

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Amendment of) DOCKET NO. 921288-EU
Rule 25-22.081, F.A.C., Contents) ORDER NO. PSC-93-1191-PCO-EU
of Petition; and Proposed New) ISSUED: August 13, 1993
Rule 25-22.082, F.A.C.,)
Selection of Generating)
Capacity.)
_____)

ORDER ESTABLISHING PROCEDURES TO BE FOLLOWED
AT RULEMAKING HEARING

I. Background

The Florida Public Service Commission has proposed Rule 25-22.082, Florida Administrative Code, a new rule relating to electric utilities' selection of generating capacity and has proposed to amend Rule 25-22.081, Florida Administrative Code, which instructs utilities on the required contents of petitions for determination of need for an electric power plant. The Commission voted to propose the new rule and rule amendment on August 3, 1993. The rules will be published in the Florida Administrative Weekly on August 20, 1993.

A rulemaking hearing is scheduled at the following time and place:

9:30 a.m.
Wednesday, Thursday and Friday,
September 29, 30, and October 1, 1993
Room 106, Fletcher Building
101 East Gaines Street
Tallahassee, Florida

The rulemaking hearing shall be governed by section 120.54, Florida Statutes, and by Chapter 25-22, Florida Administrative Code.

II. Energy Policy Act of 1992

In Order No. PSC-93-0710-FOF-EI, issued in Docket No. 930331-EU on May 10, 1993, the Commission noted that Section 712 of the legislation known as the National Energy Policy Act of 1992 requires the Commission, as the state agency responsible for regulating the electric industry in this state, to make a determination whether it is appropriate to implement certain standards by October 1993. Because the issues raised in Section

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712 of the act are closely related to the subject matter of this rule proceeding, the Commission decided to consider them in connection with this proceeding. Therefore, interested persons are invited to discuss, in their prefiled and posthearing comments as well as at the hearing, whether and how the Commission should implement the standards outlined in Section 712 of the National Energy Policy Act:

(i) the potential for increases or decreases in the costs of capital and resulting increases or decreases in retail rates that may result from the purchase of long-term wholesale power supplies;

(ii) whether the use by Electric Wholesale Generators (EWGs) of capital structures that employ proportionally greater amounts of debt than the capital structure of the purchasing utility provides an unfair advantage or threatens reliability;

(iii) whether to implement procedures for the advance approval or disapproval of a particular long-term wholesale power purchase;

(iv) whether to require as a condition for approval of the power purchase that there be reasonable assurances of fuel supply adequacy.

III. Prehearing Procedures

1. Persons listed on Attachment "A" who intend to participate in the rule hearing must prefile comments no later than September 10, 1993. All other persons are encouraged to prefile comments.

The list in Attachment "A" includes persons who have shown the willingness and ability to assist the Commission in its consideration of these rules by participating in the staff workshop in this docket on February 24, 1993 or by filing comments in this docket. Prefiling comments will aid the Commission in its consideration of the rules and possible alternatives and will save time at the hearing. Additionally, prefilings will allow the Commission to elicit

responsive comments, as stated below. By requiring prefiled testimony, the Commission intends neither to require participation nor to exclude others from participation in the process.

Prefiled comments shall be typed on 8 1/2 inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

All alternate rule proposals, whether made in original or responsive comments, must be made in writing, with copies attached to prefiled comments. See Appendix "B" for suggested rule proposal format.

Each exhibit intended to support prefiled comments shall be attached to that person's comments when filed, identified by his or her initials, and consecutively numbered beginning with 1.

An original and 15 copies of all comments and exhibits shall be prefiled with the Director, Division of Records and Reporting by the close of business, which is 4:45 p.m., on the date due.

2. Persons listed on Attachment "A" who intend to respond to the prefiled comments of any other party must prefile their responsive comments, in the format described above, no later than September 20, 1993.
3. See Rule 25-22.028(1), Florida Administrative Code, for the requirements of filing on diskette for certain persons.

IV. Hearing Procedures

1. The Commission staff will present a summary of the economic impact statement and the rules.
2. The first exhibit introduced into the record will be a composite exhibit prepared by staff, which will consist of the following documents:
FAW notice and proposed rules;
Materials provided to the Joint Administrative Procedures Committee in connection with the proposed rules, including:

statement of facts and circumstances justifying rules,
statement on federal standards,
statement of impact on small business,
economic impact statement;

Notice of rulemaking; and

Any material, including prefiled comments and attachments filed by recipients of this order, that may be submitted pursuant to Section 120.54(3)(a), Florida Statutes (Supp. 1992). (It will not be necessary for participants to insert their prefiled comments into the record at the hearing.)

Due to the length of the exhibit, copies will not be distributed at the hearing. However, there will be several copies available for inspection.

3. Following the staff presentation, affected persons will have the opportunity to present evidence and argument. It may be necessary to impose time limits for presentations, depending upon the number of participants. If time permits, persons making presentations will be subject to questioning by other parties. Such questions shall be limited only to those necessary to clarify and understand the presenter's position.
4. The order of presentation will be determined by the prehearing officer and a list will be distributed on the first morning of the hearing.

V. Posthearing Procedures

1. A transcript of the proceedings will be made available to the public on or about October 15, 1993, at the cost of \$0.10 per page.
2. Participants may file posthearing comments no later than October 29, 1993. Posthearing comments shall be typed on 8 1/2 inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

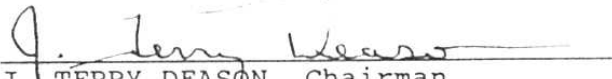
An original and 15 copies of all posthearing comments shall be prefiled with the Director, Division of Records and Reporting by the close of business, which is 4:45 p.m., on the date due.

Based on the foregoing, it is

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ORDERED that this Order shall govern the conduct of these proceedings, as set forth above, unless modified by the Commission.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 13th day of August, 1993.



J. TERRY DEASON, Chairman
and Prehearing Officer

(S E A L)

mer (RULEPROC)
attachments

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review

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of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

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ATTACHMENT "A"

Persons who must prefile comments no later than September 10, 1993
if they intend to participate in the rule hearing in this docket:

Air Products and Chemicals, Inc.
Alabama Power Company
Arco Gas
Ark Energy, Inc.
Bell Resources, Inc.
Central Florida Gas
City of Tallahassee Electric Department
Cogentrix
Cypress Energy Partners
Decker Energy
Destec Energy, Inc.
Ebasco Services Inc.
Enron Power Corporation
Ensearch Development Corp.
Falcon Seaboard Corporation
Florida Competitive Energy Producers Association
Florida Electric Cooperatives Association
Florida Power Corporation
Florida Industrial Cogeneration Association
Florida Municipal Electric Association
Florida Power & Light Company
Gulf Power Company
HMM Associates, Inc.
J. Makowski Associates, Inc.
Lakeland Electric & Water
Lee County Waste-to-Energy Facility
Legal Environmental Assistance Foundation
LS Power Corporation
Mission Energy Company
Orlando Utilities Commission
Peoples Gas Company
Project for an Energy Efficient Florida
PTI
Seminole Electric Cooperative, Inc.
Skyway Power Corporation
Southern Co. Services, Inc.
Tampa Electric Company
Tenaska, Inc.
Transco Power Company
U.S. Generating Co.
Zurn - Nepco

ATTACHMENT "B"

Rule 25-XX.XXXX Suggested format for rule proposals.

(1) Proposed rules and rule revisions must be submitted in writing, and must be typed, double-spaced, using type-and-strike format.

(2) You may obtain a diskette copy of the proposed rules in Wordperfect 5.1 rule format from Marsha Rule in the Division of Appeals. The rules will be copied onto your blank, formatted high density 3.5" diskette. Please redline suggested additions to and deletions from the proposed version of the rules. Explanatory comments should be keyed to the rule in some fashion, such as through footnotes.

(3) Example of redlined additions with explanatory comment:

The Florida Energy Efficiency and Conservation Act requires increasing the efficiency of the electric systems of Florida, increase the conservation of expensive resources, such as petroleum fuels, to and the end use of these sources of energy by reducing reduce weather-sensitive¹ peak demand, ~~oil consumption~~ and kilowatt hour consumption to the extent cost effective.

¹ Staff believes that the rule should address all peak demand, not just weather-sensitive peak demand.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.