

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine
need for an electrical power
plant in Manatee County by
Florida Power & Light Company.

DOCKET NO. 020263-EI
ORDER NO. PSC-02-0539-PCO-EI
ISSUED: April 18, 2002

ORDER GRANTING PETITION TO INTERVENE

By Petition filed March 29, 2002, Reliant Energy Power Generation, Inc. (Reliant) requested permission to intervene in this proceeding.¹ Florida Power & Light Company (FPL) filed a response to Reliant's petition to intervene on April 5, 2002.

In its petition, Reliant claims that it is entitled to intervene in this proceeding, because it was a respondent to the Request for Proposals (RFP) that FPL issued in August of 2001, in which FPL solicited alternative proposals to supply its projected generating capacity needs in 2005 and 2006. FPL issued the RFP to comply with Commission Rule 25-22.082 (2), Florida Administrative Code, which requires all electric utilities to issue an RFP before submitting a petition for a Determination of Need to the Commission. Reliant alleges that FPL rejected all proposals submitted in response to its RFP, and ultimately filed a petition to determine the need for its own proposal to build an additional power plant itself in Martin County. Reliant challenges the validity of FPL's RFP process and alleges that FPL failed to comply

¹ FPL has filed a companion case to this case; Docket No. 020262-EI, *In Re: Petition for Determination of Need for Proposed Electrical Power Plant in Martin County by Florida Power and Light Company*, filed March 22, 2002. Reliant has filed a Petition to Intervene in that docket as well. Reliant has also filed a separate complaint against FPL alleging irregularities in its August, 2002 RFP process. Docket No. 020175-EI, *In Re: Complaint of Reliant Energy Power Generation, Inc. against Florida power & Light Company*. FPL has filed a motion to consolidate the need determination dockets, which is pending at this time, and FPL has filed a Motion to Dismiss Reliant's complaint. The Commission is scheduled to make a decision on FPL's Motion to Dismiss Reliant's Complaint at its April 23, 2002, Agenda Conference.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

with the requirements of Rule 25-22.082. Reliant claims that its substantial interests will be affected by the Commission's decision in this need determination proceeding, and it is entitled to intervene to protect those interests and to challenge FPL's RFP process.

FPL responds that it does not object to Reliant's intervention in this need determination proceeding, but it does object to Reliant's efforts to raise the same issues in duplicative cases. FPL asserts that Reliant's complaint docket should be dismissed, and Reliant should be permitted to raise its issues only in the need determination.

As noted in footnote 1 above, the Commission will address FPL's Motion to Dismiss Reliant's Complaint -- and its contention that Reliant has raised the same issues in duplicative cases -- at its April 23, 2002, Agenda Conference. It is not necessary or appropriate to address that matter here. It is sufficient that Reliant has demonstrated two things: 1) Reliant has a substantial interest in the validity of FPL's RFP process that may be affected by the Commission's decision in this Need Determination docket; and, 2) that substantial interest is the kind of interest the Commission's need determination proceeding was designed to protect. For these reasons Reliant's Petition to Intervene is granted.

It is therefore

ORDERED by Commissioner J. Terry Deason as the Prehearing Officer that the Petition to Intervene filed by Reliant Energy Power Generation, Inc. is granted. It is further

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


Reliant Energy Power Generation, Inc.
P. O. Box 61867 (77208-1867)
1111 Louisiana Street, 43rd Fl.
Houston, TX 77002

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Joseph A. McGlothlin
McWhirter, Reeves, McGlothlin, Davidson,
Decker, Kaufman, Arnold & Steen, P.A.
117 South Gadsden Street
Tallahassee, FL 32303

Michael G. Briggs
Reliant Energy, Inc.
801 Pennsylvania Avenue, Suite 620
Washington, D.C. 20004

By ORDER of Commissioner J. Terry Deason as Prehearing
Officer, this 18th day of April, 2002.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

MCB

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.

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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 the Commission Clerk and Administrative Services, 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.