

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. 020263-EI  
ORDER NO. PSC-02-0938-PCO-EI  
ISSUED: July 12, 2002

ORDER GRANTING AMENDED PETITION TO INTERVENE

CPV Gulfcoast, Ltd. (CPV Gulfcoast) filed a Petition to Intervene in these need determination dockets on April 23, 2002. CPV Gulfcoast claimed that it should be permitted to intervene in the case even though it had not submitted a response to Florida Power & Light Company's (FPL) initial Request for Proposals (RFP) to supply the additional generating capacity that FPL will need in 2005 and 2006.<sup>1</sup> CPV Gulfcoast explained that it would have submitted a response to the initial RFP if FPL had identified the Manatee facility as a site for its new capacity additions. Florida Power & Light Company (FPL) responded in opposition to CPV Gulfcoast's petition on April 30, 2002, suggesting that CPV Gulfcoast would have an opportunity to submit a bid in FPL's supplemental Request for Proposals (RFP) process, and therefore it's petition should be denied or at least deferred pending completion of the supplemental RFP and resumption of the need determination proceedings.

FPL has now concluded its supplemental RFP process, in which CPV Gulfcoast did submit a bid. FPL has stated that it intends to resume its petition for certification to construct its Martin and Manatee projects. FPL expects to file supplemental testimony to that effect on July 16, 2002. On June 7, 2002, CPV Gulfcoast filed a Request for Leave to Amend Petition to Intervene and Amended Petition to Intervene into Need Determination Proceeding, to reflect the changed circumstances of the case.

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<sup>1</sup> On April 23, 2002, CPV Gulfcoast also filed a petition for waiver of Commission Rule 25-22.082(2), Florida Administrative Code, which provides that only those entities who submitted bids in response to a utility's RFP for capacity additions can intervene in a need determination proceeding to contest the RFP. CPV Gulfcoast has withdrawn its petition for rule waiver because FPL issued its supplemental RFP identifying proposed capacity additions at its Manatee plant for 2005 and 2006, and CPV Gulfcoast participated in the supplemental RFP.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

In its Amended Petition to Intervene CPV Gulfcoast asserts that as a "participant" in FPL's supplemental RFP process, as that term is defined in the Commission's "Bidding Rule",<sup>2</sup> CPV Gulfcoast is entitled to intervene in this need determination proceeding. CPV Gulfcoast asserts that its substantial interest in providing cost-effective generating capacity to FPL will be affected in the case, and it asserts that its interest is the type of interest a need determination proceeding is designed to protect.

FPL filed a response to CPV GulfCoast's Amended Petition to Intervene on June 13, 2002. FPL did not object directly to CPV Gulfcoast's intervention, but did object to some of CPV Gulfcoast's factual assertions and requests for relief.<sup>3</sup> FPL reserves the right to contest the scope of the issues CPV Gulfcoast raises, and the relief it has requested, during the course of the proceeding.

FPL'S objections to the scope of the issues CPV Gulfcoast has raised and the relief that Gulfcoast has requested are duly noted. They will be addressed at the appropriate time. For purposes of this Amended Petition to Intervene, CPV Gulfcoast has demonstrated that its substantial interests may be affected by the Commission's decision, and that those interests are the type of interest the Commission's proceeding was designed to protect. For these reasons, CPV Gulfcoast's Amended Petition to Intervene is granted.

It is therefore

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<sup>2</sup> " a potential generation supplier who submits a proposal in compliance with both the schedule and informational requirements of a utility's RFP." Rule 25-22.082(1), Florida Administrative Code.

<sup>3</sup> FPL also noted that the Commission previously granted intervention to CPV Gulfcoast's sister company, CPV Cana, Ltd., which did not submit a bid in the supplemental RFP. FPL asked the Commission to determine that CPV Cana is no longer entitled to be a party in the case. As FPL itself has pointed out in prior filings, a response to a pleading is not the appropriate means to request additional affirmative relief. FPL should make its request by separate motion, with the opportunity for CPV Cana to respond.

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ORDERED by Commissioner J. Terry Deason as the Prehearing Officer that the Request for Leave to Amend Petition to Intervene and Amended Petition to Intervene into Need Determination Proceeding are 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:

Jon C. Moyle, Jr.  
Cathy M. Sellers  
Moyle, Flanigan, Katz, Raymond & Sheehan, P.A.  
118 North Gadsden Street  
Tallahassee, FL 32301

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 12th day of July, 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.