

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Planning Hearings on Load)	DOCKET NO.	910004-EU
Forecasts Generation Expansion)	ORDER NO.	24672
Plans, and Cogeneration Prices)	ISSUED:	6/17/91
for Florida's Electric Utilities.)		

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 BETTY EASLEY
 MICHAEL MCK. WILSON

ORDER DENYING RECONSIDERATION

BY THE COMMISSION:

In Order No. 23792 (issued November 27, 1990) we designated Nassau Power Corporation's (Nassau) proposed 435 MW project as being within the 500 MW subscription limit we had previously established under our old cogeneration rules. We also ruled that based on the precedent of Order No. 22341 (issued December 6, 1989) a standard offer contract must be evaluated against individual utility need at a need determination proceeding. On December 6, 1990, Nassau filed a motion for reconsideration of only that portion of Order No. 23792 which held that a standard offer must be evaluated against individual utility need at a need determination proceeding.

In its motion, Nassau has merely reargued an issue we have already fully considered. The argument we previously heard on the individual verses statewide need issue was thorough and detailed. Nassau ably argued this issue in its brief. The purpose of a motion for reconsideration is to point out some matter of law or fact which the Commission failed to consider or overlooked in its prior decision. Diamond Cab Co. of Miami v. King, 146 So.2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (Fla. 1 D.C.A. 181). It is not an appropriate avenue for rehashing arguments which have already been fully considered.

In addition, Nassau seeks reversal of a policy which was firmly in place by virtue of Order No. 22341 at the time Nassau signed its standard offer contract in June, 1990. Prior to signing the standard offer, Nassau had ample opportunity to consider the implications of our previous ruling that a standard offer must be evaluated against individual utility need. In the face of Order No. 22341, Nassau chose to sign its standard offer contract, and Nassau should not now be surprised that we choose to follow our own precedent.

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In Order No. 22341, we overruled several previous decisions and held that a standard offer contract must be evaluated against individual utility need at a need determination proceeding:

...to the extent that a proposed electric power plant constructed as a QF is selling its capacity to an electric utility pursuant to a standard offer or negotiated contract, that capacity is meeting the needs of the purchasing utility. As such, that capacity must be evaluated from the purchasing utility's perspective in the need determination proceeding, i.e., a finding must be made that the proposed capacity is the most cost-effective means X's capacity needs in lieu of other demand and supply side alternatives.

Order No. 22341 at p.26.

In making this determination, we reasoned that the criteria set forth in the Power Plant Siting Act, including the criteria that the plant be the most cost effective alternative available, are utility specific.

Additionally, we explained that the current standard offer was based upon a statewide avoided unit, rather than individual utility avoided units, necessarily causing a mismatch between the prices paid to cogenerators and the price of the unit being avoided by the utility purchasing the power. Therefore, it would not necessarily follow that cogenerated power was the most cost-effective means of satisfying an individual utility's need. We also cited the increasing share of the state's electrical needs supplied by cogenerators and independent power producers:

If we continue to "rubber stamp" QF projects with the only criterion being that the price of that electricity is equal to or less than that of the standard offer, this body has effectively lost the

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ability to regulate the construction of an increasingly significant amount of generating capacity in the state.

Order No. 22341 at p.27.

We also pointed out that the federal Environmental Protection Agency had recently conducted its analysis of a proposed Florida QF project from the perspective of the purchasing utility's need.

Finally, we concluded that "need", for purposes of the Siting Act, is the need of the electric utility purchasing the power. Based upon these findings, we ordered that future standard offer contracts be evaluated against individual utility need at need determination proceedings conducted pursuant to the Power Plant Siting Act.

Our old cogeneration rules were ambiguous in that they did not discuss need determination proceedings pursuant to the Siting Act, and did not discuss whether cogeneration contracts should be evaluated against statewide or individual utility need. Thus Nassau's contention that the rules require that its contract be evaluated against statewide need is simply not accurate.

It is therefore

ORDERED by the Florida Public Service Commission that Nassau Power Corporation's Motion For Reconsideration of a Portion of Order No. 23792 is hereby denied.

By ORDER of the Florida Public Service Commission, this
17th day of JUNE, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

Any party adversely affected by the Commission's final action in this matter may request 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 sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.