

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

FILED
FILE 66

In Re: Petition of Florida Power Corporation 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.)
) DOCKET NO. 941101-EQ
) FILED: May 5, 1995
)
)
)

LAKE COGEN, LTD.'S REVISED STATEMENT OF ISSUES AND POSITIONS

Lake Cogen, Ltd. ("Lake Cogen," "Lake"), in accord with directions given at the prehearing conference in this docket, hereby submits this its Revised Statement of Issues and Positions and says as follows.

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?

- ACK
- AFA
- APP
- CAF
- CMJ
- CTR
- EAG
- LEG
- LIV
-
- P
- SEC
- WAS
- OTH

LAKE COGEN: 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.

RECEIVED & FILED

[Handwritten signature]
EPSC-BUREAU OF RECORDS

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?

LAKE COGEN: No.

A. Has Florida Power Corporation adequately demonstrated that it 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?

LAKE COGEN: No.

B. 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?

LAKE COGEN: No.

C. 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?

LAKE COGEN: No.

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

LAKE COGEN: No.

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

LAKE COGEN: Yes. (Smith)

ISSUE 5: If the procedures set forth in Florida Power Corporation's curtailment plan are consistent with Rule 25-17 086, Florida Administrative Code, did Florida Power Corporation properly implement the procedures during the curtailments that occurred from October, 1994 through January, 1995?

LAKE COGEN: No.

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?

LAKE COGEN: No

A. 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?

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

B. 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?

LAKE COGEN: 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.

ISSUE 7 (LEGAL ISSUE): What is the permissible scope of Rule 25-17.086, Florida Administrative Code, in view of the federal standards of 18 CFR § 292.304 implementing section 210 of PURPA?

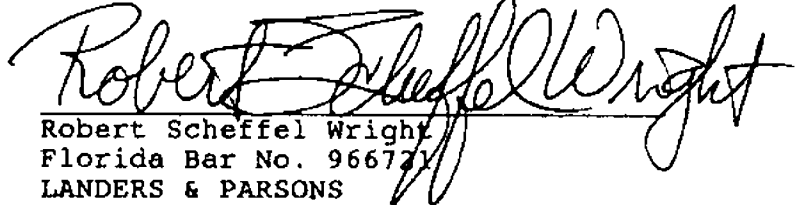
LAKE COGEN: The Commission's rules governing utility curtailments of QF purchases cannot

provide broader grounds for such curtailments than are permitted under the corresponding provisions of PURPA and the FERC's rules implementing PURPA.

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

LAKE COGEN: No.

Respectfully submitted this 5th day of May, 1995.



Robert Scheffel Wright
Florida Bar No. 966721
LANDERS & PARSONS
310 West College Avenue
Post Office Box 271
Tallahassee, Florida 32302
(904) 681-0311

Attorneys for Lake Cogen, Ltd.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (*) or by United States Mail, postage prepaid, on the following individuals this 5th day of May, 1995:

Mr. Tom Ballinger*
Division of Electric & Gas
Florida Public Service Commission
101 East Gaines Street
Fletcher Building, Room 326
Tallahassee, Florida 32399-0860

Joseph A. McGlothlin
McWhirter, Reeves, McGlothlin,
Davidson & Bakas
315 South Calhoun St., Ste. 716
Tallahassee, Florida 32301

Martha Carter Brown, Esquire*
Division of Legal Services
Florida Public Service Commission
101 East Gaines Street
Fletcher Building, Room 223
Tallahassee, Florida 32399-0860

Suzanne Brownless, Esquire
2546 Blair Stone Pines Drive
Tallahassee, Florida 32301

Barrett G. Johnson, Esquire
Johnson & Associates
315 S. Calhoun Street
Barnett Bank Bldg. Suite 760
Tallahassee, FL 32301

Orange Cogen Limited
c/o Ark/CSW Development
Partnership, Ste. 400
23046 Avenida de la Carlota
Laguna Hills, CA 92663-1519

Ansley Watson, Jr., Esquire
MacFarlane, Ausley, Ferguson &
McMullen
111 East Madison St., Ste. 2300
Tampa, FL 33602

Polk Power Partners, L.P.
c/o Polk Power CP, Inc.
1027 South Rainbow Blvd.
Suite 360
Las Vegas, NV 89128

Elliott White
Pasco Cogen, Ltd.
111 East Madison St., Ste. 1700
Tampa, FL 33602

Mr. Dennis Carter
Assistant City Manager
Metro-Dade Center
111 NW 1st Street, 29th Floor
Miami, FL 33128

Gregory Presnell, Esquire
Akerman, Senterfitt & Eidson
255 S. Orange Avenue
Orlando, FL 32802-0231

Mr. Juan Portuondo, President
Montenay International
3225 Aviation Avenue, 4th Floor
Miami, FL, FL 33133

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (*) or by United States Mail, postage prepaid, on the following individuals this 5th day of May, 1995:

Mr. Tom Ballinger*
Division of Electric & Gas
Florida Public Service Commission
101 East Gaines Street
Fletcher Building, Room 326
Tallahassee, Florida 32399-0860

Joseph A. McGlothlin
McWhirter, Reeves, McGlothlin,
Davidson & Bakas
315 South Calhoun St., Ste. 716
Tallahassee, Florida 32301

Martha Carter Brown, Esquire*
Division of Legal Services
Florida Public Service Commission
101 East Gaines Street
Fletcher Building, Room 223
Tallahassee, Florida 32399-0860

Suzanne Brownless, Esquire
2546 Blair Stone Pines Drive
Tallahassee, Florida 32301

Barrett G. Johnson, Esquire
Johnson & Associates
315 S. Calhoun Street
Barnett Bank Bldg. Suite 760
Tallahassee, FL 32301

Orange Cogen Limited
c/o Ark/CSW Development
Partnership, Ste. 400
23046 Avenida de la Carlota
Laguna Hills, CA 92663-1519

Ansley Watson, Jr., Esquire
MacFarlane, Ausley, Ferguson &
McMullen
111 East Madison St., Ste. 2300
Tampa, FL 33602

Polk Power Partners, L.P.
c/o Polk Power CP, Inc.
1027 South Rainbow Blvd.
Suite 360
Las Vegas, NV 89128

Elliott White
Pasco Cogen, Ltd.
111 East Madison St., Ste. 1700
Tampa, FL 33602

Mr. Dennis Carter
Assistant City Manager
Metro-Dade Center
111 NW 1st Street, 29th Floor
Miami, FL 33128

Gregory Presnell, Esquire
Akerman, Senterfitt & Eidson
255 S. Orange Avenue
Orlando, FL 32802-0231

Mr. Juan Portuondo, President
Montenay International
3225 Aviation Avenue, 4th Floor
Miami, FLs, FL 33133

Mr. Robert F. Riley
Auburndale Power Partners
12500 Fair Lakes Circle, Ste. 420
Fairfax, VA 22033

Mr. Don Fields
Executive Director
Auburndale Power Partners
1501 Derby Avenue
Auburndale, FL 33823

Keith Trostle
Tentall Executive Center
1551 N. Tustin Avenue
Suite 480
Santa Ana, CA 92701

Barry N.P. Huddleston
Regional Manager
Regulatory Affairs
Destec Energy Company, Inc.
2500 CityWest Blvd., Suite 150
Houston, TX 77210-4410

Karla A. Stetter
Acting County Attorney
7530 Little Road
New Port Richey, FL 34654

R. Stuart Broom
Verner, Liipfer, Bernhard,
Mcpherson & Hand, Chartered
901 15th St., N.W., Suite 700
Washington, D.C. 20005

Richard A. Zambo, Esquire
598 S.W. Hidden River Avenue
Palm City, FL 34990

D. Bruce May, Esquire
Holland & Knight
P.O. Drawer 810
Tallahassee, FL 32302

Michael O'Friel
Wheelbrator Environmental
Systems, Inc.
Liberty Lane
Hampton, NH 03842

M. Julianne Yard
Assistant County Attorney
Pinellas County
315 Court Street
Clearwater, FL 34616

James A. McGee
P.O. Box 14042
St. Petersburg, FL 33733-4042

Ms. Gail Fels
County Attorney's Office
Aviation Division
P.O. Box 592075 AMF
Miami, FL 33159


ROBERT SCHEFFEL WRIGHT