

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to determine) DOCKET NO. 961512-EM
need for electrical power plant) ORDER NO. PSC-97-0241-PCO-EM
in St. Marks, Wakulla County, by) ISSUED: February 28, 1997
City of Tallahassee.)
_____)

ORDER GRANTING INTERVENTION
AND DENYING MOTION FOR EXTENSION OF TIME FOR
FILING PRE-FILED TESTIMONY OF INTERVENOR

By petition dated January 31, 1997, Enpower, Inc. (Enpower) has requested permission to intervene in this proceeding. On February 12, 1997, the City of Tallahassee (City) filed its response in opposition to Enpower's request to intervene. Although not contemplated by our rules, on February 18, 1997, Enpower filed a reply to the City's response which was styled "Enpower's Memorandum in Support of Petition to Intervene."

Enpower asserts that it is a participant in a joint venture to develop an electric generating plant known as the North Florida Project (NFP). The City argues that Enpower was not a direct participant in the City's request for proposal process because the NFP bid was originally submitted by Constellation Energy, Inc., one of the participants in the joint venture.

Section 403.519, Florida Statutes directs the Commission, in a need determination proceeding, to consider whether the proposed plant is the most cost-effective alternative available. In order to make such a determination, the Commission must be able to hear testimony regarding other alternatives considered by the utility and their relative cost-effectiveness. Here, Enpower provides an alternative to the City's proposed plant which may (or may not) be more cost-effective. It is therefore incumbent upon such competing alternatives, who believe that their project is more cost-effective, to participate in the hearing, and attempt to demonstrate that their proposal can provide the utility with power at a lower cost. The Commission would benefit from an exploration of the competing proposals considered by the City in its determination that the proposed plant was the most cost-effective alternative.

It is therefore found that Enpower has standing to intervene in this proceeding. Granting intervention to Enpower is not an affirmative determination as to the viability of the NFP proposal.

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It is also found that the Motion for Extension of Time for Filing Pre-filed Testimony of Intervenor, filed by Enpower on February 18, 1997, is denied. This motion was opposed by the City. A party requesting intervention takes the case as it finds it. Enpower has provided no valid basis for granting the requested extension of time. Thus, Enpower shall file its pre-filed testimony by February 21, 1997, as required by the Order Establishing Procedure, Order No. PSC-97-0075-PCO-EM, issued on January 24, 1997.

It is therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer that Enpower Inc.'s petition to intervene is granted. It is further

ORDERED that Enpower, Inc.'s Motion for Extension of Time for Filing Pre-filed Testimony of Intervenor is denied. It is further

ORDERED that all parties shall furnish copies of all testimony, exhibits, pleadings and other documents which may hereinafter be filed in this proceeding, to:

Guyte P. McCord, III
McCord, Bubsey, Ketchum
& Elzie, LLP
210 South Monroe Street
Tallahassee, Florida 32301

Dan Smith
Enpower, Inc.
3903 Turkey Oak Drive
Valrico, Florida 33594

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 28th day of February, 1997.


SUSAN F. CLARK, Commissioner and
Prehearing Officer

(S E A L)

VDJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 25-22.0376, 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 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.