

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of) DOCKET NO. 920648-EQ
contract for the purchase of) ORDER NO. PSC-93-0128A-FOF-EQ
capacity and energy for Cypress) ISSUED: May 3, 1993
Energy Partners, L.P. by Florida)
Power & Light Company.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON

NOTICE OF PROPOSED AGENCY ACTION

AMENDATORY ORDER DISMISSING PETITION FOR CONTRACT APPROVAL

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On January 25, 1993, we issued Order No. PSC-93-0128-FOF-EQ, Notice of Proposed Agency Action Order Denying Contract Approval in this docket. We now amend Order No. PSC-93-0128-FOF-EQ to reflect that the petition for contract approval is dismissed not denied and that the dismissal is without prejudice to the right to file a new petition for contract approval in the event Cypress, as a result of its appeal obtains an affirmative determination of need.

On May 22, 1992, Florida Power and Light Company (FPL) and Cypress Energy Partners, L.P. (Cypress) filed a joint petition for determination of need in Docket No. 920520-EQ. On June 24, 1992, FPL filed a petition for approval of the contract for the purchase of capacity and energy from Cypress, and this docket was established. On October 22, 1992, the Commission voted to deny the joint petition for need. On January 21, 1993, Cypress appealed that denial to the Florida Supreme Court. Unless and until there is an affirmative determination of need for the Cypress power plant, it is unnecessary for the Commission to consider the merits of the contract for the purchase of power from that plant.

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Accordingly, we dismiss FPL's petition for approval of the contract for the purchase of capacity and energy from Cypress. This dismissal is without prejudice to the right to file a new petition for contract approval in the event Cypress obtains an affirmative determination of need.

This docket shall be closed if no timely protest is filed.

It is therefore,

ORDERED by the Florida Public Service Commission that Florida Power and Light Company's petition for contract approval for the contract for the purchase of capacity and energy from Cypress Energy Partners, L.P. is hereby dismissed, without prejudice. It is further

ORDERED that this order shall supersede and replace Order No. PSC-93-0128-FOF-EQ for all purposes, and Order No. PSC-93-0128-FOF-EQ is hereby withdrawn. It is further

ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission this 3rd day of May, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
MAP:bmi

by: Kay Hizon
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 24, 1993.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date 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.