BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for Hines Unit 2 Power Plant by Florida Power Corporation.	DOCKET NO. 001064-EI ORDER NO. PSC-01-0029-FOF-EI ISSUED: January 5, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO BAEZ

APPEARANCES:

GARY L. SASSO, ESQUIRE, J. MICHAEL WALLS, ESQUIRE and JILL H. BOWMAN, ESQUIRE, Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Post Office Box 2861, St. Petersburg, Florida 33731, and ROBERT A. GLENN, ESQUIRE, Florida Power Corporation, Post Office Box 2861, St. Petersburg, Florida 33731.
On behalf of Florida Power Corporation.

SUZANNE BROWNLESS, ESQUIRE, 1311-B Paul Russell Road, Suite 201, Tallahassee, Florida 32301.
On behalf of Panda Energy International, Inc.

DEBORAH D. HART, ESQUIRE, KATRINA D. WALKER, ESQUIRE, and ROBERT V. ELIAS, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.
On behalf of the Commission Staff.

BY THE COMMISSION:

ORDER GRANTING PETITION BY FLORIDA POWER CORPORATION FOR DETERMINATION OF NEED FOR HINES UNIT 2 POWER PLANT IN POLK COUNTY, FLORIDA

I. CASE BACKGROUND

Pursuant to Section 403.519, Florida Statutes, and Rule 25-22.081, Florida Administrative Code, Florida Power Corporation (FPC)

filed a Petition for Determination of Need for its proposed Hines 2 power plant (Hines 2) on August 7, 2000. The proposed plant is a 530 megawatt (MW) natural gas-fired, combined cycle power plant using distillate oil as backup fuel. The plant would be located at the existing Hines Energy Complex (HEC) in Polk County, Florida, and is expected to be placed into service by November 30, 2003. FPC states that the existing infrastructure at HEC, including access roads, cooling pond, a fully sized natural gas lateral pipeline, and other common facilities and manpower resources, will allow FPC to build and operate Hines 2 with significant engineering, construction and operating savings. FPC has previously obtained Site Certification from the Florida Power Plant Siting Board for the HEC site in order to build the Hines 1 unit and ultimately to locate up to 3,000 MW of generating capacity at the site.

We held a hearing on this matter on October 26 and 27, 2000. After consideration of the evidence, the arguments of the parties, and our staff's recommendation, we grant FPC's petition for a determination of need. This Order constitutes our final agency action and report as required by Section 403.507(a)(2), Florida Statutes, and as provided for in Section 403.519, Florida Statutes.

II. PENDING MOTIONS

At the hearing, a series of outstanding motions were heard and ruled upon by the Commission.

A. FPC'S MOTION FOR RECONSIDERATION OF THE PREHEARING OFFICER'S ORDER GRANTING PANDA'S PETITION TO INTERVENE

On October 24, 2000, FPC filed its motion for reconsideration of Order No. PSC-00-1959-PCO-EI, which granted intervention in this docket to Panda Energy International, Inc. (Panda). Oral arguments were heard at the beginning of the hearing.

FPC argued that Panda did not meet the threshold requirement for intervention that Panda's substantial interests would be affected by the outcome of the need determination proceeding. FPC maintained that because Panda's bid could not have been accepted by FPC following the decision of the Florida Supreme Court in Tampa Electric Company, et al., v. Garcia, et al., 767 So.2d 428 (Fla.

2000), Panda's intervention in the need determination proceeding could have no impact on Panda's substantial interests. FPC argued that the Prehearing Officer was incorrect to allow Panda's intervention based on Panda's status as an unsuccessful bidder in the bid process conducted by FPC. FPC further stated that the Commission should apply a "de novo" review standard to its reconsideration request, rather than the material mistake of fact or law standard.

Panda argued that it is not foreclosed from providing a viable bid by the decision in Tampa Electric Company. Moreover, Panda maintained that the only way that the bidding process can be adequately examined by the Commission is with the participation of one of the bidders. To assist this effort, Panda waived confidentiality of its data filed in this docket.

Upon discussion and consideration of the arguments, we find that "de novo" review is not appropriate in this context, that the intervening party need not show that it would prevail in order to intervene, and that FPC has not demonstrated that a material fact or matter of law was overlooked by the Prehearing Officer in making her decision to grant Panda intervention. FPC's Motion for Reconsideration is therefore denied.

B. PANDA'S MOTION FOR CONTINUANCE

On October 25, 2000, Panda filed its motion for continuance of the hearing in the docket. FPC filed its response in opposition to Panda's motion on October 25, 2000. Oral arguments were heard at the beginning of the hearing.

Panda requested a continuance of approximately 30 days because of its late entry into this proceeding, five days before hearing. Panda sought additional time for discovery and preparation for hearing. Panda explained that it delayed seeking intervention until the Florida Supreme Court made its decision in the Tampa Electric Company case, supra. That decision had an impact on the options available to Panda as an exempt wholesale generator, and Panda made a business decision not to pursue intervention in this proceeding until other avenues were foreclosed to it. Panda further argued that its chief reason for participating in this

docket is to help the Commission evaluate the fairness and appropriateness of FPC's bidding process, in which Panda participated. Moreover, Panda asserted that the time constraints found in Section 403.507, Florida Statutes, and in Rule 25-22.080, Florida Administrative Code, which provides the Commission's timeline for processing need determinations in order to comply with the referenced statute, could still be met even if the hearing was continued.

FPC argued that an intervenor takes the case the way it finds it, pursuant to Commission rule. Even so, Panda was granted limited discovery out of time and FPC's hearing preparation was compromised by providing materials to Panda and dealing with motions and responses. FPC stated that Panda's "emergency" was of its own making, and is not a legitimate concern of the Commission.

We considered the arguments of the parties to determine whether Panda had demonstrated good cause for a continuance, pursuant to Rule 28-106.210, Florida Administrative Code. Finding that good cause has not been shown, Panda's Motion for Continuance is denied.

C. FPC'S MOTION FOR RECONSIDERATION OF THE PREHEARING OFFICER'S ORDER GRANTING ITS MOTION TO STRIKE STAFF'S PRELIMINARY ISSUE NUMBER 6 AND DENYING ITS MOTION TO STRIKE THE TESTIMONY OF BILLY R. DICKENS

On October 24, 2000, FPC filed its motion for reconsideration of Order No. PSC-00-1933-PCO-EI, which granted FPC's motion to strike preliminary issue 6 and denied FPC's motion to strike the testimony of Staff Witness Billy R. Dickens. Oral arguments were heard at the beginning of the hearing.

FPC sought reconsideration of the Prehearing Officer's decision not to strike the testimony of Billy R. Dickens. FPC maintained that the testimony provides a distraction from the issues properly before the Commission in this docket in that the testimony offers policy suggestions for rate recovery that FPC alleges are not relevant to the need determination. FPC suggests that the Prehearing Officer overlooked the fact that staff intended the testimony to be directed to a specific issue and that having

stricken that issue, the testimony is not appropriately applied to other issues.

Panda argued that every need determination contemplates cost recovery because the analyses used to determine need include the time frame over which capital and operation and maintenance (O&M) costs are recovered. Panda further argued that the Prehearing Officer was correct in finding that Witness Dickens' testimony is relevant to other issues to be determined in this docket.

Upon consideration of the arguments, we find that the Prehearing Officer did not overlook some material fact or matter of law which, if properly considered, would have yielded a different result. Therefore, FPC's Motion for Reconsideration is denied.

III. DETERMINATION OF NEED PURSUANT TO SECTION 403.519, FLORIDA STATUTES

A. Need for Electric System Reliability and Integrity

We find that Florida Power Corporation has a need for additional capacity to maintain the reliability and integrity of its system, as contemplated by Section 403.519, Florida Statutes.

The record shows that FPC has demonstrated a need for additional capacity to meet its 20 percent minimum reserve margin criteria. We conclude, however, that the decision to construct Hines 2 in the time frame sought is driven primarily by economics, including its equipment arrangements, and the use of the existing Hines Energy Complex, as discussed below relating to cost-effectiveness. FPC is projected to grow into the capacity to be provided by Hines 2, particularly given the projected attrition in FPC's residential load management program.

In its Need Study prepared for this application and admitted as Exhibit 5, FPC identifies and justifies its load forecast methodology via its models, variables, data sources, assumptions, and informed judgements. We believe that all of these factors have been accurately documented in the Need Study admitted as Exhibit 5. FPC utilized a combination of short-term econometric models, and an hourly and annual peak and energy end-use forecasting system. The

variables used were obtained from reputable sources and are representative of a valid load forecast model.

The Need Study, Exhibit 5, demonstrates that FPC has traditionally been a winter-peaking utility. FPC's base-case winter firm demand forecast for the next ten years is projected to increase at an average annual growth rate (AAGR) of 0.51%, considerably below the actual 1990-1999 AAGR of 4.05%. FPC's base-case summer firm demand forecast for the 2000-2009 period is an AAGR of 0.76%. Overall, FPC's load forecast is reasonable for planning purposes.

In Order No. PSC-99-2507-S-EU, Docket No. 981890-EU, the Commission approved the stipulation reached by the peninsular Florida investor-owned utilities (IOUs). These IOUs agreed to implement a 20 percent minimum reserve margin criteria to be fully effective by the summer of 2004. Prior to this stipulation, FPC utilized a 15 percent minimum reserve margin criteria.

As shown in Exhibit 10, answers to staff's interrogatories, FPC's projected reserve margin in the winter of 2003/04 is 18.4 percent, if Hines 2 is not brought into service. FPC needs only approximately 130 MW to precisely reach a 20 percent reserve margin in the winter of 2003/04. FPC will violate its 20 percent minimum reserve margin criterion, in the winter of 2004/05, if Hines 2 is delayed. FPC, therefore, is only accelerating the proposed capacity addition six months in order to meet the stipulation.

Panda argues in its brief that FPC's need is even less (37 MW) if historical residential load management attrition rates are considered. Panda questions FPC's projections of residential load management attrition. FPC's projections, however, are based on modifications to its load management program as part of its DSM plan approved by the Commission in Order No. PSC-00-0750-PAA-EG issued April 17, 2000, and shown in the Need Study, Exhibit 5. As a result of these modifications, FPC's residential load management program will become a winter-only program for new participants.

FPC witness Crisp testified that FPC has made a corporate decision to meet and exceed the 20 percent minimum reserve margin by the winter of 2003/04. This decision is based on a desire to

rely more on firm resources to meet demand and on the economics of Hines 2.

Hines 2 will contribute to FPC exceeding its minimum reserve margin over the six years following the in-service date, as shown in Exhibit 10, page 65. Winter reserve margins are projected to be between 13.9 and 18.2 percent if Hines 2 is not brought into service. The Need Study, Exhibit 5, shows FPC will continue to grow and Hines 2 will contribute to the reliability of FPC's system.

FPC witness Niekum states that natural gas is expected to be the primary fuel for Hines 2. With the current and projected long-term supply of natural gas in the United States, natural gas is a readily available fuel source. According to FPC witness Niekum, natural gas will be transported to Hines Unit 2 by gas pipeline. FPC expects Hines 2 to burn an average of 65,000 million British thermal units (MMBtu) per day, and 80,000 MMBtu per day during peak operations.

FPC witness Niekum testified that negotiations are ongoing with Florida Gas Transmission (FGT), Buccaneer, Gulfstream, and El Paso for natural gas transportation capacity to Hines 2. Currently, there is no signed contract with any pipeline for transportation capacity and supply. FGT currently serves Hines 1, and FGT is currently expanding its pipeline and has plans for future expansion. It is unknown at this time what entity will provide gas transportation service to Hines 2, and at what cost.

As stated by FPC witness Niekum, the existing backup fuel facilities for Hines 1 are to be shared with Hines 2. Distillate oil is to be delivered by truck. Storage capabilities provide for up to three days operation at full load for Hines 2. FPC's reliability will be enhanced by the presence of a backup fuel supply in the event of natural gas interruptions or price spikes.

B. Need for Adequate Electricity at a Reasonable Cost

We find that FPC has demonstrated that the cost of the electricity to be provided by Hines 2 is reasonable, based on cost-effectiveness.

FPC has demonstrated in its analyses in Exhibit 10, that Hines 2 will improve projected reserve margins such that FPC will exceed its minimum reserve margin criteria, as discussed above. If Hines 2 is not brought into service, winter reserve margins for the years 2004-2010, will fall below the 20 percent minimum criterion. Thus, the addition of Hines 2 will contribute to the provision of adequate electricity to FPC's system.

FPC witness Major testified that Hines 2 will consist of two 170 MW Westinghouse 501F combustion turbines, two heat recovery steam generators, and one 190 MW steam turbine. The natural gas-fired unit is expected to have an equivalent availability factor of 94 percent. Hines 2 is expected to be dispatched as an intermediate unit with a projected capacity factor of 55-64 percent.

Witness Major testified that the total installed cost for Hines 2 is approximately $198,000,000 or $374/kW. According to the Need Study, Exhibit 5, this amount does not include approximately $5.6 million in transmission improvements and additions. According to witness Major, FPC's generation equipment arrangement with Siemens Westinghouse has provided FPC with an estimated savings of between $20-$40 million over current market prices for similar equipment. FPC's ratepayers will also realize savings due to Hines 2 being built on the existing Hines site. These factors give Hines 2 a cost advantage over other generating technologies and alternatives evaluated pursuant to FPC's Request for Proposals (RFP). Witness Crisp testified that the present worth costs of a new site were not factored into FPC's analysis. Hines 2 is expected to provide electricity at a reasonable cost due to it being the most cost-effective alternative, as discussed below.

In its brief, Panda argues that Hines 2 exceeds the amount of megawatts needed by FPC to precisely achieve its 20 percent reserve margin. This amount may be lower, Panda asserts, if historical attrition rates for residential load management are used. However, the analysis in Exhibit 10 shows FPC will violate its reserve margin criterion in succeeding years if Hines 2 is not brought into service when proposed. According to witness Crisp, FPC's projected attrition of residential load management is appropriate to be considered, given that the program has been modified as a winter-

only program for new participants. FPC's need for Hines 2 in November 2003 is driven primarily by economics.

Panda also states in its brief that the relevant time frame to evaluate the need for Hines 2 is two years (2003-2005), and that if this period is used, Panda's 250 MW block could be more cost-effective. The Need Study, Exhibit 5, shows that FPC has assumed in its planning process that its ratepayers will be obligated for the costs of Hines 2 for 25 years. In fact, its evaluation of alternatives was based on an analysis of present worth revenue requirements (PWRR) over a 25-year period. Panda suggests that Confidential Exhibit 6 provides evidence that a two-year evaluation period should be used. We disagree, and believe this evidence shows FPC's effort to evaluate Hines 2 if conditions were to change at a point in the future, as testified by FPC witness Crisp. We find an overall evaluation comparing the effect of each alternative on FPC's system cost over a long-term period is the appropriate tool to evaluate alternatives.

FPC's evaluation in Confidential Exhibit 6 of Hines 2 against Panda and the other respondent to FPC's RFP, confidential Bidder B, shows Hines 2 to be more cost-effective. Specifically, in the years 2003 and 2004 Panda's proposal is more costly, as well as over the 25-year evaluation period. This analysis shows Hines 2 will provide reasonable cost electricity because it is the most cost-effective alternative available.

C. FPC's Request for Proposals

We find that FPC's bidding process complied with Rule 25-22.082, Florida Administrative Code.

FPC witness Crisp testified that on January 26, 2000, FPC issued its RFP to solicit proposals for alternatives to Hines 2. As contained in the Need Study, Exhibit 5, FPC met the requirements of Rule 25-22.082(3), Florida Administrative Code, by providing notice and disseminating the RFP to the electric industry at large. The RFP provided a detailed description of Hines 2, including the data and information required by Rule 25-22.082(4)(a), Florida Administrative Code. The RFP also included the schedule of critical dates for solicitation, evaluation, screening of proposals

and any subsequent contract negotiations pursuant to Rule 25-22.082(4)(b), Florida Administrative Code.

FPC's RFP also listed the price and non-price attributes that would be evaluated, and offered that other non-price attributes not listed were encouraged. The RFP also included a description of FPC's evaluation methodology for each proposal.

According to FPC witness Crisp, 13 companies submitted notices of intent to bid on the project, and twelve attended an optional pre-bid meeting. Ultimately, two entities submitted proposals, Panda Energy International, Inc., and confidential Bidder B. Panda's initial offering was for 250 MW for two years, with options to extend for one year periods for up to three additional years. Panda supplemented its initial offering with an additional 250 MW block of power following meetings with FPC. This was done at FPC's request to match FPC's needed capacity. Panda's second 250 MW block of power was more costly than the initial 250 MW offering.

FPC witness Crisp described that FPC utilized the PROVIEW optimization model to determine the best alternative on a total system basis to compare against Hines 2. This was of particular significance to Panda due to the option to extend the two year period by up to three years. FPC ultimately determined that a two-year purchase from Panda was the best scenario to compare to Hines 2.

FPC witness Crisp considered the effect of imputed debt in his analysis of generation alternatives. He notes that Standard and Poor's imputes debt based on purchased power contractual obligations. This affects FPC's level of common equity and can affect its cost of capital. Witness Crisp refers to the effect of imputed debt as a "penalty."

Imputed debt affects FPC's choice of Hines 2. FPC shows the effect of imputed debt on revenue requirements for Panda and Bidder B and contrasts that with the Hines 2 revenue requirement in Confidential Exhibit 6. Witness Crisp states that one version of the analysis of Bidder B shows a lower revenue requirement for Bidder B than for Hines Unit 2 when imputed debt is not considered. Imputed debt rises with long-term contracts. The net effect of

imputed debt was not a significant issue for the Panda proposal, according to FPC witness Crisp.

We find that for long term debt, we should allow some consideration of imputed debt. Imputed debt is an actual consideration by bond rating agencies. We note that we have allowed limited consideration of imputed debt in past cases. In Docket No. 990249-EG, Standard Offer Contract for Florida Power & Light Company, we allowed consideration of imputed debt but stated "the broader policy issue of who should bear the incremental cost of additional equity to compensate for purchased power contracts has not been addressed." (See Page 9 of Order No. PSC-99-1713-TRF-EG, issued September 2, 1999) With this qualification, we find FPC's consideration of imputed debt in this need determination is appropriate.

FPC's cumulative present worth revenue requirements (CPWRR) analysis showed Hines 2 to be the most cost-effective alternative. FPC then performed a supplemental analysis utilizing PROSYM, which is an hourly dispatch model that provides more detailed CPWRR comparisons. These analyses again showed Hines 2 to be more cost-effective than Bidder B and Panda by approximately $66 million.

Panda argues extensively in its brief that FPC's RFP was biased toward Hines 2 for strategic reasons. Specifically, Panda states that FPC's equipment arrangements with Siemens Westinghouse dictated the timing and selection of Hines 2 and rendered the RFP a formality done to placate the Commission. FPC witness Major testified extensively that while its arrangement with Siemens Westinghouse provided a discount, it required FPC to commit to a production slot in order to achieve commercial operation by the end of 2003. If FPC had forgone its option, it would have lost the cost advantage for the equipment. The Commission's bid rule requires the IOU to fully disclose its next generating unit. This requires the IOU to have such factors as its equipment cost confirmed.

Panda argues in its brief that the time periods for evaluation of proposals submitted pursuant to the RFP were too long. As discussed above, we believe a 25-year analysis of total system cost is appropriate. As shown in Exhibits 6 and 10, isolating the

analysis to a year-by-year basis shows Panda's proposal to be more costly in the first two years.

Panda also contends in its brief that the RFP did not specifically state the models that would be used to evaluate proposals submitted. While Panda is correct, the universe of models used in the industry to evaluate production cost is small. We believe that omitting explicit reference to the models in the RFP is not violative of the bid rule.

D. Hines Unit 2 as the Most Cost-Effective Alternative Available

We find Hines Unit 2 to be the most cost-effective alternative over the 25 years during which FPC's ratepayers will be obligated for the costs of the unit. FPC should be responsive to unforseen changes in its forecasts for load, energy, fuel prices, environmental factors and other changes in regulation which may affect continued cost-effectiveness of Hines 2.

The Need Study, Exhibit 5, shows that FPC's integrated resource planning process evaluates FPC's need for power, available alternatives, including DSM in order to determine its Integrated Optimal Plan. FPC evaluated a variety of traditional and non-traditional supply sources using PROVIEW. In analyzing generation alternatives, FPC incorporated financial assumptions into its PROVIEW model. One key assumption is the discount rate, which is 8.53%. We believe this rate is reasonable and note that it is essentially the weighted average cost of capital that FPC reports in its earnings surveillance reports. The DSVIEW module of PROSCREEN was used to evaluate DSM options.

FPC witness Niekum testified that FPC's fuel price forecast is a primary input in the IRP process. FPC prepares short-term and long-term price forecasts for the various types and grades of fuels available to and used by FPC to supply its electric generation system. This fuel price forecast is prepared based on an extensive review and a rigorous analysis of available and relevant information and on the past experience of FPC, other Florida utilities, and gas consumers with respect to fuel prices.

According to witness Niekum, while preparing its fuel price forecast, FPC recognized that the spot price of natural gas has recently increased. Although it accepts that price volatility has and will continue to exist, witness Niekum testified that FPC believes that natural gas prices should decrease from current levels over the long term. Before expending substantial capital dollars, we believe FPC should review its assumptions periodically to ensure that its fuel price assumptions still reflect real world conditions.

FPC provided price forecasts for natural gas, coal, residual oil, and distillate oil for the forecast period, 2001 through 2020, in Exhibit 10. FPC also provided historical prices for these fuels for the period 1980 through 1999, in Exhibit 14. FPC's base case forecast for natural gas prices falls within the range of price forecasts created by the other sources during the first 10 years after Hines Unit 2 becomes operational. After 2013, FPC forecasts lower natural gas prices than the other sources. However, we recognize that price forecasts generally become less precise further out into the future. We find that FPC's fuel price forecasts are reasonable for planning purposes.

FPC's equipment contract with Siemens Westinghouse plays a critical role in the cost advantage Hines 2 enjoys over the RFP respondents. Witness Major testified that FPC originally contracted with Siemens Westinghouse to provide the equipment for Hines 1. An option for additional units was included in the original contract, however FPC was required to bring the unit(s) into commercial service by the end of 2003, or forego a favorable pricing discount. The contract provides FPC with a discount which is estimated to be between $20-$40 million over current market prices for similar units, as shown in the Need Study, Exhibit 5.

According to witness Major, FPC also has a cost advantage over the RFP respondents because it plans to site Hines 2 on the existing Hines site in Polk County. This will require minimal additional site preparation costs compared to a greenfield site which Panda and Bidder B were proposing.

The Need Study, Exhibit 5, shows that FPC's Integrated Resource Planning process established a resource plan with Hines 2, with an in-service date of November 2003, as the least cost plan.

This analysis was based on FPC's internal review of alternative technologies, as well as DSM, for meeting FPC's need for power. Once this plan was finalized, FPC issued its RFP in January 2000. As discussed previously, Panda and confidential Bidder B responded to the RFP. FPC analyzed the proposals, requested additional information to clarify the bids, and performed a detailed evaluation of the impact on FPC's system cost for each bid. FPC evaluated purchasing from Panda over a two year period, and then adding units after termination of that contract. The comparative system cost of the Hines 2 option and Panda, derived from Exhibit 10 and Confidential Exhibit 6, are shown below.

Year	Hines 2 ($000)	Panda ($000)	Differential ($000)	Cumulative Differential ($000)
2003	$1,253,420	$1,257,585	($4,165)	($4,165)
2004	$1,259,440	$1,275,621	($16,181)	($20,346)
2005	$1,364,272	$1,362,961	$1,311	($19,035)
2006	$1,397,331	$1,400,088	($2,757)	($21,792)
2007	$1,528,628	$1,539,727	($11,099)	($32,891)

The comparison of Hines 2 to Panda over a 25-year period shows Panda to be more costly by approximately $66 million. Bidder B was considerably more costly than Panda, as shown in Confidential Exhibit 6. We believe FPC's analysis of its RFP responses is appropriate and shows Hines 2 to be the most cost-effective alternative available.

Staff witness Dickens suggests that the advent of electric generation restructuring and economic uncertainty raise potential risks for Florida ratepayers. Mr. Dickens encourages the Commission to consider future trends about institutional change, generation technologies, and fuel prices in determining the cost-effectiveness of a need proposal. To do so, Mr. Dickens recommends establishing a short-term prudence review which would periodically evaluate the cost-effectiveness of electric generating units like Hines 2. FPC rebuttal witness Cicchetti agrees that the future

with regard to regulation is uncertain and that change is inevitable. Dr. Cicchetti asserts, however, that Mr. Dickens proposal would fundamentally change the regulatory compact as Florida practices it. The question of whether and how the Commission should factor the reality of coming changes, into the decision on FPC's petition is clearly a point of disagreement between the witnesses.

We point out to FPC that despite the uncertainty of the future, it is still the company's statutory responsibility to continually seek to provide the lowest cost service to its ratepayers. This includes monitoring the market for changes which could impact the cost-effectiveness of Hines 2 before and during the early stages of construction before a substantial outlay of capital dollars.

E. Conservation Measures Which Might Mitigate the Need for the Proposed Plant

The parties stipulated that there are no conservation measures taken by or reasonably available to FPC which might mitigate the need for the proposed power plant. We accept the parties' stipulation, and find that this requirement of Section 403.519, Florida Statutes, has been satisfied.

F. FPC as Applicant and Full Commitment of Hines 2 Unit

The parties stipulated that FPC is a proper applicant within the meaning of the Siting Act and Section 403.519, Florida Statutes. The parties further stipulated that the proposed Hines 2 Unit will be fully committed to helping FPC meet its obligation to provide reliable electric service to ratepayers at a reasonable cost. The stipulation further provides that this finding does not preclude FPC from making wholesale sales inside and outside the state when it is in the best interests of FPC's retail ratepayers. In addition, the entire Hines 2 plant will count toward FPC's reserve margin.

We accept the parties' stipulation, and find that FPC is a proper applicant pursuant to 403.519, Florida Statutes. We further find that the output of the proposed Hines 2 Unit is fully

committed for use by Florida customers who purchase electrical power at retail rates.

IV. Conclusion

The record, as discussed above, clearly demonstrates that FPC has met the statutory requirements for a determination of need. Therefore, we grant Florida Power Corporation's petition to determine the need for the proposed Hines Unit 2.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power Corporation's Motion for Reconsideration of the Prehearing Officer's Order Granting Panda's Petition to Intervene is denied. It is further

ORDERED that Panda Energy International, Inc.'s Motion for Continuance is denied. It is further

ORDERED that Florida Power Corporation's Motion for Reconsideration of the Prehearing Officer's Order Granting its Motion to Strike Number 6 and Denying its Motion to Strike the Testimony of Billy R. Dickens is denied. It is further

ORDERED that the Petition of Florida Power Corporation for determination of need for the Hines Unit 2 power plant in Polk County is hereby granted. It is further

ORDERED that this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 5th Day of January, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DDH

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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.