

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for determination of need for an electrical power plant in Volusia County by the Utilities Commission, City of New Smyrna Beach, Florida, and Duke Energy New Smyrna Beach Power Company, Ltd., L.L.P.

DOCKET NO. 981042-EM
ORDER NO. PSC-98-1221-PCO-EM
ISSUED: September 16, 1998

SECOND PROCEDURAL ORDER

Pursuant to Section 403.519, Florida Statutes, the Utilities Commission, City of New Smyrna Beach, Florida, and Duke Energy New Smyrna Beach Power Company, Ltd., L.L.P., have petitioned the Commission to determine the need for a proposed electrical power plant. Accordingly, this matter is currently set for an administrative hearing.

This Second Procedural Order amends the Order Establishing Procedure issued September 4, 1998, in Order No. PSC-98-1183-PCO-EM. The revised controlling dates were agreed to during the Issue Identification meeting held on September 10, 1998. The changes in the schedule from the Order Establishing Procedure appear in bold type below. Order No. PSC-98-1183-PCO-EM is affirmed in all other respects.

Controlling Dates

The following dates have been established to govern the key activities of this case. **The dates for the list of issues, the second issue identification conference, filing direct testimony, filing intervenor's testimony, staff's testimony, rebuttal testimony, and pre-hearing statements have all changed. The new dates appear in bold type below.**

- | | |
|---|---------------------------|
| 1) Issues due | September 16, 1998 |
| 2) Continued issue identification meeting | September 18, 1998 |
| 3) Petitioner's direct testimony and exhibits | September 28, 1998 |

DOCUMENT NUMBER-DATE

10139 SEP 16 1998

FPSC-RECORDS/REPORTING

- | | |
|---|--------------------|
| 4) Intervenor's direct testimony
and exhibits | October 12, 1998 |
| 5) Staff's direct testimony
and exhibits, if any | October 19, 1998 |
| 6) Rebuttal testimony
and exhibits | October 28, 1998 |
| 7) Prehearing Statements | November 2, 1998 |
| 8) Prehearing Conference | November 5, 1998 |
| 9) Hearing | December 2-4, 1998 |
| 10) Briefs | December 21, 1998 |

Based upon the foregoing, it is

ORDERED by Commissioner Joe Garcia, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 16th day of September, 1998.

Kathleen Stewart, for

JOE GARCIA
Commissioner and Prehearing Officer

(S E A L)

GAJ

000389

ORDER NO. PSC-98-1221-PCO-EM
DOCKET NO. 981042-EM
PAGE 3

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 25-22.038(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 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.

000390