

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine
need for an electrical power
plant in Martin County by
Florida Power & Light Company.

DOCKET NO. 020262-EI
ORDER NO. PSC-02-0550-PCO-EI
ISSUED: April 23, 2002

ORDER GRANTING PETITION TO INTERVENE

By Petition filed April 11, 2002, Calpine Energy Services, L.P. (Calpine) requested permission to intervene in this proceeding.¹ Florida Power & Light Company (FPL) filed a response to Reliant's petition to intervene on April 17, 2002.

In its petition, Calpine claims that it is entitled to intervene in this proceeding, because it was a respondent to the Request for Proposals (RFP) that FPL issued in August of 2001, in which FPL solicited alternative proposals to supply its projected generating capacity needs in 2005 and 2006. FPL issued the RFP to comply with Commission Rule 25-22.082 (2), Florida Administrative Code, which requires all electric utilities to issue an RFP before submitting a petition for a Determination of Need to the Commission. Calpine alleges that FPL rejected all proposals submitted in response to its RFP, and ultimately filed a petition to determine the need for its own proposal to build an additional power plant itself in Martin County. Calpine challenges the validity of FPL's RFP process and alleges that FPL failed to comply with the requirements of Rule 25-22.082. Calpine claims that its substantial interests will be affected by the Commission's decision in this need determination proceeding, and it is entitled to intervene to protect those interests and to challenge FPL's RFP process.

FPL responds that it does not object to Calpine's intervention in this need determination proceeding, but it does object to Calpine's "Disputed Issues of Law and Fact" and to the

¹ FPL has filed a companion case to this case; Docket No. 020263-EI, *In Re: Petition for Determination of Need for Proposed Electrical Power Plant in Manatee County by Florida Power & Light Company*, filed March 22, 2002. FPL also filed a Motion to Consolidate the two dockets for procedural purposes, which is pending at present. Calpine has filed a Petition to Intervene in that docket as well.

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prayer for relief Calpine makes in its Petition. FPL asserts that they are unnecessary, insupportably over-broad and inappropriate for resolution in this proceeding. FPL reserves the right to contest the scope of the issues Calpine raises during the course of the proceeding, and requests that the Commission deny as premature Calpine's prayer for relief.

FPL's objections to the scope of issues Calpine has raised and the relief that Calpine has requested are duly noted. They will be addressed at the appropriate time in this proceeding. It is not necessary to address the scope of the issues of the case, or the form of relief to be imposed, at this time. For purposes of this Petition to Intervene, it is sufficient that Calpine has demonstrated that its substantial interests may be affected by the Commission's decision, and that those interests are the type of interest the Commission's proceeding was designed to protect. For these reasons, Calpine's Petition to Intervene is granted.

It is therefore

ORDERED by Commissioner J. Terry Deason as the Prehearing Officer that the Petition to Intervene filed by Calpine Energy Services, L.P. is granted. It is further

ORDERED that all parties to this proceeding shall furnish copies of all testimony, exhibits, pleadings and other documents which may hereinafter be filed in this proceeding, to:


Joseph A. Regnery
Senior Counsel
2701 North Rocky Point Dr., Ste. 1200
Tampa, FL 33607

Robert S. Wright
Diane K. Kiesling
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310 W. College Avenue
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Timothy R. Eves
Director, Business Development
Calpine Eastern Corporation
2701 North Rocky Point Dr., Ste 1200
Tampa, FL 33607

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 23rd day of April, 2002.


J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

MCB

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida

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Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.