

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for)	Docket No. 910816-EQ
Determination of Need for)	Order No. PSC-92-0677-FOF-EQ
Electrical Power Plant)	Issued: 07/21/92
(Amelia Island Cogeneration)	
Facility) by Nassau Power)	
Corporation)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK

ORDER DENYING NASSAU'S MOTION TO CONVENE
SETTLEMENT CONFERENCE

BY THE COMMISSION:

On February 25, 1992, the Commission entered its final order in Docket No. 910816-EQ, Order No. 25808, denying Nassau Power Corporation's (Nassau's) Petition for Determination of Need. Nassau timely filed a Motion for Reconsideration of that Order.

On June 3, 1992, while the Motion for Reconsideration was pending, Nassau filed a Motion to Convene Settlement Conference. The motion asks that the Commission hold in abeyance any action on the matters being litigated in this docket and convene a settlement conference. Nassau further states that it does not intend to "reargue the question of need at this time" but rather "suggests that the parties and the Commission concentrate instead on the development of a project that meets the parties' objectives and the Commission's concerns and permits the State to enjoy the benefits of an environmentally superior, reliable and cost-effective project which, coincidentally, could serve as an important stimulus to economic development generally." The motion suggests a smaller project with a later in service date could meet FPL's expressed concerns while still using sufficient amounts of natural gas to anchor the extension of the required pipeline expansion.

Florida Power and Light Company (FPL) filed a response to the motion on June 10, 1992. FPL states that it "sees no reason to delay a final decision in this proceeding." FPL asserts that a settlement conference involving the Commission is not necessary and that "If Nassau desires to make a new proposal to FPL... Nassau is free to do so....If Nassau chooses to modify its project and

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proposal, it will be responded to without preference or prejudice." No other party filed a response to the motion.

In its motion, Nassau cites only the Commission rule (25-22.037, F.A.C.) that generally outlines the requirements for motions and answers. No other authority is stated for the requested relief. We believe that negotiated settlements are almost always preferable to the expense of and time consumed in an adversarial proceeding. No provision for convening a settlement conference is found in Chapter 25 of Florida Administrative Code. While we do not suggest that such a conference is prohibited, it is inappropriate at the advanced stage of this proceeding. Further, the Commission is required in each proceeding, pursuant to Section 403.519, Florida Statutes, to publish a Notice of Hearing in a newspaper of general circulation in the county where the proposed plant will be built. The notice must be at a minimum a quarter page in size and published at least 45 days prior to the hearing.

To convene a "settlement conference" after the hearing and entry of the final order, if it led to a modification of that order, could violate the due process rights of every person, including cogenerators and independent power producers, to whom the notice was intended to reach. Clearly, an alternate proposal would require another need determination petition, another hearing, and another opportunity for residents of Nassau County to give their input. The vehicle of a settlement conference would not obviate the need for any of these steps. As such, no binding resolution could come out of a settlement conference. Therefore, we find that the motion to convene settlement conference should be denied.

It is, therefore,

ORDERED by the Florida Public Service Commission that Nassau Power Corporation's motion to convene settlement conference is hereby denied.

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By Order of the Florida Public Service Commission this 21st
day of July, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RVE

by: Kay Ferguson
Chief, Bureau of Records

NOTICE OF 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 the Commission's final action in this matter may request 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 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 after the issuance 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.