

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Determination of)
Need for Citrus County Combined Cycle) DOCKET NO. 140110-EI
Power Plant) FILED: MAY 30, 2014
_____)

**PETITION TO INTERVENE OF CALPINE CONSTRUCTION
FINANCE COMPANY, L.P.**

Calpine Construction Finance Company, L.P. ("Calpine" or "CCFC"), pursuant to Chapters 120 and 366, Florida Statutes,¹ and Rules 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code ("F.A.C."), hereby respectfully petitions to intervene in the above-styled docket.

In summary, Calpine is the owner of the Osprey Energy Center, a natural gas fired combined cycle electrical power plant located in Auburndale, Florida ("Osprey" or the "Facility"), and Calpine was a qualified bidder in the 2013 "Request for Proposals for Long-term Power Supply Resources With an In-service Year of 2018" ("RFP") process through which Duke Energy Florida, Inc. ("Duke") sought up to 1,640 MW of capacity based on Duke's "next planned generating unit" that was identified as a combined cycle ("CC") generating unit to be located near Duke's existing Crystal River site in Citrus County, Florida. Calpine proposed to sell the output of the Osprey Facility to Duke pursuant to a power purchase agreement ("PPA"), and also subsequently offered a free

¹All references herein to the Florida Statutes are to the 2013 edition thereof.

option to sell the Osprey Facility to Duke during the third year of the PPA at what Calpine knows to be very favorable pricing as compared to the cost of new CC construction. Calpine was, unfortunately, not selected to supply power to Duke, and consistent with Commission Rule 25-22.082(16), F.A.C., Calpine is entitled to intervene in this proceeding because the Florida Public Service Commission's (the "Commission") decision herein will determine Calpine's substantial interests in pursuing its business of supplying cost-effective power to Duke for the benefit of Duke and its customers.

In further support of its Petition to Intervene, Calpine states as follows.

PROCEDURAL BACKGROUND

1. The name, address, and telephone number of the Petitioner are as follows:

Calpine Construction Finance Company, L.P.
717 Texas Avenue, Suite 1000
Houston, Texas 77002
Telephone (713) 830-8872.

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright
John T. LaVia, III
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with a courtesy copy to:

Shonnie L. Daniel
Vice President and Deputy General Counsel
Calpine Corporation
717 Texas Avenue
Suite 1000
Houston, Texas 77002
(713) 830-8872 Office
(713) 830-8751 Fax.

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850.

4. This docket was initiated by Duke's filing of its "Petition for Determination of Need for the Citrus County Combined Cycle Power Plant" (the "Petition") on May 27, 2014. The final hearing in this case is scheduled for August 26-27 and September 3, 2014, and therefore, pursuant to Rule 25-22.039, F.A.C., this petition to intervene is timely filed.

FACTUAL BACKGROUND

5. Calpine Construction Finance Company, L.P., is a Delaware limited partnership authorized to do business in the State of Florida and duly registered with the Florida Department of State, Division of Corporations, as a foreign limited partnership. Calpine is the owner² of the Osprey Facility, a natural gas fired combined cycle generating plant capable of producing 515 MW under summer conditions and 587 MW under winter

² Within the next six months, CCFC plans to transfer ownership of the Osprey Facility to CCFC's wholly owned subsidiary, Osprey Energy Center, LLC. Of course, Osprey Energy Center, LLC, would honor any contracts entered into between Duke and CCFC.

conditions without duct firing; with duct firing, Osprey can produce up to 675 MW of capacity in winter conditions. The Osprey Facility is located in Auburndale, Florida and is interconnected to Tampa Electric Company's transmission system and to the interstate natural gas pipeline owned and operated by Gulfstream Natural Gas System, LLC ("Gulfstream"). The Osprey Facility is operated by Calpine Operating Services Company Inc. ("COSCI") under an operating and maintenance agreement between CCFC and COSCI. The Facility consists of two Siemens 501FD combustion turbine ("CT") generators, two Nooter Erikson heat recovery steam generators, and one Siemens steam turbine generator. The Osprey Facility achieved commercial operation in 2004 and has a proven track record of reliable operations. Since 2006, Osprey has supplied more than 14 million MWh of wholesale power to a number of Florida utilities, including Duke, Tampa Electric Company, Seminole Electric Cooperative, and other utilities, with an equivalent forced outage rate of 2.5 percent.

6. Calpine participated in Duke's 2013 RFP for supply-side resources to meet Duke's need for capacity and energy that Duke would otherwise procure through self-construction of its "next planned generating unit," i.e., the Citrus County CC unit. Calpine submitted its proposal on December 9, 2013, and Duke evaluated Calpine's proposal, along with other proposals that Duke received in response to its RFP. Among other aspects of its

proposals, Calpine offered to provide the full output of the Osprey Facility, 508 MW under both Summer and Winter conditions, delivered to the Duke transmission border at a guaranteed heat rate of 7,200 Btu/kWh in the Winter and 7,300 Btu/kWh in the Summer. (Calpine proposed that it would provide 515 MW of capacity at its interconnection with Tampa Electric's transmission system, which would result in the delivery of 508 MW into Duke's system, after accounting for Tampa Electric's stated 1.5 percent loss rate.) Calpine also offered to assign its firm gas transportation rights on the Gulfstream pipeline to Duke for the duration of the proposed PPA, at Calpine's cost.

7. According to data presented in Duke's Petition, the Citrus County Combined Cycle Power Plant is projected to cost \$1.514 Billion, or about \$923 per kW for that unit's 1,640 MW of capacity. Calpine offered to sell Duke the output of the Osprey Facility for a term of 23 years at a 2018 starting price of \$72.24 per kW-month, including Fixed Operating & Maintenance costs. (Duke's 2014 Ten Year Site Plan indicates that the Fixed O&M Costs for the Citrus County CC plant will start at \$6.15 per kW-year, or about \$0.51 per kW-month in 2014 dollars, subject to inflation.) Calpine also offered to sell Duke the Osprey Facility itself at a price of \$300 million, or about \$590 per kW of capacity. Moreover, Calpine has also pursued, and is also pursuing, opportunities to "sharpen its pencil," i.e., to offer a

more attractive price to Duke for the Osprey Facility, for the benefit of Duke and its customers.

STATEMENT OF AFFECTED INTERESTS

8. In this docket, the Commission will decide whether to approve Duke's petition for determination of need for the Citrus County CC Project. In making its decision, the Commission will necessarily determine the substantial interests of Calpine, in that if the Commission grants Duke's requested determination of need, Calpine will be foreclosed from providing power to Duke. Calpine was a qualified bidder, evaluated by Duke in its RFP process, and Calpine's substantial interests will be determined by the Commission in this proceeding.

9. Calpine's substantial interests are of sufficient immediacy to entitle it to participate in this proceeding and are the type of interests that this proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). Here, the outcome of this proceeding will

immediately impact and determine Calpine's substantial interests in providing electric capacity and energy to Duke, in that those interests will be determined, finally, by the Commission's decision on the requested petition for determination of need. Calpine's interests and the potential adverse effect on its interests are specifically the type of injury against which this proceeding is designed to protect, namely, to ensure that a qualified bidder has a fair opportunity pursuant to Rule 25-22.082, F.A.C., to challenge a utility's selection of its self-build option instead of the qualified bidder's option to meet the utility's need for additional generating capacity.

DISPUTED ISSUES OF MATERIAL FACT

10. As reflected in its proposed statements of Issues 1 through 5 and 8 below, Calpine recognizes the appropriateness of the "standard" issues in power plant need determination proceedings, i.e., the issues that derive from the specific provisions of Section 403.519, Florida Statutes. Calpine also proposes additional issues for this proceeding, as set forth in proposed Issues 6 and 7 below.

Issue 1: Is the proposed Citrus County Combined Cycle Power Plant needed, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

Issue 2: Is the proposed Citrus County Combined Cycle Power Plant needed, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

Issue 3: Is the proposed Citrus County Combined Cycle Power

Plant needed, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519, Florida Statutes?

- Issue 4: Are there any conservation measures taken by or reasonably available to Duke Energy Florida that might mitigate the need for the proposed Citrus County Combined Cycle Power Plant?
- Issue 5: Is Duke's proposal to bring the Citrus County Combined Cycle Power Plant into commercial service in 2018 the most cost-effective alternative available to meet the needs of Duke Energy Florida and its customers?
- Issue 6: Did Duke accurately and appropriately evaluate all reasonable alternative scenarios, including purchasing the Osprey Energy Center and deferring the construction of part (e.g., 820 MW) of the Citrus County Combined Cycle Power Plant's proposed capacity until a later date, for cost-effectively meeting the needs of its customers over the relevant planning horizon?
- Issue 7: Did Duke Energy Florida administer a transparent, robust, and constructive RFP evaluation process that was designed to evaluate a range of scenarios and sensitivities to procure the most cost-effective alternative generating supply addition for cost-effectively meeting the needs of its customers?
- Issue 8: Based on the resolution of the foregoing issues, should the Commission grant the requested determination of need for the proposed Citrus County Combined Cycle Power Plant?

Calpine reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure in this case.

STATEMENT OF ULTIMATE FACTS ALLEGED

11. As described above, Calpine offered to sell Duke 508 MW of proven, reliably operating combined cycle capacity, delivered into Duke Florida's system at favorable rates under a

PPA option, and also offered to sell Duke the Osprey Energy Center itself at a very favorable price as compared to new CC construction costs. Calpine has also pursued, and is also pursuing, opportunities to offer more attractive pricing to Duke for the Osprey Facility, i.e., the type of further negotiations that Calpine would have engaged in had Duke selected a short list of bidders in its RFP process. Accordingly, Calpine believes that Duke and its customers will be better served by Duke purchasing the Osprey Energy Center and deferring or avoiding construction of part of the capacity of the Citrus County CC Plant.

**STATUTES AND RULES THAT ENTITLE CALPINE CONSTRUCTION
FINANCE COMPANY, L.P. TO RELIEF**

12. The applicable statutes and rules that entitle Calpine to relief include, but are not limited to, Sections 120.569, 120.57(1), and 403.519, Florida Statutes, and Rules 25-22.039, 25-22.082(16), and Chapter 28-106, Florida Administrative Code. The cited rules provide that persons whose substantial interests will be affected by agency action are entitled to intervene, and the cited sections of Chapter 120 provide that persons whose substantial interests will be affected are entitled to a hearing before the agency. Section 403.519, Florida Statutes, provides that the Commission must consider whether any proposed power plant that is subject to that statute is the most cost-effective alternative available for meeting the utility's projected needs

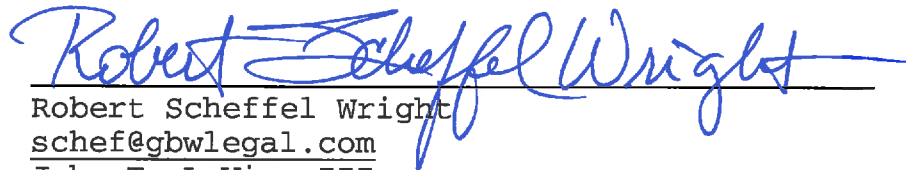
for electric capacity and energy. This mandate necessarily includes consideration of other power supply alternatives that may be more cost-effective than the utility's proposed unit.

13. Statement Explaining How the Facts Alleged By Calpine Entitle Calpine to the Relief Requested. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. Calpine offered to sell Duke both the output of the Osprey Energy Center, through a PPA, and the Osprey Energy Center asset itself. Calpine participated in Duke's RFP process and was evaluated in that process; Duke did not even select a "short list" of bidders in its RFP process, such that Calpine never had a formal opportunity to provide a "Best and Final" offer to Duke. As noted above, however, Calpine continues to seek opportunities to provide more favorable pricing to Duke for the benefit of its customers. Since Calpine's proposal was rejected by Duke, Calpine's substantial interests will be determined by the Commission in this proceeding. Therefore, the interests that Calpine seeks to protect via its intervention and participation in this case are immediate and of the type to be protected by this docket, and accordingly, Calpine is entitled to intervene to protect its interests.

CONCLUSION AND RELIEF REQUESTED

WHEREFORE, Calpine respectfully requests the Commission to enter its order GRANTING this Petition to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents to Calpine's representatives indicated in paragraph 2 above.

Respectfully submitted this 30th day of May 2014.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following by electronic mail on this 30th day of May 2014.

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