



1 PARTICIPATING:

2 GARY V. PERKO, ESQUIRE, Hopping, Green & Sams, 123  
3 South Calhoun Street, Tallahassee, Florida 32301, appearing on  
4 behalf of Florida Municipal Power Agency.

5 FREDERICK M. BRYANT, ESQUIRE, and JODY LAMAR FINKLEA,  
6 ESQUIRE, Post Office Box 3209, Tallahassee, Florida 32315-3209,  
7 appearing on behalf of Florida Municipal Power Agency.

8 BRIAN D. O'NEILL, ESQUIRE, LEBOEUF, LAMB, GREENE &  
9 MACRAE, LLP, 1875 Connecticut Avenue, N.W., Suite 1200,  
10 Washington, DC 20009-5728, appearing on behalf of the City of  
11 Vero Beach.

12 MARTHA BROWN, ESQUIRE, FPSC General Counsel's Office,  
13 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,  
14 appearing on behalf of the Florida Public Service Commission  
15 Staff.

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## P R O C E E D I N G S

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2 COMMISSIONER DEASON: Call the prehearing conference  
3 to order. Could I have the notice read, please.

4 MS. BROWN: By notice issued May 4th, 2005, this time  
5 and place was set for a prehearing conference in  
6 Docket Number 050256-EM, petition to determine need for  
7 Treasure Coast Energy Center Unit 1, proposed electrical power  
8 plant in St. Lucie County, by Florida Municipal Power Agency.  
9 The purpose of the prehearing conference is set out in the  
10 notice.

11 COMMISSIONER DEASON: We'll just have to deal with  
12 the noise. I think there's a moving crew outside the door that  
13 is in the process of wrapping boxes with plastic. Anyway,  
14 appearances.

15 MR. PERKO: Commissioner Deason, my name is Gary  
16 Perko of the Hopping, Green & Sams Law Firm on behalf of  
17 Florida Municipal Power Agency or FMPA. With me is  
18 Frederick M. Bryant, excuse me, General Counsel of FMPA, and  
19 Jody Lamar Finklea, Associate General Counsel of FMPA.

20 MR. O'NEILL: Good afternoon, Commissioner. My name  
21 is Brian O'Neill. I'm with the law firm of LeBoeuf, Lamb,  
22 Greene & MacRae, and I'm appearing this afternoon on behalf of  
23 the City of Vero Beach. With me is Paul Thompson, who is  
24 Director of Utilities for the City of Vero Beach.

25 MS. BROWN: And Martha Carter Brown on behalf of the

1 Commission.

2 COMMISSIONER DEASON: Very well. Ms. Brown, do we  
3 have any preliminary matters?

4 MS. BROWN: I don't think we have any preliminary  
5 matters outstanding at the moment. I would just point out that  
6 you signed an order granting intervention to the City of Vero  
7 Beach this morning, and that was all that I had.

8 COMMISSIONER DEASON: Okay. Any parties have any  
9 preliminary matters at this point? None?

10 MR. O'NEILL: Commissioner, I'd note that in the  
11 order that I've received this morning that granted the  
12 intervention of the City of Vero Beach, it noted that we're as  
13 a consequence entitled to documents that have been filed in the  
14 proceeding. And I did have a preliminary discussion with  
15 counsel for the applicant concerning that, and documents, I  
16 understand, have been sent to us.

17 In addition, we're discussing access to the  
18 confidentiality documents and the documents that were styled --  
19 that were filed seeking confidential treatment. And I don't  
20 have any reason to believe we won't be able to accommodate that  
21 as well.

22 COMMISSIONER DEASON: Mr. Perko, can you confirm  
23 that?

24 MR. PERKO: Yes, Commissioner. I believe we can work  
25 those out.

1           COMMISSIONER DEASON: Very good. Okay. At this  
2 point, excuse me, it is my intention to simply proceed through  
3 the draft prehearing order.

4           Mr. O'Neill, you have a draft prehearing order; is  
5 that correct?

6           MR. O'NEILL: I do, Your Honor.

7           COMMISSIONER DEASON: Very well. As is my customary  
8 practice, it is my intent to proceed through the draft  
9 prehearing order, do so section by section and probably in  
10 fairly rapid fashion. If there are any questions, concerns,  
11 clarifications, corrections or just the need for some  
12 discussion, just let me know and we will pause and take  
13 whatever time is necessary to get those matters resolved.

14           So having said that, we will start with Section I,  
15 the conduct of proceedings. Section II, case background. III,  
16 jurisdiction.

17           Section IV, confidential information. That section  
18 is standard and is the customary practice at the Commission,  
19 Mr. O'Neill. I don't know how accustomed you are to these  
20 procedures. If there is to be confidential information  
21 provided and introduced at hearing, I would certainly request  
22 that you acquaint yourself with that. And, by all means, if  
23 you have any questions or concerns, staff counsel is more than  
24 happy to discuss that with you. We have a process that has  
25 evolved over the years and it works quite well, considering the

1 volume of confidential information that sometimes has to be  
2 produced in a, in an open hearing format. We try to do the  
3 best that we can and I think it works quite well. But I would  
4 just have you acquaint yourself with that process.

5 MR. O'NEILL: Thank you, Commissioner. I'm becoming  
6 more acquainted as the hours go on here, and staff counsel has  
7 been very helpful in that regard.

8 COMMISSIONER DEASON: Very good.

9 Section V, posthearing procedures. VI, prefiled  
10 testimony and exhibits. Section VII, order of witnesses.

11 Mr. Perko, you agree that this is the correct order?

12 MR. PERKO: Yes, Commissioner, I believe it is.

13 COMMISSIONER DEASON: And we -- there is no rebuttal  
14 testimony because there is no other direct testimony in  
15 opposition to your position; is that correct?

16 MR. PERKO: That's correct.

17 COMMISSIONER DEASON: Okay. Section VIII, basic  
18 positions.

19 Section IX, issues and positions. We will proceed  
20 issue by issue beginning with Issue 1. Issue 2. Issue 3.  
21 Issue 4. Issue 5. Issue 6.

22 MS. BROWN: Commissioner, Issue 6 is the close the  
23 docket issue. And everyone agrees with the language to that  
24 position, so I'll show it stipulated in the prehearing order.

25 COMMISSIONER DEASON: Very well. Ms. Brown, you must

1 have done an excellent job with the issues. There were none,  
2 not even any clarification questions.

3 MS. BROWN: Well, I would also ask if something does  
4 come up, if someone finds a typo or if there is a problem, if  
5 they'd let me know within the next week, that would be helpful.

6 COMMISSIONER DEASON: Very well. Section X, exhibit  
7 list. Section XI, proposed stipulations.

8 Ms. Brown, you indicated that you would -- you will  
9 show that Issue 6 has stipulated.

10 MS. BROWN: Yes, Commissioner.

11 COMMISSIONER DEASON: Issue, I mean, I'm sorry,  
12 Section XII, pending motions. We have addressed the  
13 intervention. Are there any other -- do the parties have any  
14 other pending motions outstanding? Very well.

15 Section XIII, pending confidentiality matters. Ms.  
16 Brown.

17 MS. BROWN: There is one confidentiality matter just  
18 filed. I'm awaiting the time for response to run and then I'll  
19 bring an order for you on that, but certainly before the  
20 hearing.

21 COMMISSIONER DEASON: Very well.

22 MS. BROWN: Which is scheduled July 8th.

23 COMMISSIONER DEASON: Okay. And let me look at the  
24 calendar. July 8th. Obviously all the parties feel confident  
25 this matter can be heard in one day; is that correct?

1 MR. O'NEILL: Your Honor, I can honestly say I don't  
2 know. We're reviewing all the material that's been submitted  
3 thus far as well as the testimony and would expect to  
4 cross-examine witnesses. So we'll do our best to be as  
5 efficient as possible.

6 COMMISSIONER DEASON: Very well. I appreciate that.  
7 This matter is scheduled for one day and it is a Friday of all  
8 days. As is the Commission's customary practice, we will make  
9 every effort to hear this matter in one day. It may mean  
10 working past 5:00. So all parties just need to be prepared to  
11 do that.

12 Okay. Section, Section XIV, rulings. Let me ask --  
13 are there -- do the parties -- will there be opening  
14 statements?

15 MR. PERKO: I believe there will be, Your Honor.

16 COMMISSIONER DEASON: Okay. Ten minutes is ample  
17 time, I take it.

18 MR. PERKO: Yes, very ample.

19 COMMISSIONER DEASON: Okay. Mr. O'Neill, ten minutes  
20 for an opening statement is ample time for you; is that  
21 correct?

22 MR. O'NEILL: That's fine. Thank you.

23 COMMISSIONER DEASON: Very good. All right. Well,  
24 that pretty much takes us through the draft prehearing order.

25 Are there any other matters which need to be brought

1 up at this time, Ms. Brown?

2 MS. BROWN: I'm not aware of any, Commissioner.

3 COMMISSIONER DEASON: Mr. O'Neill? Mr. Perko?

4 MR. PERKO: Nothing.

5 COMMISSIONER DEASON: Well, if the hearing can be as  
6 efficient as the prehearing, I think we will conclude before  
7 5:00 on that Friday.

8 Thank you all for your participation and your  
9 preparation, and we look forward to having a successful  
10 hearing. Thank you all.

11 (Prehearing conference adjourned at 1:40 p.m.)

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1 STATE OF FLORIDA )  
2 COUNTY OF LEON )

CERTIFICATE OF REPORTER

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I, LINDA BOLES, RPR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 22<sup>nd</sup> DAY OF JUNE, 2005.

Linda Boles  
LINDA BOLES, RPR  
FPSC Official Commission Reporter  
(850) 413-6734