

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for determination of)	DOCKET NO. 900732-EQ
need for proposed electrical power)	ORDER NO. 23795
plant by CONSOLIDATED MINERALS, INC.)	ISSUED: 11-26-90
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ORDER ON PREHEARING PROCEDURE

Pursuant to the provisions of Rule 25-22.038, Florida Administrative Code, all parties and Staff are hereby required to file with the Director of Records and Reporting a prehearing statement on or before January 14, 1991. Each prehearing statement shall set forth the following:

- (a) all known witnesses that may be called and the subject matter of their testimony;
- (b) all known exhibits, their contents, and whether they may be identified on a composite basis and witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue;
- (f) a statement of each policy question the party considers at issue and which of the party's witnesses will address the issue;
- (g) a statement of the party's position on each issue identified pursuant to paragraphs (d), (e) and (f) and the appropriate witness;
- (h) a statement of issues that have been stipulated to by the parties;
- (i) a statement of all pending motions or other matters the party seeks action upon; and
- (j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefor.

DOCUMENT NUMBER-DATE

10452 NOV 26 1990

FPSC-RECORDS/REPORTING

ORDER NO. 23795
DOCKET NO. 900732-EQ
PAGE 2

The original and fifteen copies of each prehearing statement must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of January 14, 1991. Failure of a party to timely file a prehearing statement shall be a waiver of any issues not raised by other parties or by the Commission Staff. In addition, such failure shall preclude the party from presenting testimony in favor of his or her position on such omitted issues. Copies of prehearing statements shall also be served on all parties. Prehearing statements shall substantially conform to the Florida Rules of Civil Procedure requirements as to form, signatures, and certifications.

Each party is required to prefile all exhibits and all direct testimony it intends to sponsor in written form. Prefiled testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double spaced, with 25 numbered lines, in question and answer format, with a sufficient left margin to allow for binding. An original and fifteen copies of each witness' prefiled testimony and each exhibit must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on December 21, 1990. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony. Copies of all prefiled testimony shall also be served by the sponsoring party on all other parties. Direct testimony of Staff and all Intervenors must be filed with the Director of Records and Reporting on or before January 11, 1991. Finally, rebuttal testimony, if any, must be filed on or before January 25, 1991.

A final prehearing conference will be held beginning at 1:30 p.m., February 4, 1991, in Room 122, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, will be met in this case and the following shall apply:

- (1) Any party who fails to attend the final prehearing conference, unless excused by the prehearing officer, will have waived all issues and positions raised in his or her prehearing statement.
- (2) Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by

ORDER NO. 23795
DOCKET NO. 900732-EQ
PAGE 3

that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: he or she was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issues; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

- (3) Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, he or she shall bring that fact to the attention of the prehearing officer. If the prehearing officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify his or her position in a post-hearing statement of issues. In the absence of such a finding by the prehearing officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in his or her post-hearing statement.

To facilitate the management of documents in this docket, parties and Commission Staff shall submit an exhibit list with their respective prehearing statements. Exhibits will be numbered at the Prehearing Conference. Each exhibit submitted shall have the following in the upper right-hand corner: the docket number, the witness's name, the word "Exhibit" followed by a blank line for the Exhibit Number and the title of the exhibit.

ORDER NO. 23795
 DOCKET NO. 900732-EQ
 PAGE 4

An example of the typical exhibit identification format is as follows:

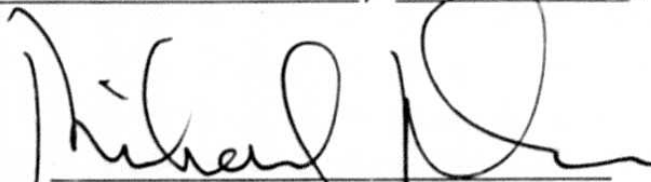
Docket No. 870675-EQ
 J. Doe Exhibit No. _____
 Cost Studies for Minutes Of Use by Time of Day

The following dates have been established to govern the key activities of this proceeding in order to maintain an orderly procedure.

1. December 21, 1990 - Direct Testimony to be filed
2. January 11, 1991 - Staff/Intervenor Testimony to be filed
3. January 14, 1991 - Prehearing Statements to be filed
4. January 25, 1991 - Rebuttal Testimony to be filed
5. February 4, 1991 - Prehearing Conference
6. February 15 & 18, 1991 - Hearing

Attached to this order as Appendix "A" is a tentative list of the issues which will be addressed in this proceeding. Prefiled testimony and prehearing statements shall be addressed to the issues set forth in Appendix "A".

By ORDER of Chairman Michael McK. Wilson, Hearing Officer,
 this 26th day of NOVEMBER, 1990.


 MICHAEL MCK. WILSON, Chairman
 and Hearing Officer

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ORDER NO. 23795
DOCKET NO. 900732-EQ
PAGE 5

APPENDIX "A"

LIST OF ISSUES

Legal Issue

ISSUE 1: Does Consolidated Minerals, Inc. (CMI) have a valid power sales agreement with Florida Power and Light Company (FPL)?

Factual Issues

Reliability and Integrity

ISSUE 2: Is the reliability criterion used by FPL to determine its need for 475 MW of capacity in 1996 to be satisfied by the proposed Pine Level Project reasonably adequate for planning purposes?

ISSUE 3: Is the load forecast used by FPL to determine its need for 475 MW of capacity in 1996 to be satisfied by the proposed Pine Level Project reasonably adequate for planning purposes?

ISSUE 4: Does FPL, as an individual utility interconnected with the statewide grid, exhibit a need for additional capacity in 1996?

ISSUE 5: Are there any adverse consequences to FPL and its customers if the proposed Pine Level Project are not completed in the approximate time frame stated by CMI?

ISSUE 6: Would the proposed Pine Level Project provide electric system reliability and integrity to FPL?

ISSUE 7: Would the proposed Pine Level Project provide for electric system reliability and integrity to peninsular Florida?

Adequate Electricity at Reasonable Cost

ISSUE 8: Would the proposed Pine Level Project provide adequate electricity to FPL at a reasonable cost?

ISSUE 9: Would the proposed Pine Level Project provide adequate electricity to peninsular Florida at a reasonable cost?

ORDER NO. 23795
DOCKET NO. 900732-EQ
PAGE 6

ISSUE 10: Is the fuel price forecast used by FPL reasonably adequate for planning purposes?

ISSUE 11: Have adequate assurances been provided regarding available fuel to serve CMI's needs?

ISSUE 12: Do the proposed Pine Level Project provide for adequate fuel diversity for FPL's system?

ISSUE 13: Do the proposed units provide for adequate fuel diversity for peninsular Florida?

Cost-Effective Alternatives

ISSUE 14: Do the proposed Pine Level Project appear to be the appropriate generating alternative for supplying capacity FPL in 1996 given the uncertainties of future load growth, fuel prices, technological developments and economic conditions?

ISSUE 15: Are the type, size, and timing of CMI's proposed units reasonably consistent with the capacity needs of peninsular Florida?

ISSUE 16: Has CMI provided sufficient information on the site, design, and engineering characteristics of the Pine Level Project to enable the Commission to evaluate its proposal?

ISSUE 17: Has the availability of purchased power from other utilities been adequately explored and evaluated?

ISSUE 18: Has the availability of purchased power from qualifying facilities and non-utility generators been adequately explored and evaluated?

ISSUE 19: Would the proposed Pine Level Project be the most cost-effective alternative available to FPL?

ISSUE 20: Would the proposed Pine Level Project be the most cost-effective alternative to peninsular Florida?

Conservation

ISSUE 21: Are there sufficient conservation or other non-generating alternatives reasonably available to FPL to mitigate the need for the proposed Pine Level Project?

ORDER NO. 23795
DOCKET NO. 900732-EQ
PAGE 7

Associated Facilities

ISSUE 22: What transmission or interconnection facilities are required to tie the proposed Pine Level Project into the electric grid?