

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 020262-EI

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-02-0571-PCO-EI
ISSUED: April 26, 2002

INTERIM ORDER ON PROCEDURE

Certain recent developments in these need determination proceedings require adjustments to the present procedural schedule. On April 22, 2002, Florida Power & Light Company (FPL) filed an emergency motion to hold in abeyance the determination of need proceedings in these dockets while it issues a supplemental Request for Proposals (RFP) to address its generation capacity needs for 2005 and 2006. FPL stated that it has decided to issue the supplemental RFP to address technical and procedural concerns raised by the respondents to its initial RFP who have intervened in these dockets. FPL intends to reopen the RFP process to allow bidders to submit supplemental proposals on the specific generating units for which FPL has requested a determination of need. FPL's supplemental RFP will also modify certain terms and conditions of the initial RFP about which the intervenors have complained.

FPL asked that the procedural schedule for the dockets be suspended, and not reinstated until it amends its petition for determination of need at the conclusion of the supplemental RFP. FPL asserted that time is of the essence in this process, in order to meet a June, 2005, in-service date for the new generating capacity. FPL plans to issue its supplemental RFP on April 26, receive proposals May 24, announce a short list June 18, and negotiate until July 2. If FPL selects its own generation projects after the RFP, it suggested that the need determination proceedings should resume when it files supplemental testimony and exhibits describing the new RFP process, which it expects to do on or about July 16, 2002. FPL requested that the hearing on the Martin and Manatee proposals and the results of the supplemental RFP be rescheduled on or about September 13, 2002. FPL stated that if it selects a bidder's proposal in lieu of one or both of FPL's proposed Martin and Manatee units, however, it will file a new need

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determination petition in September. To facilitate the preparation of the case during the postponement, FPL stated that it will respond within 30 days to discovery requests outstanding as of April 19, 2002, and it will continue arrangements to provide access to the modeling software it used to evaluate the initial RFP responses.

Several intervenors responded to FPL's motion on April 24, 2002.¹ The respondents favor the issuance of a supplemental RFP and a postponement of the procedural schedule to accommodate the time needed to conduct the RFP. They asserted, however, that the Commission would have to approve a waiver of its Rule 25-22.080, Florida Administrative Code, which requires that a hearing in a need determination be held within 90 days of the filing of a need determination petition. They also asserted that FPL's proposal to hold a hearing on the case by September 13 would not provide them enough time to review FPL's new evidence on the supplemental RFP and prepare their case.

On Wednesday, April 24, 2002, the Commission staff and the parties to this case held an informal meeting to discuss these matters. At that meeting FPL represented that it would file an emergency petition to waive the time requirements of Rule 25-22.080.² FPL and the other parties to the dockets all indicated that they could adequately prepare for a hearing the first week in October, 2002.

Upon review of FPL's motion, the responses filed, and the representations of the parties, it is clear that all participants in these dockets agree that the proceedings should be postponed to provide FPL the time to conduct a supplemental RFP. A supplemental RFP may address the parties' concerns with the initial RFP, and that will facilitate the conduct of the rest of the case.

¹ Reliant Energy, Inc., Calpine Energy Services, L.P., Mirant Corporation, and CPV Cana, Ltd. responded to FPL's motion.

²FPL represented that it intends to file the emergency petition for waiver immediately, which would allow for a Commission decision on the waiver at its May 21, 2002, Agenda Conference.

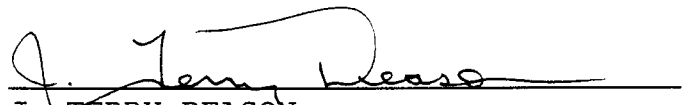
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Therefore, FPL's request to suspend the current procedural schedule is granted, and FPL may begin its supplemental RFP process. FPL shall respond within 30 days to all discovery outstanding as of April 19, 2002. The staff will develop a new procedural schedule for these dockets, in consultation with the parties, and in anticipation of a hearing to be held October 2-4, 2002. When FPL files its additional testimony and exhibits on the results of the new RFP, an Order Establishing procedure will be issued to reflect the new schedule. In the interim, all other outstanding motions and procedural issues that arise will be addressed in due course, but expeditiously.

It is therefore,

ORDERED BY Commissioner J. Terry Deason as Prehearing Officer that FPL's Emergency Motion to Hold Proceedings in Abeyance is granted, and the procedural schedule in these dockets is modified, to the extent described in the body of this Order.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 26th Day of April, 2002.



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 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.