

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to determine ) DOCKET NO. 961512-EM  
need for electrical power plant ) ORDER NO. PSC-97-0365-PHO-EM  
in St. Marks, Wakulla County, by ) ISSUED: April 2, 1997  
City of Tallahassee. )  
\_\_\_\_\_ )

Pursuant to Notice, a Prehearing Conference was held on Friday, March 21, 1997, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

RICHARD D. MELSON, Esquire, Hopping Green Sams & Smith,  
123 South Calhoun Street, Tallahassee, Florida 32314  
On behalf of City of Tallahassee (City).

GUYTE P. MCCORD, III, Esquire, McCord Bubsey Ketchum &  
Elzie, LLP, 210 South Monroe Street, Tallahassee, Florida  
32301  
On behalf of Enpower, Inc. (Enpower).

GAIL KAMARAS, Esquire, and DEBRA SWIM, Esquire, 1115  
North Gadsden Street, Tallahassee, Florida 32303  
On behalf of Legal Environmental Assistance Foundation  
(LEAF).

PATRICK K. WIGGINS, Esquire, Wiggins & Villacorta, P.A.,  
501 East Tennessee Street, Suite B, Post Office Drawer  
1657, Tallahassee, Florida 32302  
On behalf of LS Power LLC (LS Power).

Vicki D. Johnson, Esquire, Florida Public Service  
Commission, 2540 Shumard Oak Boulevard, Tallahassee,  
Florida 32399-0850  
On behalf of the Commission Staff (Staff).

**PREHEARING ORDER**

**I. CASE BACKGROUND**

Pursuant to Section 403.519, Florida Statutes, the City of Tallahassee (City) has petitioned the Commission to determine the need for an electrical power plant. The proposed unit is estimated to produce 250 MW of electricity and is to be located at the existing Purdom Generating Station site in St. Marks, Wakulla County, Florida. The proposed project is an advanced combined cycle generating unit with an estimated in service date of May, 2000. The proposed unit will be designated Purdom Unit 8.

DOCUMENT NUMBER-DATE

03335 APR-25

FPSC-RECORDS/REPORTING

The proposed project was developed by the City's self-build development team. The proposed project was evaluated along with proposals submitted by five external bidders pursuant to the City's request for proposal process. Enpower, Inc. and LS Power LLC, representing two of the external bidders, and the Legal Environmental Assistance Foundation (LEAF) have been granted intervention in this proceeding.

On March 21, 1997, LEAF filed a Notice of Withdrawal From Intervention in Docket.

## II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

#### Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause

shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

### III. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

### IV. ORDER OF WITNESSES

- \* The witness whose name is preceded by an asterisk (\*) has been excused. The parties have stipulated that the testimony of this witness be inserted into the record as though read, and cross examination will be waived. The parties have also stipulated that all exhibits submitted with the witness' testimony shall be identified as shown in Section VII of this Prehearing Order and admitted into the record.

<u>Witness</u>	<u>Appearing For</u>	<u>Issue #</u>
<u>Direct</u>		
K. Wailes	City	3, 4, 7, 15, 18, 19, 22

<u>Witness</u>	<u>Appearing For</u>	<u>Issue #</u>
G. Brinkworth	City	3, 5, 6, 7, 13, 14, 15, 16, 17, 18, 19 22
D. Byrne	City	1, 2, 3, 5, 13, 14, 15, 17, 19, 20, 22
R. McDonald	City	6, 8, 9, 10
R. Inzer	City	21
R. McGarrah	City	4, 9, 11, 12, 20, 22
D. Smith	Empower	All Issues
S. Bishop	Empower	5, 11, 12, 19, 20
* R. Wolfinger	Empower	18, 19

Rebuttal

G. Brinkworth	City	14, 15, 18, 19, 22
R. McGarrah	City	11, 12, 19
H. Frediani	City	11, 12
K. Wailes	City	15, 18, 19, 22

V. BASIC POSITIONS

CITY: The City is seeking a determination of need for Purdom Unit 8, a 250 MW gas-fired combined cycle unit with an in-service date of May 15, 2000. The unit will be located at the City's existing generating station in St. Marks, Florida. Purdom Unit 8 will be built under a fixed price engineering, procurement and construction (EPC) contract with Raytheon, one of the largest EPC contractors in the world. The contract with Raytheon provides performance and schedule guarantees backed by substantial liquidated damages provisions.

The Purdom Unit 8 project is the most cost-effective option to meet the City's generating needs. Under base case planning assumptions, compared to the lowest-cost qualified proposal submitted to the City in response to its RFP, the Purdom Unit 8 project saves approximately \$91 million (1996\$) in cumulative present worth of

revenue requirements (PWRR) over the 20-year period 1995-2014.

Purdom Unit 8 is the lowest cost option for meeting the City's reliability need for additional generating capacity in the year 2000 upon the termination of an existing 75 MW purchase power contract with Southern Company. Because the unit is highly efficient, with a guaranteed heat rate of 7,040 Btu/kWh, it will displace other higher cost generation on the City's system and will result in an 11% reduction in the system average energy cost during the unit's first full year of commercial operation.

In its search for the most cost-effective alternative, the City conducted a comprehensive RFP process combined with a rigorous evaluation of City-owned alternatives. That process was fairly conducted, and led to the selection of the best resource for meeting the City's needs.

Purdom Unit 8 will enable the City to continue to meet its reliability criterion of a 17% reserve margin. By siting Purdom Unit 8 at a location where it can be directly connected to the City's transmission grid, the availability of tie-line capacity to support the system during an unplanned outage of one of the City's units is enhanced.

Purdom Unit 8 will contribute to the reliability and integrity of the City's system, and will ensure that the City has an adequate supply of power to serve its customers' needs at a reasonable cost.

The City continues to promote demand-side management programs which are cost-effective based on the results of its integrated resource planning process. Although demand-side resources contribute to the least cost plan approved by the City Commission, there is not the potential for sufficient conservation on the City's system to avoid the need for Purdom Unit 8.

Any delay in licensing the unit would require the City to implement more expensive alternatives to maintain adequate reliability, and would impose increased costs on the City's ratepayers.

**ENPOWER:** This proceeding addresses the question of whether the City of Tallahassee's proposed project is needed. This determination includes the assessment of the electric system reliability and integrity, the need for adequate electricity at a reasonable cost, whether the proposed plant is the most cost-effective alternative available and other matters within the jurisdiction of the commission. Enpower Inc.'s position on these issues is specified subsequently in this prehearing statement.

**LS POWER:** The bidding and evaluation process used by the City was fundamentally flawed and consequently the City cannot demonstrate that its project satisfies the criteria for approval by the PSC. For example, the bid evaluation process discriminated against non-utility generation alternatives by inconsistently treating such areas as risk, capital costs, financing costs, fuel costs, transmission system reliability and other proposal evaluation considerations when compared with the City's self-build proposals. Also there was also inconsistent treatment between the non-utility generation alternatives and the City's self-build proposals regarding the ability to revise and improve proposals throughout the evaluation process. Thus, the City will not be able to demonstrate that its proposed combined cycle unit is the most cost-effective alternative available.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

## VI. ISSUES AND POSITIONS

**ISSUE 1:** Are the reliability criteria used by the City of Tallahassee to determine its need for a 250 MW natural gas-fired combined cycle unit reasonable?

### POSITIONS

**CITY:** Yes. The City's use of a 17% capacity reserve margin is reasonable and appropriate for planning purposes. This level of reserves is necessary to maintain a loss of load probability (LOLP) of approximately 0.1 days/year.  
[Byrne]

**ENPOWER:** No. There is no relationship between the expiration of a 75 MW power purchase contract and the addition of a 250 MW new power plant. The excessive impact on reserve margin and other reliability criteria is imprudent at best.

**LS POWER:** No position at this time.

**STAFF:** Yes.

**ISSUE 2:** Is the load forecast used by the City of Tallahassee to determine its need for a 250 MW unit reasonable?

**POSITIONS**

**CITY:** Yes. The City's load forecast, however, is not a primary driver of the need for Purdom Unit 8. [Byrne]

**ENPOWER:** No position at this time.

**LS POWER:** No position.

**STAFF:** No position at this time pending development of the record.

**ISSUE 3:** Does the City of Tallahassee have a reliability need for 250 MW of additional capacity in 2000?

**POSITIONS**

**CITY:** No. The City has a reliability need for at least 88 MW of additional capacity in the year 2000, in large part to replace 75 MW of power purchased from Southern Company under a contract which terminates in May, 2000. This reliability needs to grow to at least 187 MW by the year 2005, due primarily to the expiration of an additional 25 MW purchased power contract in 2005, and continued load growth. Nevertheless, the City has an economic need for the entire 250 MW in 2000, since the additional capacity enables the City to retire less efficient generating units and significantly reduce its system average energy costs.

**ENPOWER:** No. The City has adequate resources to meet its needs into the foreseeable future.



**LS POWER:** No position.

**STAFF:** No. Table 3-5 of the Need Study indicates that the City needs 88 MW of additional capacity in the year 2000.

**ISSUE 4:** Is the timing of the City of Tallahassee's petition to determine the need for its proposed combined cycle unit appropriate?

**POSITIONS**

**CITY:** Yes. The need determination petition is the first step in the site certification process. That process must be finished by mid-1998 in order to ensure that the unit can meet its scheduled in-service date. [McGarrah, Wailes]

**ENPOWER:** No. The City has less costly generating and non-generating alternatives and does not need this unit at this time.

**LS POWER:** No position at this time.

**STAFF:** Yes.

**ISSUE 5:** Will the City of Tallahassee's proposed combined cycle unit contribute to the electric system reliability and integrity of the City of Tallahassee and Peninsular Florida?

**POSITIONS**

**CITY:** Yes. Without additional capacity in the year 2000, the City will not be able to meet its reliability target of a 17% reserve margin. The addition of this capacity is consistent with the needs of Peninsular Florida, and contributes to maintaining a minimum 15% reserve margin for the Peninsula. [Byrne, Brinkworth]

**ENPOWER:** No. The reliability and integrity of these electric systems would be more enhanced by less costly generating and non-generating alternatives.

**LS POWER:** No position at this time.

**STAFF:** Yes. The additional capacity from Purdom Unit 8 will enable the City to meet its 17% reserve margin reliability criterion, and will contribute to maintaining a minimum 15% reserve margin for Peninsular Florida.

**ISSUE 6:** Will the City of Tallahassee's proposed combined cycle unit contribute to fuel diversity for the City of Tallahassee's system, as well as for Peninsular Florida?

**POSITIONS**

**CITY:** The unit will not contribute to fuel diversity for the City, which uses primarily gas-fired generation. The unit is nevertheless the most cost effective alternative available for meeting the City's need for additional capacity. Given its size in relation to overall generation in Peninsular Florida, the proposed unit will have little impact on Peninsular Florida fuel diversity. [McDonald, Brinkworth]

**ENPOWER:** No position at this time.

**LS POWER:** No position.

**STAFF:** No. The proposed natural gas fired combined cycle unit will not contribute to fuel diversity for the City of Tallahassee because the bulk of the City's generation is natural gas fired. Because the capacity of the proposed combined cycle unit is small relative to the generating capacity of Peninsular Florida, the proposed unit will not materially affect fuel diversity for Peninsular Florida.

**ISSUE 7:** Are there any adverse consequences to the City of Tallahassee's customers if the proposed combined cycle unit is not completed in the time frame requested by the City of Tallahassee?

**POSITIONS**

**CITY:** Yes. If the proposed unit is not in-service by 2000, the City would be required to obtain more costly replacement power in order to continue to provide reliable service. The City has calculated that each month's delay in the in-service date of the project will cost the City's customers about \$947,000. [Wailes, Brinkworth]

**ENPOWER:** No, because there exists more cost-effective purchased power alternatives and there will be significant long term adverse consequences to the City of Tallahassee's customers if the City bid is completed at any time.

**LS POWER:** There may be adverse consequences if the proposed combined cycle unit is not completed in the time frame requested by the City, however, there may be even greater adverse consequences if the proposed combined cycle unit is completed in the time frame requested by the City since the City's project may not be the least cost means to satisfy the City's needs. A competing project to the unit proposed by the City may provide greater benefits to the City and so not delaying completion of the unit proposed by the City could have the greatest adverse consequences to the City.

**STAFF:** Unless the City otherwise purchases capacity, there will be adverse consequences if additional capacity is not added to the City's system by the year 2000 because the City's reliability criterion will be violated. It has yet to be determined if there are adverse consequences to delaying or phasing in the construction of Purdom Unit 8.

**ISSUE 8:** Is the fuel price forecast used by the City of Tallahassee reasonable?

**POSITIONS**

**CITY:** Yes. The City's natural gas price forecast is based on a combination of existing long term contracts and firm gas prices bid in response to a request for bids and is therefore more reliable than a traditional fuel forecast. The City's oil and coal price forecasts were prepared for the City by a nationally recognized fuel price forecaster. [McDonald]

**ENPOWER:** No, because the City's fuel forecasts has been altered significantly and has never been consistently applied to all of the bidders.

**LS POWER:** No, because this forecast was not consistently applied throughout the bid evaluation process to all of the bidders.

**STAFF:** No.

**ISSUE 9:** Has the City of Tallahassee provided adequate assurances regarding available primary and secondary fuel to serve the proposed facility on a long and short term basis at a reasonable cost?

**POSITIONS**

**CITY:** Yes. The City has received bids to provide the total amount of gas required for the new unit at a reasonable price. Additionally, more than adequate storage capacity exists at the Purdom site and system-wide, or is locally available, to assure sufficient quantities of low sulfur diesel fuel (#2) for back-up purposes. [McDonald, McGarrah]

**ENPOWER:** No. The City has stated that none of the fuel offers used in the self-build proposal will result in firm fuel purchases. Moreover, these offers have all expired and have been replaced with offers which either have, or will, expire before the City executes firm fuel purchases.

The City has stated that no firm purchases will be made until 1998 and there will be no development and design of the required natural gas pipeline laterals until 1998.

**LS POWER:** No position at this time.

**STAFF:** No position at this time pending further development of the record.

**ISSUE 10:** Has the City of Tallahassee provided appropriate assurances that sufficient natural gas pipeline capacity will be available to transport natural gas to the proposed combined cycle unit?

**POSITIONS**

**CITY:** Yes. The City has long-term firm transportation service contracts with Florida Gas Transmission Company which provide sufficient gas transportation capacity for the City's entire system, including the new unit, on most days. In addition, the City has a number of other options for less firm but quite reliable pipeline transportation resources. [McDonald]

**ENPOWER:** No. The City has stated that the required new gas pipelines will remain under discussion until 1998. The cost of the new 12 inch St. Marks lateral was omitted from the City's original bid. All of the external bidders were required to include the full cost of all fuel delivery systems in their bids.

In addition to the new gas pipeline costs, the City has stated that the self-build bid "inadvertently omitted...fuel pipeline charges". These cost omissions have added nearly \$20 million to the self-build original bid.

**LS POWER:** No position at this time.

**STAFF:** Yes. It appears that the City of Tallahassee has sufficient natural gas pipeline capacity available to transport natural gas to the proposed combined cycle unit.

**ISSUE 11:** Did the City of Tallahassee reasonably consider the costs of environmental compliance when it evaluated its future generation needs?

**POSITIONS**

**CITY:** Yes. The fixed price contract for engineering, procurement and construction of the new unit includes the reasonably anticipated costs of environmental compliance, including costs of compliance related to hurricane and flood protection. [McGarrah, Frediani]

**ENPOWER:** No. It will be prohibitively expensive to "hurricane-proof" the St. Marks project.

In addition, the clean-up cost associated with both past and current environmental damage to the St. Marks power plant site have yet to be properly assessed.

**LS POWER:** No position at this time.

**STAFF:** For the self-build option, the City of Tallahassee considered the cost of environmental compliance when it evaluated its future generation needs. For bidders, the City of Tallahassee accepted statements by RFP respondents that the bid project would meet all existing environmental compliance requirements.

**ISSUE 12:** Has the City of Tallahassee provided sufficient information on the site, design and engineering characteristics of its proposed combined cycle unit to evaluate its proposal?

**POSITIONS**

**CITY:** Yes. The City's Purdom Unit 8 Need Study, prefiled testimony, and discovery responses provide ample information to evaluate all aspects of its proposal. [McGarrah, Frediani]

**ENPOWER:** No. The City switched from Westinghouse combined cycle units to General Electric units after the self-build was selected. It remains to be seen whether the output and performance criteria of the General Electric machines and design criteria are equal to or better than the output and performance criteria used in the bid evaluation process.

Also, the original Raython project description omitted the zero-discharge water treatment system, as well as any breakdown of the original EPC costs. It remains to be seen whether the original design included the water treatment system and other critical structures.

**LS POWER:** No position at this time.

**STAFF:** Yes.

**ISSUE 13:** Has the City of Tallahassee adequately explored alternative generating technologies?

**POSITIONS**

**CITY:** Yes. The City examined a broad range of potential generating technologies in order to identify those alternatives which were the most likely contenders for successful implementation on the City's system. The most promising alternatives were carried forward for evaluation in the IRP process. [Brinkworth, Byrne]

**ENPOWER:** No. The City has not adequately explored alternative generating technologies.

**LS POWER:** No position.

**STAFF:** Yes.

**ISSUE 14:** Has the City of Tallahassee adequately explored and evaluated the availability of purchased power from other electric utilities?

**POSITIONS**

**CITY:** Yes. Although no respondent to the City's request for proposals provided an alternative consisting only of purchased power, the City examined the economics of a number of purchased power options representative of what could be reasonably available in the market in the period beginning in the year 2000. [Brinkworth, Byrne]

**ENPOWER:** No. The City refused to consider cost-effective purchased power options in the evaluation process.

Most of the firms which attended the pre-bid conference were interested in providing purchased power to the City.

**LS POWER:** No. The City refused to consider cost-effective purchased power options in the evaluation process.

Most of the firms which attended the pre-bid conference were interested in providing purchased power to the City.

**STAFF:** No. The City explored simulated power purchases from two Florida utilities. The City explains that transmission constraints limit its ability to purchase firm power from outside its service territory. Also, with the self-build option, the City has better control of costs when purchased power contracts would expire.

**ISSUE 15:** Has the City of Tallahassee adequately explored and evaluated the availability of non-utility generation, including firm capacity purchases and self-service generation?

**POSITIONS**

**CITY:** Yes. The City issued a request for capacity and energy which was designed to obtain competitive proposals for all types of generating resources, including new

generating units, non-utility generation, and/or power purchase agreements. [Wailes, Brinkworth, Byrne]

**ENPOWER:** Enpower adopts LS Power's position on this issue.

**LS POWER:** No, because the bid evaluation process discriminated against non-utility generation alternatives by inconsistently treating such areas as risk, capital costs, financing costs, fuel costs, transmission system reliability and other proposal evaluation considerations when compared with the City's self-build proposals. There was also inconsistent treatment between the non-utility generation alternatives and the City's self-build proposals regarding the ability to revise and improve proposals throughout the evaluation process.

**STAFF:** No. The City's RFP allowed non-utility generators to participate, but the City explains that transmission constraints limit its ability to purchase firm power from outside its service territory. Also, with the self-build option, the City has better control of costs when purchased power contracts would expire.

**ISSUE 16:** Are there any conservation measures taken by or reasonably available to the City of Tallahassee which might mitigate the need for the proposed combined cycle unit?

**POSITIONS**

**CITY:** No. The City's integrated resource planning process has resulted in a demand side management plan which adds approximately 2 MW per year of demand side resources over the period 1997 to 2006. There are no cost-effective conservation measures reasonably available to the City which would eliminate or defer the need for Purdom Unit 8 beyond the year 2000. [Brinkworth]

**ENPOWER:** No position at this time.

**LS POWER:** No position.

**STAFF:** No.



**ISSUE 17:** Will the City of Tallahassee's proposed combined cycle unit contribute to the provision of adequate electricity to the City and Peninsular Florida at a reasonable cost?

**POSITIONS**

**CITY:** Yes. The proposed combined cycle unit will reduce the City's average system energy cost by about 11% in its first full year of commercial operation. Given the City's location on the electric grid, this unit will have little impact on Peninsular Florida as a whole. [Brinkworth, Byrne]

**ENPOWER:** No. The City has not shown that the cost of its proposed unit is even reasonably most cost-effective.

Due to flaws in the evaluation process, the cost of the City's proposed project has not been adequately tested and compared to other alternatives such as the other bid proposals and the myriad purchase power alternatives.

**LS POWER:** No because of the flaws in the evaluation process the cost of the City's proposed combined cycle unit are not reasonable when compared to the alternative projects proposed by other bidders.

**STAFF:** Yes.

**ISSUE 18:** Is the City of Tallahassee's Request for Proposals (RFP) requirement that all respondents supply firm capacity for an 11-year minimum period appropriate?

**POSITIONS**

**CITY:** Yes. This period was selected to ensure that any resource (or combination of resources) proposed would meet the City's need until the date that its planning studies indicated a need for a further resource addition. [Brinkworth, Wailes]

**ENPOWER:** No. This requirement foreclosed short and medium power purchase opportunities that could provide the greatest value to the City.

The 11-year minimum term was only one of many very onerous bid requirements, which taken together resulted in an unusually poor RFP response. The City received

only 3 conforming responses to the RFP, two of which withdrew their proposals in protest after being selected by the City to the RFP short-list.

**LS POWER:** No, because this requirement foreclosed shorter term power purchase opportunities that could provide the greatest value to the City considering all alternatives.

**STAFF:** No. This requirement resulted in the exclusion of short-term power purchase opportunities that may have deferred the in-service date of Purdom 8. However, with a self-build option, the City has better control of costs when purchased power contracts would expire.

**ISSUE 19:** Has the City of Tallahassee demonstrated that its proposed combined cycle unit is the most cost-effective alternative available?

**POSITIONS**

**CITY:** Yes. The proposed combined cycle unit is the most cost-effective alternative to the City of Tallahassee. Under base case planning assumptions, the expansion plan including Purdom Unit 8 has a 20-year PWRR that is \$91 million less than that of the next best proposal received in the City's RFP process. [Wailes, Brinkworth, Byrne, McGarrah]

**ENPOWER:** No. The City has not demonstrated that its proposed power plant is the most cost-effective.

The City cannot demonstrate that its project is the most cost effective because the City has not evaluated many alternatives which are more cost effective. These alternatives include power purchase options and the external bids received in response to the RFP.

**LS POWER:** No, because the bid evaluation process was flawed as explained in response to Issue 15.

**STAFF:** Yes. Among the self-build and bid options, the proposed combined cycle unit appears to be the most cost-effective alternative.

**ISSUE 20:** What associated facilities and transmission improvements are required in conjunction with the City of Tallahassee's proposed combined cycle unit addition, and were their costs adequately considered?

**POSITIONS**

**CITY:** One linear facility is required in conjunction with the project: a treated sewage effluent line from the City of St. Marks sewage treatment plant to the Purdom facility, associated with the zero-discharge water treatment system. The City will, however, be required to reconnector two existing transmission lines in order to integrate the unit into the City's electric system. Depending on final design details, a natural gas line upgrade may also be required. [Byrne, McGarrah]

**ENPOWER:** The City has admitted both new power lines and the new gas lines will be required associated facilities for the proposed project and that the full costs for these facilities were omitted from the original City bid.

**LS POWER:** No position at this time.

**STAFF:** The proposed combined cycle unit will require the addition of a treated sewage effluent line associated with the zero-discharge water treatment system; the reconnectoring of two existing transmission lines; and, a possible upgrade to a natural gas line. The costs of these associated facilities and transmission improvements appear to have been adequately considered.

**ISSUE 21:** Are the economic and financial assumptions used by the City of Tallahassee in its integrated resource planning studies reasonable?

**POSITIONS**

**CITY:** Yes. [Inzer]

**ENPOWER:** No, the City's economic and financial assumptions are not reasonable.

**LS POWER:** No position at this time.

**STAFF:** Yes, pending further development of the record.

**ISSUE 22:** Based on the resolution of the previous factual and legal issues, should the City of Tallahassee's petition for determination of need for a 250 MW natural gas-fired combined cycle unit be granted?

**POSITIONS**

**CITY:** Yes. [Wailes, Brinkworth, Byrne, McGarrah]

**ENPOWER:** No.

**LS POWER:** No, because the bid evaluation process was flawed and therefore the City cannot demonstrate that it satisfies the criteria for such approval to be granted.

**STAFF:** No position at this time pending resolution of the preceding issues.

**ISSUE 23:** Should this docket be closed?

**POSITIONS**

**CITY:** Yes.

**ENPOWER:** No position.

**LS POWER:** No position.

**STAFF:** Yes.

**LEGAL ISSUE:** Does the dismissal with prejudice of Enpower's Circuit Court action challenging the City's RFP process preclude Enpower from litigating before the Commission any issues relating to the adequacy of that RFP process?

**POSITIONS**

**CITY:** Yes.

**ENPOWER:** The dismissal entered by the Circuit Court fails to specify in any way what the Court's basis may have been. The decision therefore can have no effect upon the instant proceeding. The issues and remedies argued and sought in the Circuit Court case are very different than those pending in the PSC and in most respects the Circuit

Court remedies are beyond the jurisdiction of the PSC.  
Therefore no basis for res judicata can exist.

**LS POWER:** No position.

**STAFF:** No position at this time.

VII. EXHIBIT LIST

- \* The witness whose name is preceded by an asterisk (\*) has been excused. All exhibits submitted with the witness' testimony shall be admitted into the record.

NOTE: At the hearing, the City will provide copies of the proof of publication of notice which will be identified as Exhibit No. 1. In addition, the City will provide revised copies of Exhibits (DKB - 1) and (RLM - 1) at the hearing.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct:</u>			
Wailes	City	_____ ( )	Portion of Need Study Section 1 (Executive Summary)
Brinkworth	City	_____ ( )	Portion of Need Study Section 2 (overview) Section 5 (Demand Side Analysis) Section 10 (Other Considerations) Section 11 (Consequences of Delay) Appendix 1
		_____ (GSB - 1)	Resource Planning Chronology
		_____ (GSB - 2)	DSM Impacts on Load vs. Capacity
		_____ (GSB - 3)	Peninsular Florida Reserve Margins

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Byrne	City	( )	Portion of Need Study Section 3 (Planning & Procurement Methodology) Section 4 (Load Forecast) Section 8 (Reliability Criteria) Section 9.7 (Transmission) Appendix 2 Appendix 4
		(DKB - 1)	Existing Generating Facilities
		(DKB - 2)	Phase I Screening Results
		(DKB - 3)	Phase II (Busbar) Screening Results
		(DKB - 4)	Phase III Base Case Economic Analysis
		(DKB - 5)	Base Case Resource Plan
		(DKB - 6)	Self Build Sensitivities
		(DKB - 7)	Comparison of Bidder E Proposed Options to Purdum Unit 8
McDonald	City	(DKB - 8)	Comparison of PWRR for purchased power alternatives
		( )	Portion of Need Study Section 6 (Fuels) Appendix 3
		(RLM - 1)	Natural Gas Supply Offer Prices
		(RLM - 2)	Comparison of Original and Revised Bid Prices

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		(RLM - 3)	Comparison of existing contracts and City's Base forecast
		(RLM - 4)	Comparison of delivered Fuel Base Prices
Inzer	City	( )	Portion of Need Study Section 7 (Economic/Financial Assumptions)
McGarrah	City	( )	Portion of Need Study Section 9 (Unit Specific Information)
		(REM - 1)	General Vicinity Map
		(REM - 2)	Combined Cycle Plot Plan
		(REM - 3)	Combined Cycle Power Plant
		(REM - 4)	Liquidated Damages in Construction Contract
		(REM - 5)	Purdom Unit 8 Licensing Schedule
Smith	Enpower	(DLS - 1)	Exhibit 1
		(DLS - 2)	Exhibit 2
		(DLS - 3)	Exhibit 3
		(DLS - 4)	Exhibit 4
		(DLS - 5)	Exhibit 5
		(DLS - 6)	Exhibit 6
		(DLS - 7)	Exhibit 7

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		(DLS - 8)	Exhibit 8
		(DLS - 9)	Exhibit 9
		(DLS - 10)	Exhibit 10
		(DLS - 11)	Exhibit 11
		(DLS - 12)	Exhibit 12
		(DLS - 13)	Exhibit 13
		(DLS - 14)	Exhibit 14
		(DLS - 15)	Exhibit 15
Bishop	Empower	(SB - A)	Recommendation relating to Hurricane and Emergency Management Considerations for Development/Upgrade of Purdom Power Plant on the St. Marks River
		(SB - B)	Resume of Sara (Sally) Bishop
		(SB - C)	Resume of Guy E. Daines
* Wolfinger	Empower	(RLW - A)	Letter dated February 14, 1997 to David L. Smith
<u>Rebuttal:</u>			
Brinkworth	City	(GSB - 4)	Review of March 27 Constellation Offer
		(GSB - 5)	Chronology of Constellation and Empower Correspondence



<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(GSB - 6)</u>	Analysis of Constellation vs. City Fuel Pricing
McGarrah	City	<u>(REM - 6)</u>	Letter from Raytheon regarding scope of EPC contract
		<u>(REM - 7)</u>	Financing Detail for Purdom Unit 8
		<u>(REM - 8)</u>	Letter from Mid-Atlantic Tank Inspection Service regarding tank wind load evaluation
Frediani	City	<u>(HF - 1)</u>	Resume
		<u>(HF - 2)</u>	Flood Insurance Study (FEMA)
		<u>(HF - 3)</u>	Flood Insurance Rate Map
		<u>(HF - 4)</u>	St. Marks Flood Zone Map
		<u>(HF - 5)</u>	Storm Probability of Recurrence (FEMA)
		<u>(HF - 6)</u>	Storm Probability of Recurrence (with SLOSH data points)
		<u>(HF - 7)</u>	Storm Probability of Recurrence (data table)
		<u>(HF - 8)</u>	Power Plant Experiences of Harold A. Frediani

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

IX. PENDING MOTIONS

The City's motion to compel discovery from Enpower, Inc. was ruled on as shown in Section X of this Prehearing Order.

LS Power has withdrawn its Motion for Expedited Response to Request for Production of Documents to the City of Tallahassee.

X. RULINGS

Having reviewed the City's Motion to Compel Enpower's responses to the City's First Set of Interrogatories and First Request for Production of Documents, Enpower's response, and argument of counsel, it is found that the motion to compel is granted as to Interrogatory Nos. 5, 9-12, 17, 47, 48, 55, 57, and 61-63; and Production of Documents Nos. 1, 5-8, 30-34, 36, 41-41, 42, and 49.

It is found that each discovery request is relevant to the subject proceeding, and is reasonably calculated to lead to the discovery of admissible evidence. Enpower also objected to Interrogatory Nos. 9 and 11 on the grounds that these requests were vague in that Enpower was uncertain as to the meaning of the terms "successful power generation projects," "unsuccessful power generation projects," and "involved." Enpower shall rely upon the definition of these terms that the City provided in its motion to compel. The City does not seek to compel a response to Interrogatory No. 58 and Production of Documents Nos. 47 and 48.

XI. OTHER MATTERS


Parties shall be permitted to make opening statements, not to exceed 5 minutes in length, at the hearing.

It is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

ORDER NO. PSC-97-0365-PHO-EM  
DOCKET NO. 961512-EM  
PAGE 27

By ORDER of Commissioner Susan F. Clark, as Prehearing  
Officer, this 2nd day of April, 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.