

VOTE SHEET

DATE: October 16, 1990

RE: DOCKET NO. 900699-EG - Petition for a declaratory statement concerning the financing of a cogeneration facility, by SEMINOLE FERTILIZER CORPORATION.

Issue 1: Recommendation that the Commission issue a declaratory statement. The petition appears to meet the threshold standards for issuing a declaratory statement.

APPROVED

Issue 2: Recommendation that since this is a close question, the petitioner should be allowed to participate at the Conference.

APPROVED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' VOTES

APPROVED

APPROVED WITH MODIFICATIONS

DISAPPROVED

DEFER

_____	<i>J. J. Smith</i>	_____	_____
_____	<i>W. J. ...</i>	_____	_____
_____	<i>M. ...</i>	_____	_____
_____	<i>J. ...</i>	_____	_____
_____	<i>R. ...</i>	_____	_____

REMARKS/DISSENTING COMMENTS:

TO:

PSC/RAR33 (5/90)

DOCUMENT NUMBER-DATE

09266 OCT 17 1990

PSC-RECORDS/REPORTING

DOCUMENT NUMBER-DATE

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Issue 3: Recommendation that the Commission issue the proposed declaratory statement which answers Seminole's petition in the negative. Denial is appropriate because the issue raised concerns this Commission's jurisdiction. A legal determination is being requested which should be consistent with Florida and federal precedents. Those precedents allow for ordinary leases of cogeneration equipment and for sale-leaseback financing of such equipment. There is, however, no precedent for the proposal before us, where a lessee cogenerates power, a lessor non-cogenerator owns and sells some of that power to utilities, and the expense of power production is shared between the two.

DENIED

Alternative Recommendation: The Commission could, as a matter of policy, grant the petition.

APPROVED WITH THE STIPULATION THAT BOTH SEMINOLE FERTILIZER CORPORATION AND THE LIMITED PARTNERSHIP SEEK AND RECEIVE A "QUALIFYING FACILITY" DESIGNATION.