

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

DOCKET NO. 020262-EI

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

DOCKET NO. 020263-EI
ORDER NO. PSC-02-1598-PCO-EI
ISSUED: November 18, 2002

ORDER GRANTING IN PART AND DENYING IN PART FLORIDA PARTNERSHIP FOR AFFORDABLE COMPETITIVE ENERGY'S MOTION TO STRIKE

On October 11, 2002, the Florida Partnership for Affordable Competitive Energy (PACE) filed a Motion To Strike all references to Exhibit No. 9, which was not admitted into the record of the proceeding, from the transcript of the October 2-4, 2002, hearing. Specifically, PACE states that at the hearing, Florida Power and Light Company's (FPL) Exhibit No. 9 was not admitted into the record. At the conclusion of the hearing, upon PACE's motion to strike references to that exhibit, PACE was instructed to identify the specific transcript references to which it objected. PACE identifies the following portions of the transcript:

Pages 474, line 19 through 476, line 12
Pages 479, line 23 through 480¹, line 7

In its Response, filed October 14, 2002, FPL agrees that Exhibit No. 9 was not admitted into the record. FPL contends, however, that the exhibit was not admitted to avoid the cumulation of evidence, as the calculations contained in the exhibit were already contained in the record. FPL further contends that the first section identified by PACE, pages 474 through 476, refers primarily to Exhibit 16, not exhibit 9, and the second section, pages 479-480, refers entirely to Exhibit 16. Exhibit 16 was admitted into the record.

¹ In its Motion, PACE identifies line 478. The section beginning on page 479, however, ends on Page 480, line 7. Commission staff has verified with counsel for PACE that this reference to page 478 is in error and page 480 is intended.

DOCUMENT MADE DATE

12618 NOV 18 2002

FPS-02-1598-PCO-EI CLERK

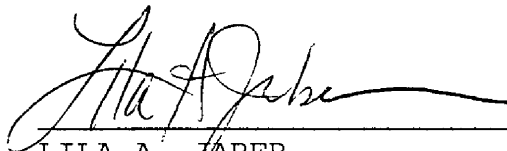
With regard to PACE's first identified portion of the transcript, pages 474, line 19, through page 476, line 12, it appears that the majority of the discussion, which begins on page 470 of the transcript, in fact refers to Exhibit 16, which was admitted into the record. The only clear reference to Exhibit 9 begins on page 474, line 13, and ends on page 475, line 15. Accordingly, these specific lines shall be stricken from the transcript.

With regard to PACE's second identified portion, pages 479, line 23 through page 480, line 7, it is clear from the transcript, Page 470, lines 10-11, that Dr. Steven Sim's "late filed deposition exhibit" is Exhibit 16, not Exhibit 9. As such, PACE's Motion to Strike must be denied as to this portion of the Transcript.

Based upon the forgoing, it is

ORDERED by Chairman Lila A. Jaber, as Presiding Officer, that Florida Partnership for Affordable Competitive Energy's Motion to Strike is granted as to page 474, line 13 through page 475, line 15, of the transcript of the October 2-4, 2002, Need Determination hearing. PACE's Motion to Strike the other identified portions of the Transcript is denied.

By ORDER of Chairman Lila A. Jaber, as Presiding Officer, this 18th Day of November, 2002.



LILA A. JABER
Chairman and Presiding Officer

(S E A L)

LDH

ORDER NO. PSC-02-1598-PCO-EI
DOCKETS NOS. 020262-EI, 020263-EI
PAGE 3

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 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.