FPC's curtailment plan commits the Company to a policy of maximizing off-system sales to third parties before initiating QF curtailments, so long as those sales can be made at prices that will not cause FPC or its ratepayers to subsidize continued QF purchases. This policy promotes the PURPA objective of ratepayer neutrality, is reasonable, and goes beyond any specific PURPA requirement.

**APP:** No position.

**DADE:** No.

**LAKE:** No.

**ORANGE:** Orange does not object to FPC's curtailment plan.

**POLE:** Polk does not object to FPC's curtailment plan.

RIDGE: No.

TIGER: Based on the assumptions inherent in the FPC plan, Tiger Bay finds no reason to object to its implementation.

OCL: No. FPC has failed to price the energy it attempts to sell during low load situations at a level designed to find any market. When the combination of firm QF purchases and the output of must-run units exceeds system load, there is no incremental cost associated with generating the excess. A sale of the excess at any price above zero would enable FPC to avoid minimum load conditions without experiencing negative avoided costs.

PASCO: No. FPC has overpriced the energy it attempts to sell during low load periods. When the sum of QF purchases and the output of must-run FPC units exceeds system load, there is no incremental cost to generate the excess. A sale of the excess generation at any price above zero would enable FPC to honor its firm QF purchase commitments without incurring negative avoided costs. (Shanker, Slater)

PANDA: No position.

STAPP: Yes, however, minimum load conditions are event specific and not all situations can be anticipated in advance. As such, any affected QF may still request a staff investigation of a specific event pursuant to Rule 25-17.086, Florida Administrative Code even if FPC followed the procedures contained in its plan for its own generation resources.

ISSUE 3: Has Florida Power Corporation adequately demonstrated that the procedures for curtailment outlined in its plan are reasonable and appropriate?

POSITIONS

FPC: Yes. Although FPC does not contend that there is only one possible set of acceptable procedures for implementing QF curtailments, it has proposed a set of procedures which it considers fair as well as effective.

APP: No position.

DADE: No.

LAKE: No.

ORANGE: Orange does not object to FPC's curtailment plan.

POLK: Polk does not object to FPC's curtailment plan.

RIDGE: Yes.

TIGER: Based on the assumptions inherent in the FPC plan, Tiger Bay finds no reason to object to its implementation.

OCL: No. FPC has failed to demonstrate that curtailments of QF purchases are necessary to avoid negative avoided costs. Further, in determining whether QF purchases during an operational circumstance contemplated by rule 25-17.086 would cause FPC to incur costs greater than it would incur if FPC supplied the energy, FPC includes inappropriate costs and uses inappropriate time frames.

PASCO: No. FPC has failed to demonstrate that curtailments of QF purchases are necessary to avoid negative avoided costs. Further, in determining whether QF purchases during an operational circumstance contemplated by Rule 25-17.086 would cause FPC to incur costs greater than it would incur if FPC supplied the energy, FPC includes inappropriate costs and uses inappropriate time frames. (Slater)

PANDA: No position.

STAFF: Yes, however, minimum load conditions are event specific and not all situations can be anticipated in advance. As such, any affected QF may still request a staff investigation of a specific event pursuant to Rule 25-17.086, Florida Administrative Code even if FPC followed the procedures contained in its plan for its own generation resources.

ISSUE 4: Has Florida Power Corporation adequately demonstrated that its proposed plan allocates justifiable curtailments among QF's in a fair and not unduly discriminatory manner?

POSITIONS

FPC: Yes. Although FPC does not contend that there is only one possible set of acceptable procedures for

implementing QF curtailments, it has proposed a set of procedures which it considers fair as well as effective. These procedures properly account for differences in the factual circumstances under which different QFs are supplying energy to FPC. They properly distinguish between (1) as-available energy and (2) firm energy, and between (3) QFs who have committed in writing to specific voluntary output reductions and (4) QFs who have not made this contribution to the system. Failure to recognize these factual distinctions would undermine this Commission's approval of the voluntary output reduction plans as being reasonable and in the public interest.

APP: Yes.

DADE: Yes. (Smith)

LAKE: Yes. (Smith)

ORANGE: Yes.

POLK: Yes.

RIDGE: Yes.

TIGER: Yes, many of the QF's on FPC's system have entered into voluntary curtailment agreements that are treated fairly and equitably under the plan.

OCL: No. FPC has refused to treat OCL during the period OCL's short-term voluntary reduction is in effect consistently with its treatment of QFs who have entered long-term contractual reductions, despite the fact that OCL's short-term reduction provides assistance of corresponding value. In addition, any plan should contain a crediting mechanism to track and adjust for QF responses in past involuntary curtailments and thereby assure equitable treatment over time.

PASCO: No.

PANDA: No position.

STAFF: Yes. Any "banking" or "deferral" arrangements should be developed and agreed to by the affected QFs.

ISSUE 5: If the procedures set forth in Florida Power Corporation's curtailment plan are consistent with Rule 25-17.086, did Florida Power Corporation properly implement the procedures during the curtailments that occurred from October, 1994 through January, 1995?

POSITIONS

FPC: Yes. FPC's curtailment procedures were properly implemented during the seven curtailments in the period from October 1994 through January 1995. FPC correctly anticipated minimum load conditions, took available steps to ameliorate the situation, issued the appropriate notifications called for by the plan and, when necessary, curtailed QF output as needed and in accordance with the plan's procedures, to balance projected generation and load levels. This balance was maintained to the extent practicable on each occasion with the assistance of the QF curtailments.

APP: No position.

DADE: No.

LAKE: No.

ORANGE: Orange does not object to FPC's implementation of its curtailment plan during the curtailments that occurred from October, 1994 through January, 1995.

POLK: Polk does not object to FPC's implementation of its curtailment plan during the curtailments that occurred from October, 1994 through January, 1995.

RIDGE: No position.

TIGER: Tiger Bay does not object to FPC's implementation of its curtailment plan during the curtailments that occurred from October, 1994 through January, 1995.

OCL: No. FPC has curtailed far more than was necessary to respond to the minimum load situation. This led FPC to, among other things, overstate the avoided cost associated with the scenario in which it would have purchased firm QF generation. In fact, Mr. Slater's supplemental analysis demonstrates that FPC would not have incurred any negative avoided costs by accepting firm QF power during its curtailment episodes. Further, subordinating

the purchase of UPS power to the delivery of firm QFs would have completely obviated the need for two of the curtailments.

**PASCO:** No. FPC has curtailed far more than necessary to respond to the minimum load situation. This led FPC to, among other things, later overstate the avoided cost associated with the scenario in which it would have purchased firm QF generation. FPC would not have incurred any negative avoided costs by accepting firm QF generation during the curtailment episodes to date. Further, the need for two of the curtailments would have been obviated had FPC subordinated its purchase of UPS power to deliveries by firm QFs. (Slater)

**PANDA:** No position.

**STAFF:** Yes.

**ISSUE 6:** Has Florida Power Corporation adequately demonstrated that the curtailments that have occurred from October 1, 1994, through January 31, 1995, were necessary to avoid negative avoided costs?

**POSITIONS**

**FPC:** Yes. FPC has demonstrated that in circumstances where it has reduced its own generating units to their minimum acceptable generation levels, further reductions in Company generation to continue QF purchases would necessarily result in a negative avoided cost. FPC has established this fact by means of sound analysis and has illustrated the negative avoided cost phenomenon with computer simulations of system conditions with and without curtailments.

**APP:** No position.

**DADE:** No.

**LAKE:** No.

**ORANGE:** Orange does not object to FPC's curtailments from October, 1994 through January, 1995.

**POLK:** Polk does not object to FPC's curtailments from October, 1994 through January, 1995.



**RIDGE:** Tiger Bay does not object to FPC's curtailments from October, 1994 through January, 1995.

**TIGER:** No position at this time.

**OCL:** No. FPC's claim of negative avoided costs is based on its use of a truncated review, consisting of only the curtailment hours, and flawed comparisons. A conservative comparison of avoided variable productions costs following the curtailment consistent with the intent of regulations implementing PURPA shows that FPC would not have incurred negative avoided costs by purchasing firm QF energy in any of the episodes to date if the comparison includes a period of less than two days following curtailment. Mr. Slater's supplemental analysis, in which he corrected the deficiencies in FPC's cost comparisons, demonstrates that FPC would not have incurred any negative avoided costs by accepting delivery of firm QF energy during any of the curtailment episodes.

**PASCO:** No. FPC has failed to take available measures to mitigate the occurrence of excess generation and, even if it was assumed (for the sake of argument) that FPC had taken all available steps to avoid an imbalance between generation and load, FPC's analysis of avoided costs (a) is based on its system as it is actually operated, rather than on its system as it should, consistent with PURPA, be operated, and (b) uses an inappropriate time frame and incorporates costs that do not belong in its calculations. (Slater, Shanker)

**PANDA:** No position.

**STAFF:** Yes.

**ISSUE 6a.** In determining whether purchases of firm QFs' generation during an operational circumstance that satisfies rule 25-17.086 would cause FPC to incur costs greater than the costs FPC would incur if FPC supplied the energy, what costs are appropriate to consider?

**FPC:** Negative avoided costs are incurred when, because of continuing a QF purchase, the purchasing utility would incur greater net power production costs than it would have incurred without the QF purchase. FPC is entitled

to consider all of the costs that it would incur to generate electricity without the QF purchases, including without limitation, fuel, O&M and other variable operating costs, unit shut-down and start-up costs, replacement power costs, incremental unit impact costs, transmission losses, etc. No intervenor has proven that any specific cost component should be excluded based on the facts in this case or must be excluded by any requirement of PURPA.

APP: No position.

DADE: The only appropriate costs to consider are variable production costs.

LAKE: The only appropriate costs to consider are variable production costs.

ORANGE: No position.

POLK: No position.

RIDGE: No position.

TIGER: No position.

OCL: The only appropriate costs to consider are variable production costs. "Unit impact costs", as the term is used by FPC, include such items as future change outs of equipment and future changes in maintenance schedules that are associated with changes in mode of operation over the life of a unit. such costs, if they occur, are the result of long-term planning decisions (such as capacity selections or, in this case, the choice of non-dispatchable contracts) and are properly borne by the utility.

PASCO: Variable production costs are the only appropriate costs to consider. "Unit impact costs", as the term is used by FPC, include such items as future change outs of equipment and future changes in maintenance schedules that are associated with changes in mode of operation over the life of a unit. To the extent such costs are incurred, they are the result of long-term planning decisions (such as capacity selections or, as in the present case, the choice of non-dispatchable contracts) and are properly borne by the utility. (Slater, Shanker)

FANDA: No position.

STAFF: No position at this time.

ISSUE 6b. In determining whether purchases of firm QFs' generation during an operational circumstance that satisfies rule 25-17.086 would cause FPC to incur costs greater than FPC would incur if FPC supplied the energy, what is the appropriate time frame to measure?

FPC: FPC has properly examined negative avoided costs over periods ranging from one day to several days and in each case the timeframe utilized has been appropriate to capture the full negative avoided cost impacts that would have been incurred without QF curtailments. OCL/Pasco's contention that baseload generating resources should be recommitted (i.e., dispatched off) over week-long periods in order to account for potential minimum load conditions which typically last for only a few hours (if they materialize at all) is a draconian approach to the minimum load problem which ignores FPC's legitimate curtailment rights and would cause FPC (and its ratepayers) to incur much greater overall costs.

APP: No position.

DADE: The appropriate time frame for analysis is the same time period used to determine the commitment of the base load unit that would, hypothetically, have to be shut down as the alternative to curtailing QF generation, making additional sales, or pursuing other mitigation measures.

LAKE: The appropriate time frame for analysis is the same time period used to determine the commitment of the base load unit that would, hypothetically, have to be shut down as the alternative to curtailing QF generation, making additional sales, or pursuing other mitigation measures.

ORANGE: No position.

POLK: No position.

RIDGE: No position.

TIGER: No position.

OCL: FPC must consider the cost for the unit in question for all hours for which the scheduled unit was to be in service. Approximately one week is the time between normal commitment decisions.

PASCO: FPC must consider the cost for the unit in question for all hours for which the scheduled unit was to be in service. Approximately one week is the time between normal commitment decisions. (Slater)

PANDA: No position.

STAFF: No position at this time.

(LEGAL ISSUE):

ISSUE 7: What is the permissible scope of Rule 25-17.086, Florida Administrative Code, in view of the federal standards implementing Section 210 of PURPA?

FPC: FPC takes no position at this time concerning the breadth of the Commission's independent authority under Rule 25-17.086 because it is not necessary for purposes of this case to look beyond the curtailment rights afforded to FPC under FERC's Rule 292.304(f) and the Company's contracts with the QFs. The minimum load conditions described in the Curtailment Plan represent exactly the same operational circumstances that the FERC described when it promulgated its curtailment rule, and whenever FPC reasonably expects those conditions to arise, it can say with a high degree of confidence before the event occurs that failure to curtail QF deliveries would cause FPC to incur negative avoided costs. Under these circumstances, QF curtailments are warranted under the FERC's rule and under this Commission's rule.

FPC notes, however, that OCL/Pasco have read a number of additional curtailment criteria into the FERC rule which do not appear anywhere in the text or regulatory history of that rule. Instead of prescribing specific standards of the type suggested by OCL/Pasco, the FERC rule expressly leaves the issues of verification and approval of curtailment procedures to the discretion of state regulatory authorities. The plan should be approved by this Commission as an exercise of that regulatory discretion.

APP: No position.

DADE: The Commission's rules governing utility curtailments of QF purchases cannot provide broader grounds for such curtailments than are permitted under the corresponding provisions of PURPA and the FERC's rules implementing PURPA.

LAKE: The Commission's rules governing utility curtailments of QF purchases cannot provide broader grounds for such curtailments than are permitted under the corresponding provisions of PURPA and the FERC's rules implementing PURPA.

ORANGE: No position.

POLK: No position.

RIDGE: No position.

TIGER: No position at this time.

OCL: The authority to implement PURPA and its regulations was delegated to the states by the federal government. The states have no ability to enlarge the delegation provided. The only circumstances in which curtailment is permissible pursuant to rule 25-17.086 are the same as those circumstances which would be permissible under the FERC rules governing curtailment. Under § 292.304(f), this requires unforeseen and unavoidable "operational circumstances" which give rise to negative avoided costs. While less clear, the "system emergency" standard of separate § 292.307 may also be encompassed by Rule 17.086.

PASCO: Rule 25-17.086 was adopted to implement 18 CFR §§ 292.304(f) and 292.307; therefore, its scope is the same as that of those FERC rules. The states were directed by the federal government to implement PURPA and the FERC's regulations thereunder, and the states were given no authority to enlarge the scope of such delegation. Thus, the only circumstances in which curtailment is permissible pursuant to Rule 25-17.086 are the same as those circumstances in which curtailment would be permissible under the FERC rules; that is, unforeseen and unavoidable "operational circumstances" which give rise to negative avoided costs (292.304(f)) or a "system emergency" (292.307). (Shanker)

PANDA: No position.

STAFF: It is not necessary in this case to decide what the theoretical legal limits of Rule 25-17.086 may be, because the rule and the federal standards implementing Section 210 of PURPA clearly contemplate, and in fact specifically identify, the type of "minimum load condition" addressed in FPC's curtailment plan.

ISSUE 8: Should the Commission approve Florida Power Corporation's curtailment plan as being in compliance with Rule 25-17.086?

POSITION

FPC: Yes. FPC has demonstrated that curtailment of QF purchases pursuant to its plan are necessitated by operational circumstances associated with minimum load conditions in order to avoid the incurrence of negative avoided costs as a result of such purchases. In these circumstances, the plan sets forth fair and reasonable procedures for implementing the required curtailments.

APP: No position.

DADE: No.

LAKE: No.

ORANGE: Yes, with the proviso that FPC must take its peaking and intermediate generating units off-line before curtailing QF purchases, unless a particular unit is required for system stability.

POLK: Yes, with the proviso that FPC must take its peaking and intermediate generating units off-line before curtailing QF purchases, unless a particular unit is required for system stability.

RIDGE: Yes.

TIGER: Yes, provided that the assumptions in the plan are proven at hearing and further provided that the Commission require FPC to take its own peaking and intermediate generating units off-line before curtailing purchases from QF's.

**OCL:** No. FPC's proposed plan does not comply with rule 25-17.086 and its petition in this docket should be denied.

**PASCO:** No. FPC's proposed Plan does not comply with Rule 25-17.086, and its petition in this docket should be denied.

**PANDA:** No position.

**STAFF:** Yes. FPC's curtailment plan is a reasonable means to implement Rule 25-17.086, Florida Administrative Code. Approval of the plan does not relieve FPC of the duty to take prudent measures in order to avoid a minimum load condition.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered by</u>	<u>I.D. No.</u>	<u>Description</u>
R. D. Dolan	FPC	<u>(RDD - 1)</u>	FPC's October 12, 1994 "Generation Curtailment Plan for Minimum Load Conditions"
R. D. Dolan	FPC	<u>(RDD - 2)</u>	Description of each QF supplier from which FPC buys capacity and/or energy.
R. D. Dolan	FPC	<u>(RDD - 3)</u>	Update to Appendix A of the Curtailment Plan.
R. D. Dolan	FPC	<u>(RDD - 4)</u>	Update to Appendix B of the Curtailment Plan.
R. D. Dolan	FPC	<u>(RDD - 5)</u>	Example of likely amounts of QF power available to FPC before and after implementation of voluntary output reduction plans.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
C. J. Harper	FPC	<u>(CJH - 1)</u>	The summary operating logs and related material documenting the steps taken in anticipation of, during and after the October 1994 through January 1995, events of curtailment.
C. J. Harper	FPC	<u>(CJH - 2)</u>	Examples of minimum load worksheet designed to assist with FPC's daily planning process
S. A. Lefton	FPC	<u>(SAL - 1)</u>	Resume of Steven A. Lefton
S. A. Lefton	FPC	<u>(SAL - 2)</u>	Three published papers on the subject of power plant cycling.
S. A. Lefton	FPC	<u>(SAL - 3)</u>	Creep - Fatigue Interaction Design Curves for Several Materials.
S. A. Lefton	FPC	<u>(SAL - 4)</u>	Regression Analysis for All Units Not designated as Daily Cyclers EXCEPT for 20 'Outliers.'
H.I. Southwick	FPC	<u>(HIS - 1)</u>	Excerpts from NERC, SERC and FCG publications
H.I. Southwick	FPC	<u>(HIS - 2)</u>	Unit Power Sales Agreement between FPC and Southern Co.
H.I. Southwick	FPC	<u>(HIS - 3)</u>	Summary of Unit Commit A voided Cost Simulations.



<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
H. I. Southwick	FPC	<u>(HIS - 4)</u>	Examples of correspondence soliciting QFs involvement in dealing with minimum load conditions.
Shanker	OCL/Pasco	<u>(RJS - 1)</u>	Qualifications of Dr. Roy J. Shanker
Shanker	OCL/Pasco	<u>(RJS - 2)</u>	House Conference report on PURPA
Shanker	OCL/Pasco	<u>(RJS - 3)</u>	Congressional Record - Senate Congressmen's remarks on PURPA
Shanker	OCL/Pasco	<u>(RJS - 4)</u>	Notice of Proposed Rulemaking
Shanker	OCL/Pasco	<u>(RJS - 5)</u>	Summary of Comments on Cogeneration & Small Power Production
Shanker	OCL/Pasco	<u>(RJS - 6)</u>	PURPA Preamble
Shanker	OCL/Pasco	<u>(RJS - 7)</u>	PURPA Public Hearing excerpts
Shanker	OCL/Pasco	<u>(RJS - 8)</u>	FPC Cogeneration Review
Shanker	OCL/Pasco	<u>(RJS - 9)</u>	FPC Internal Correspondence
Shanker	OCL/Pasco	<u>(RJS - 10)</u>	FPC Cogeneration and Purchase Power Strategic Proposal
Shanker	OCL/Pasco	<u>(RJS - 11)</u>	Excerpt of Wieland Testimony
Slater	OCL/Pasco	<u>(KJS - 1)</u>	Resume

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Slater	OCL/Pasco	<u>(KJS - 2)</u>	Table 1 - FPC Committed Capacity During Curtailment Incidents
Slater	OCL/Pasco	<u>(KJS - 3)</u>	Table 2 - FPC Uncommitted Generating Resources Available for Use at the Time of Peak Load on Each Curtailment Day
Slater	OCL/Pasco	<u>(KJS - 4)</u>	Bar graph - Effect of Sale in Lieu of Curtailment on Utility Production
Slater	OCL/Pasco	<u>(KJS - 5)</u>	Excerpt from Aptech Report
Slater	OCL/Pasco	<u>(KJS - 6)</u>	Excerpts showing scope of Lefton work
Slater	Ocl/Pasco	<u>(KJS - 7)</u>	Problems Encountered with FPC Avoided Cost Analyses & Actions taken
Slater	Ocl/Pasco	<u>(KJS - 8)</u>	Corrections to "Summary of Unit Commit Avoided Costs Simulations"
Slater	Ocl/Pasco	<u>(KJS - 9)</u>	Examples of Using Extended Time Frames For Avoided Cost Analyse
Yott	OCL	<u>(RAY - 1)</u>	Correspondence between OCL and FPC

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

VIII. PROPOSED STIPULATIONS

None.

IX. PENDING MOTIONS

OCL's Request for Official Recognition, filed May 2, 1995.  
OCL's Motion to File Supplemental Testimony.

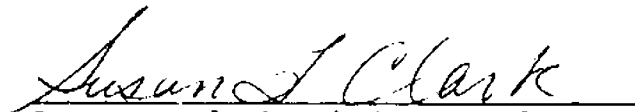
X. OTHER

OCL specifically requests that the Commission vote on each of the subissues identified in the Prehearing Order.

It is therefore,

ORDERED by Chairman Susan F. Clark, 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 Chairman Susan F. Clark, as Prehearing Officer, this 5th day of May, 1995.

  
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Susan F. Clark, Chairman and  
Prehearing Officer

( S E A L )

MCB/LW

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, 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.