

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for a) DOCKET NO. 930490-EQ
declaratory statement concerning) ORDER NO. PSC-93-1124-PCO-EQ
sale of cogenerated power by) ISSUED: August 3, 1993
South Florida Cogeneration)
Associates to METROPOLITAN DADE)
COUNTY.)
_____)

ORDER SETTING HEARING AND ORAL ARGUMENT

BY THE COMMISSION:

On May 18, 1993, Metropolitan Dade County (Dade County) filed a Petition for Declaratory Statement, alleging that it purchases electricity from South Florida Cogeneration Associates (SFCA) pursuant to a "Contract for the Purchase and Sale of Electrical and Thermal Energy" entered into on November 15, 1983. The cogeneration unit that produces the electricity has been in operation since December, 1986. Dade County requested that the Commission issue a statement declaring three things: first, that the sale of cogenerated power from SFCA to Dade County constitutes a sale "to or for the public" under Section 366.02(1), Florida Statutes; second, that the sale causes SFCA to be deemed a public utility as defined in Section 366.02(1), Florida Statutes, and third, that it subjects SFCA to the Commission's regulation under Chapter 366, Florida Statutes.

By Petition filed May 21, 1993, which was amended on May 15, 1993, SFCA requested leave to intervene in this proceeding and requested an evidentiary hearing. SFCA alleged that Commission action on Dade County's petition could jeopardize SFCA's rights, interests and participation in the cogeneration project and that there were disputed issues of fact such that an evidentiary hearing is necessary to show the Commission why the transaction is not a retail sale. On June 1, 1993, Dade County filed an answer opposing intervention by SFCA and opposing a hearing. The Petition to Intervene was granted by Order No. PSC-93-1067-PCO-EQ.

Dade County has asked this Commission to determine that SFCA is a public utility subject to the Commission's regulatory jurisdiction. SFCA contests the allegation. If we are to make this determination as requested by Dade County, we will decide the status of SFCA. Therefore, based on the terms of the petition filed by Dade County and the decision to allow SFCA to intervene in this proceeding, this matter has been set for a hearing beginning on October 11, 1993. In addition, we have set oral argument on

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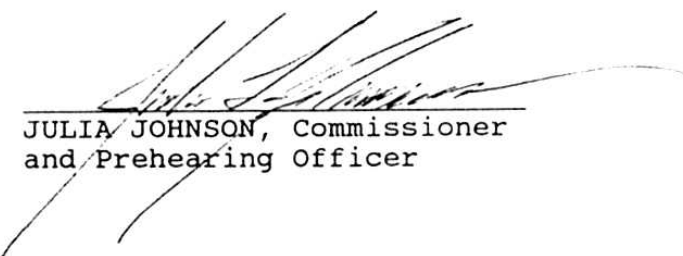
SFCA's Motion to Dismiss the petition for declaratory statement, to be held on August 16, 1993. We believe that oral argument will aid the Commission in understanding the relationship between SFCA and Dade County, the way in which any Commission action in this docket will affect SFCA's substantial interests, and the legal and factual issues pending in this docket. Each party shall be given 15 minutes of oral argument.

It is, therefore,

ORDERED by the Florida Public Service Commission that Dade County's Petition for Declaratory Statement is set for hearing beginning on October 11, 1993. It is further

ORDERED that South Florida Cogeneration Associates' Motion to Dismiss Dade County's petition is set for oral argument on August 16, 1993.

By ORDER of the Florida Public Service Commission, this
3rd day of August, 1993.



JULIA JOHNSON, Commissioner
and Prehearing Officer

(S E A L)

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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

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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: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 sewer 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.