

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for  
determination of need for Hines  
Unit 2 Power Plant by Florida  
Power Corporation.

DOCKET NO. 001064-EI  
ORDER NO. PSC-00-1985-PCO-EI  
ISSUED: October 25, 2000

ORDER DENYING FLORIDA POWER CORPORATION'S  
EMERGENCY MOTION FOR PROTECTIVE ORDER

On October 24, 2000, Florida Power Corporation (FPC) filed its Emergency Motion For Protective Order (Emergency Motion), and requested a ruling by the Prehearing Officer prior to 2:00 p.m. on October 24, 2000. FPC sought emergency protection from a deposition of an FPC witness scheduled by Panda Energy International, Inc. (Panda), an intervenor, for 3:00 p.m. on October 24, 2000.

By Order No. PSC-00-1980-CFO-EI, issued October 24, 2000, the Prehearing Officer granted intervention to Panda and extended discovery for the limited purpose of taking depositions by three and a half working days to noon on October 25, 2000. In its Emergency Motion, FPC sought to prevent any of the extended discovery and to prohibit the deposition scheduled by Panda. FPC argued that intervention was improperly granted; that an intervenor takes the case as it finds it; and that the grant of discovery was unfair and imposed an undue hardship.

The Order Granting Intervention to Panda allowed Panda additional time to conduct limited discovery by deposition. This grant was made within the authority of Rule 28-106.211, Florida Administrative Code, which allows the presiding officer the discretion to issue any orders necessary to promote the just and speedy determination of all aspects of the case. The purpose of this limited grant of discovery was to provide maximum efficiency for the parties and the Commission in the conduct of the hearing. By allowing Panda to conduct the deposition, it was anticipated that Panda's cross-examination at the hearing would thereby be more productive and less time consuming.

Moreover, I disagree with FPC's argument that the ruling violates Rule 25-22.039, Florida Administrative Code, which

DOCUMENT NUMBER-DATE

13660 OCT 25 2000

744

FPC-RECORDS/REPORTING

ORDER NO. PSC-00-1985-PCO-EI  
DOCKET NO. 001064-EI  
PAGE 2

provides that the intervenor takes the case as it finds it, because the deposition is limited discovery designed to assist all of the parties and the Commission in the hearing. It does not restructure the case. No additional issues are being added, nor is new testimony being filed.

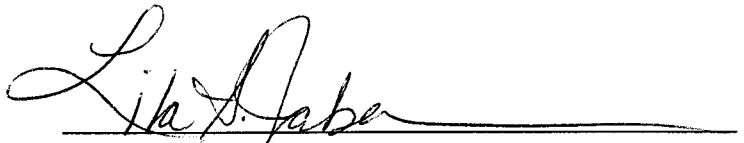
Further, FPC is not prejudiced by the grant of limited discovery. The Motion for Intervention was pending when FPC witness Crisp was deposed by Staff on October 19, 2000. Panda's counsel was present at that deposition, although she could not and did not participate. Intervention was granted on October 20, 2000, and FPC was on notice that Panda had been granted intervenor status and would be allowed limited discovery on that date although the order was not issued until October 24, 2000. In addition, FPC does not allege that its counsel is unable to attend the scheduled deposition.

For the foregoing reasons, I deny Florida Power Corporation's Emergency Motion for Protective Order.

Therefore, based on the foregoing,

It is ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer that Florida Power corporation's Emergency Motion for Protective Order is hereby denied.

By ORDER of Commissioner Lila A. Jaber as Prehearing Officer, this 25th Day of October, 2000.

  
LILA A. JABER  
Commissioner and Prehearing Officer

( S E A L )

DDH

ORDER NO. PSC-00-1985-PCO-EI  
DOCKET NO. 001064-EI  
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.

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 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.