

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for
Seminole Generating Station Unit 3 electrical
power plant in Putnam County, by Seminole
Electric Cooperative, Inc.

DOCKET NO. 060220-EC
ORDER NO. PSC-06-0481-PHO-EC
ISSUED: June 5, 2006

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on May 30, 2006, in Tallahassee, Florida, before Commissioner Isilio Arriaga, as Prehearing Officer.

APPEARANCES:

CHARLES A. GUYTON, ESQUIRE, Squire Sanders & Dempsey, LLP, 215
South Monroe Street, Suite 601, Tallahassee, FL 32301-1804
On behalf of Seminole Electric Cooperative, Inc.

MARTHA CARTER BROWN, ESQUIRE, Florida Public Service Commission,
2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

On March 10, 2006, Seminole Electric Cooperative, Inc. ("Seminole") filed a petition for a determination of need for a proposed electrical power plant in Putnam County pursuant to Section 403.519, Florida Statutes, and Rule 25-22.080, Florida Administrative Code. Seminole proposes to build a 750 megawatt (MW) supercritical pulverized coal electrical power plant at its Seminole Generating Station in Putnam County. The unit will be designed to burn 100% bituminous coal as well as a blend of bituminous coal and petroleum coke (petcoke) with a blend ratio of up to approximately 70% coal and 30% petcoke. The Commission issued a Notice of Commencement of Proceedings to the appropriate agencies, local governments, and interested persons on March 16, 2006. The matter has been scheduled for a formal administrative hearing on June 7, 2006.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

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III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 403, Florida Statutes, specifically section 403.519, and Chapter 366, Florida Statutes. This hearing will be governed by said Chapter and Chapters 25-22, and 28-106, Florida Administrative Code.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, shall be treated by the Commission 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 pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, Florida Statutes. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this 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. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. 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.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

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 Division of the Commission Clerk and Administrative Services' confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a

request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), Florida Administrative Code, if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled. As a result of discussions at the prehearing conference, each witness whose name is preceded by an asterisk (*) has been excused from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. Parties shall be notified as to whether any such witness shall be required to be present at hearing. The testimony of excused witnesses will be inserted into the record as though read, and all exhibits submitted with those witnesses' testimony, as shown in Section IX of this Prehearing Order, shall be identified and admitted into the record.

If a witness is not excused, his or her 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 for unexcused witnesses remains subject to appropriate objections. Each unexcused witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes. Upon insertion of an unexcused 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.

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.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>Subject Matter</u>
*Timothy S. Woodbury	Seminole	Describes Seminole and its Members, provides an overview of Seminole's case, introduces Seminole's witnesses and Need Study and addresses adverse consequences if an affirmative determination of need is not granted

<u>Witness</u>	<u>Proffered By</u>	<u>Subject Matter</u>
*Mike Opalinski	Seminole	Describes Seminole Generating Station Unit 3 (“SGS Unit 3”) and addresses Seminole’s experience in the construction and operation of pulverized coal units
*Richard Klover	Seminole	Provides a detailed description of SGS Unit 3, presents feasibility studies and a technology assessment prepared by Burns & McDonnell and addresses the experience of Burns& McDonnell
*Wm. Jack Reid	Seminole	Presents the fuel supply and transportation plans for SGS Unit 3 and the fuel forecasts used in the analyses of options considered by Seminole
*William (Bill) Lawton	Seminole	Presents the Member load forecasts used in the selection of SGS Unit 3 and addresses why there is not sufficient conservation and DSM available to avoid SGS Unit 3
*Trudy Novak	Seminole	Addresses Seminole’s experience in capacity solicitations, the RFP conducted to address Seminole’s Members’ 2009/2012 base load capacity need, the bids received, the screening of bids and other purchased power options considered by Seminole
*Lane Mahaffey	Seminole	Addresses Seminole’s power supply planning process, the reliability and need assessment performed to identify Seminole’s 2012 base load capacity need, Seminole’s economic evaluation of self-built and purchased power options, the risk assessment performed for Seminole, why SGS Unit 3 is the best, most cost-effective option to meet reliability and economic needs of Seminole and its Members and the adverse consequences if SGS Unit 3 is not granted an affirmative determination of need

VII. BASIC POSITIONS

STIPULATED

POSITION: Seminole, a not for profit generation and transmission cooperative organized to serve its Member cooperatives, requests an affirmative determination of need for SGS Unit 3, a 750 MW supercritical pulverized coal generating unit to be located at the Seminole Generating Station. SGS Unit 3 will be designed to burn bituminous coal as well as a mix of coal and up to 30% petroleum coke and to employ state of the art air emission controls. SGS Unit 3 has an estimated cost of

approximately \$1.4 billion and is scheduled for commercial operation in May 2012.

Seminole has undertaken a rigorous process to determine the most cost-effective means of meeting its capacity needs. Seminole's need assessment indicated that Seminole and its Members needed over 1,200 MW to meet their reliability criteria in 2012, and 750 MW should be base load capacity. Seminole, its Members and their member/consumers need SGS Unit 3 to maintain system reliability and integrity, to provide adequate electricity at a reasonable cost and to avoid an undue reliance upon natural gas.

Seminole has considered a wide variety of alternatives to SGS Unit 3, including market alternatives identified in an open and fair capacity solicitation. There is not sufficient conservation and DSM available to Seminole and its Members to avoid the need for SGS Unit 3. Seminole's extensive analyses show that SGS Unit 3 is the most cost-effective means for Seminole, its Members and their member/consumers to meet their base load needs in 2012. The addition of SGS Unit 3 allows Seminole to avoid an undue reliance upon natural gas and enhances the State of Florida's fuel diversity and supply reliability.

Seminole has met each of the standards under Section 403.519, Florida Statutes for an affirmative determination of need. In addition, Seminole has proven serious adverse consequences to Seminole, its Members and their member/consumers and the communities they serve if an affirmative determination of need for SGS Unit 3 is not granted. Therefore, an affirmative determination of need for SGS Unit 3 is warranted.

VIII. ISSUES AND POSITIONS

STIPULATED

ISSUE 1: Is there a need for the proposed Seminole Generating Station Unit 3, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

POSITION: Yes. Seminole has two principal reliability criteria: (1) a 15% reserve margin and (2) a 1% Equivalent Unserved Energy (EUE) limitation. Seminole has projected its future needs based upon serving seven of the ten member distribution cooperatives that have signed contract extensions. Based on reasonable projected load growth and the expiration of existing power purchase contracts, Seminole has identified a need for additional capacity of approximately 1200 MW by 2012, and at least 750 MW needs to be base load capacity. Absent the addition of SGS Unit 3, Seminole will fail to meet its 15% reserve margin criterion in the year 2012, and its Members and their member/consumers will be faced with an unacceptably high risk of service interruptions.

SGS Unit 3 allows Seminole to avoid an undue reliance on natural gas generation, thereby maintaining a fuel mix that is sufficiently diverse to limit Seminole's vulnerability to the price uncertainty of natural gas and reliability issues related to natural gas. The addition of SGS Unit 3 would also reduce the State of Florida's reliance upon natural gas generation and improve its fuel diversity and supply reliability.

STIPULATED

ISSUE 2: Is there a need for the proposed Seminole Generating Station Unit 3, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

POSITION: Yes. Seminole's analyses show that at least 750 MW of Seminole's capacity need in 2012 should be base load type capacity for reasons of economics. With current projections, SGS Unit 3 is expected to provide adequate electricity at a reasonable cost. If SGS Unit 3 is not constructed, Seminole's Members and their member/consumers will face significantly higher costs and greater price uncertainty.

STIPULATED

ISSUE 3: Is the proposed Seminole Generating Station Unit 3 the most cost-effective alternative available, as this criterion is used in Section 403.519?

POSITION: Yes. SGS Unit 3 is the most cost-effective alternative available to Seminole, its Members and their member/consumers to meet their base load capacity needs in 2012. While not required pursuant to Commission Rules, Seminole conducted an open and fair capacity solicitation in an effort to secure the most cost-effective option for its Members. Seminole's comprehensive evaluation of alternatives shows that SGS Unit 3 is more cost-effective than market-based and self-build alternatives, saving almost \$500 million relative to an all gas alternative.

STIPULATED

ISSUE 4: Are there any conservation measures taken by or reasonably available to Seminole Electric Cooperative, Inc. which might mitigate the need for the proposed power plant?

POSITION: No. Seminole does not offer conservation or DSM programs directly to retail customers, and Seminole and its Members do not have Commission-approved goals and plans pursuant to FEECA. Seminole's Members do offer conservation and DSM programs to their consumers, and the effects of those programs are captured in the load forecast. Even after consideration of such conservation and DSM efforts, Seminole has a capacity need of over 750 MW in 2012. No additional DSM and conservation measures have been identified that would cost-effectively mitigate the need for SGS Unit 3.

STIPULATED

ISSUE 5: Based on the resolution of the foregoing issues, should the Commission grant Seminole Electric Cooperative, Inc.'s petition to determine the need for the proposed Seminole Generating Station Unit 3?

POSITION: Yes. Seminole has satisfied each of the statutory criteria for a determination of need, and Seminole, its Members and their member/consumers would suffer significant adverse consequences if such a determination were not granted. Seminole should continue to monitor the cost-effectiveness of SGS Unit 3 prior to committing substantial capital dollars.

STIPULATED

ISSUE 6: Should this docket be closed?

POSITION: Yes. When the Commission has issued its final order in the case and the time for reconsideration has passed, this docket should be closed.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
All Seminole witnesses listed below sponsor the need study	Seminole	_____	Need Study and Appendices
Timothy S. Woodbury	Seminole	_____	Seminole's Member Distribution Cooperatives
		TSW-1	
		_____	Seminole's 2006 Capacity Resources
		TSW-2	
		_____	Seminole's Power Purchase Contracts With Renewable Resources
		TSW-3	
		_____	Seminole's Power Purchase Contracts
		TSW-4	
		_____	Seminole Interconnections
		TSW-5	
		_____	Seminole's Reliance Upon Natural Gas Generation
		TSW-6	

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Mike Opalinski	Seminole	<u>MPO-1</u>	Site Location Map – Putnam County
		<u>MPO-2</u>	Site Arrangement with SGS Unit 3
		<u>MPO-3</u>	SGS Unit 3 Project Capital Cost Components
Richard Klover	Seminole	<u>RAK-1</u>	Summary of Richard Klover’s Experience
		<u>RAK-2</u>	Summary of Burns & McDonnell Steam Electric Power Station Experience
		<u>RAK-3</u>	Seminole Generating Station 650 MW Solid Fuel Fired Unit Feasibility Study, dated August 2004
		<u>RAK-4</u>	Seminole Generating Station 750 MW (Net) Solid Fuel Fired Unit Feasibility Study, dated February 2005
		<u>RAK-5</u>	Seminole Generating Station Technology Assessment Study
		<u>RAK-6</u>	SGS Unit 3 Steam Cycle
		<u>RAK-7</u>	SGS Unit 3 Fact Sheet
		<u>RAK-8</u>	SGS Unit 3 Expected Construction Schedule
Wm. Jack Reid	Seminole	<u>WJR-1</u>	August 2003 Fuel Price Forecast
		<u>WJR-2</u>	April 2004 Fuel Price Forecast

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>WJR-3</u>	December 2004 Fuel Price Forecast
		<u>WJR-4</u>	August 2005 Fuel Price Forecast
		<u>WJR-5</u>	June 2005 Global Insights Report
		<u>WJR-6</u>	July 2005 Pace Global Energy Services Report
William (Bill) Lawton	Seminole	<u>WTL-1</u>	Seminole's Member Distribution Cooperatives
		<u>WTL-2</u>	Seminole Electric History and Forecast Annual Energy (GWH), Winter Peak Demand (MW) and Summer Peak Demand (MW)
Trudy Novak	Seminole	<u>TSN-1</u>	Seminole Electric Cooperative, Inc. History of Seminole's Formal Request for Proposals
		<u>TSN-2</u>	Seminole Electric Cooperative, Inc. April 2004 Request for Proposals Direct Contact List
		<u>TSN-3</u>	Seminole Electric Cooperative, Inc. April 2004 Request for Proposals Summary Responses
Lane Mahaffey	Seminole	<u>LTM-1</u>	Seminole's Capacity Need Without SGS Unit 3
		<u>LTM-2</u>	Seminole Power Supply Resource Requirements
		<u>LTM-3</u>	Summary of Bus Bar Costs

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<hr/> LTM-4	Present Worth Revenue Requirements Results
		<hr/> LTM-5	Cumulative and Annual PWRR Results

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

X. PROPOSED STIPULATIONS

Seminole and Staff propose the stipulated positions on Issues 1-6, as identified in Section VIII above.

XI. PENDING MOTIONS

There are no pending motions.

XII. PENDING CONFIDENTIALITY MATTERS

There are no confidentiality matters.

XIII. POST-HEARING PROCEDURES

Considering the proposed stipulations to the issues in the case, the Commission may decide that a bench decision would be appropriate. If no bench decision is made, each party shall 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. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, 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 40 pages, and shall be filed at the same time.

XIV. RULINGS


Opening statements, if any, shall not exceed five minutes per party.

Since the issues identified in Section VIII are proposed to be stipulated, if the Commissioners have no questions for the witnesses, staff will notify the parties by the close of business June 2 if the witnesses have been excused from attendance at the hearing.

It is therefore,

ORDERED by Commissioner Isilio Arriaga, 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 Isilio Arriaga, as Prehearing Officer, this 5th day of June, 2006.


ISILIO ARRIAGA
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) 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,

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Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.