

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for
determination of need for an
electrical power plant in Lake
County by Panda Leesburg Power
Partners, L.P.

DOCKET NO. 000288-EU

In re: Petition for
determination of need for an
electrical power plant in St.
Lucie County by Panda Midway
Power Partners, L.P.

DOCKET NO. 000289-EU
ORDER NO. PSC-00-0907-PCO-EU
ISSUED: May 8, 2000

ORDER MODIFYING ORDER ESTABLISHING PROCEDURE

On March 6, 2000, Panda Leesburg Power Partners, L.P. (Panda Leesburg) and Panda Midway Power Partners, L.P. (Panda Midway) filed petitions to determine the need for electrical power plants in Lake County and St. Lucie County, respectively. Panda Leesburg and Panda Midway both proposed to construct separate 1000-MW natural gas-fired, combined cycle merchant power plants to commence commercial operation by May, 2003. The petition filed by Panda Leesburg was assigned Docket No. 000288-EG, and the petition filed by Panda Midway was assigned Docket No. 000289-EG. By Order No. PSC-00-0685-PCO-EU (Order Establishing Procedure), issued April 12, 2000, these dockets were consolidated and the procedures established. A hearing for the consolidated dockets is currently scheduled for July 12-14, 2000.

On April 20, 2000, the Florida Supreme Court issued its decision in the consolidated appeals of Order No. PSC-99-0535-FOF-EM, issued March 22, 1999 in Docket No. 981042-EM. See Tampa Electric Co.; Florida Power Corp.; and Florida Power & Light Co., v. Garcia, et al., as the Florida Public Service Commission; Utilities Commission, City of New Smyrna Beach; and Duke Energy New Smyrna Beach Power Co., Ltd., L.L.P., Case Nos. SC95444, SC95445, SC95446 (Duke-New Smyrna). The Court reversed Order No. PSC-99-0535-FOF-EM, wherein we granted a need determination "for an electric power company's proposal to build and operate a merchant plant in Volusia County." Duke-New Smyrna at 2. The Court indicated that "[a] determination of need is presently available only to an applicant that has demonstrated that a utility or

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utilities serving retail customers has specific committed need for all of the electrical power to be generated at a proposed plant." Id. at 13.

The Duke-New Smyrna Order will not become final until a decision is made on any motions for rehearing. It appearing likely that the pending merchant plant need determination dockets may be affected by the Duke-New Smyrna decision and that at least one motion for rehearing will be filed, our staff, on May 4, 2000, filed a recommendation to place all pending need determination dockets, including the instant dockets, in abeyance until a final decision is reached in Duke-New Smyrna. Our staff reasoned that, given the Duke-New Smyrna Order, it appears that allowing the events in merchant plant need determination dockets to continue as scheduled could result in the unnecessary expenditure of the parties' and the Commission's time and resources. The recommendation will be considered by the full Commission at the May 16, 2000, Agenda Conference.

Presently, there are no other parties than the petitioners to the instant dockets. However, on March 27, 2000, Florida Power Corporation (FPC) and Florida Power & Light Company (FPL) petitioned for leave to intervene in both Dockets Nos. 000288-EG and 000289-EG. Pursuant to the Order Establishing Procedure, intervenor direct testimony is to be filed by May 8, 2000, prior to the time the Commission makes its decision on our staff's pending recommendation to hold all pending merchant plant need determination dockets in abeyance.

In light of the foregoing, it appears reasonable to modify the Order Establishing Procedure to suspend the time for filing intervenor testimony pending the outcome of the Commission's decision on May 16, 2000.

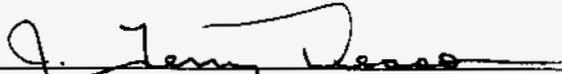
Based upon the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Order No. PSC-00-0685-PCO-EU is hereby modified as set forth within the body of this Order. It is further

ORDERED that Order No. PSC-00-0685-PCO-EU is reaffirmed in all other respects.

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By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 8th day of May, 2000.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

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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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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

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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.