

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine  
need for Hines Unit 3 in Polk  
County by Florida Power  
Corporation.

DOCKET NO. 020953-EI  
ORDER NO. PSC-02-1649-PCO-EI  
ISSUED: November 25, 2002

ORDER GRANTING IN PART AND DENYING IN PART  
FLORIDA POWER CORPORATION'S OBJECTIONS TO DISCOVERY

On October 31, 2002, the Florida Partnership for Affordable Competitive Energy (PACE) filed a Petition for Intervention in this docket, along with its First Set of Interrogatories (Nos. 1-88) and First Request for Production of Documents (Nos. 1-66). PACE filed an Amended Petition to Intervene on November 15, 2002, which was granted on November 20, 2002, at the Prehearing Conference. At that time, I modified the procedural schedule established by the Order Establishing Procedure, Order No. PSC-02-1310-PCO-EI, issued September 26, 2002, by allowing additional limited discovery for PACE.

On November 22, 2002, Florida Power Corporation (FPC) filed Objections to PACE's Interrogatories and Requests for Production of Documents, citing a number of general objections and additional specific objections for a number of individual Interrogatories and Requests for Production.

General Objections

FPC first generally objects that when PACE initially filed its discovery, it had not been granted party status. As such, FPC was under no obligation to respond to PACE's discovery. Further, FPC asserts that as an intervenor, PACE takes the case as they find it, including the procedural schedules laid out in this docket.

FPC also objects that, to the extent that PACE's discovery seeks confidential or proprietary business information, such information should be protected. Further, FPC states that as respondents to its Request for Proposals (RFP) process may have submitted confidential business information, FPC should not be required to produce this information until such time as the responding bidders have a chance to file an appropriate motion for protective order, should they choose to do so. I note that on

DOCUMENT NUMBER - DATE

12946 NOV 25 02

FPSC-COMMISSION OF FPC

November 22, 2002, Tampa Electric Company filed such a Motion. I find it is appropriate to delay any production of individual bidder's confidential business information until bidders have had a chance to file Protective Motions, should they choose to do so, and those Motions are disposed of. Therefore, FPC shall not be required to produce confidential bidder information which is the subject of an outstanding motion for protective order until such motion is disposed of.

As discussed at the Prehearing, I allowed PACE to conduct discovery past the cutoff date set in the Order Establishing Procedure only under strict conditions. Specifically, I ordered that any discovery must be closely matched to the eight issues in this docket, and must be conducted on those issues and nothing else. I further explained that I would apply a strict measure of whether the discovery sought is appropriate to the issues or not. Consistent with my ruling at the Prehearing Conference, FPC's general objections shall be denied.

#### Items With No Specific Objection

In its Objections, FPC has listed each Interrogatory and Request for Production of Documents. Several of these items have no specific objection listed for that item. As I have denied FPC's general objections as stated above, the following items which have no specific objection listed shall be responded to or produced by FPC to PACE no later than Wednesday, November 27, 2002:

#### Interrogatories:

1-4, 6-9, 11-18, 22, 27, 35, 51-53, 56-59, 61-69, 71-81, 84, 86, 88

#### Requests for Production of Documents:

11, 12, 15, 18, 20, 36, 38, 52, 54, 63, 64.

#### Discovery Requests With Specific Objections

In its Objections, FPC has listed the remaining items with a specific objection to response. Each item is listed, followed by FPC's objection, followed by my specific ruling on that objection.

For those interrogatories and requests for production of documents where I deny FPC's objection, FPC must respond to the discovery request no later than Wednesday, November 27, 2002.

Interrogatories

Interrogatory No. 5:

Please indicate, for each of the past 15 years, whether your reserve margin forecasts have been underestimated, overestimated or precisely on target.

Florida Power objects that it does not forecast reserve margins. Florida Power plans to meet its reserve margin-planning criterion as set forth in the testimony of Mr. John B. Crisp. To the extent that PACE is seeking some other information through this interrogatory, we do not understand the interrogatory and must object to it as vague, ambiguous, overbroad, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 10:

Identify the equipment components of the Hines 3 Unit (the combustion turbine, the steam turbine, and the heat recovery steam generator) under firm contract by FPC? What is the contracted price for each component, equipment only, no erection? If a firm contract is not in place, what is the estimated price for each component, equipment only, no erection?

FPC objects to this interrogatory in part to the extent it requires FPC to provide detailed price estimates for equipment as confidential, proprietary business information, that PACE is seeking in connection with the competitive interests of its members. FPC is willing to comment on the status of contracts for such equipment, but does not believe that detail relating to the specific price of components is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition

into exact cost - if known - of components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence.

Ruling: Denied subject to an appropriate Request for Confidential Classification.

Interrogatory No. 19:

What is the total, all-in, cost for the FPC Hines 3 unit (including all equipment, construction, administrative, financing, permitting and development, start-up, testing, system integration, and commission costs) as FPC would expect to place such costs into rate base pursuant to standard accounting practices and principles? Identify documents which reflect a more detailed cost breakdown of the project's costs set forth in Exhibit JJM-5.

FPC objects to this interrogatory in part to the extent it requires FPC to provide detailed cost estimates for Hines 3 as confidential, proprietary business information, that PACE is seeking in connection with the competitive interests of its members. FPC is willing to comment on the status of contracts for such various aspects of the project, but does not believe that detail relating to the specific price of components is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into exact cost - if known - of components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence. Moreover, the untimely disclosure of such cost estimates could impair Florida Power's ability to obtain more favorable prices from suppliers as the process progresses. Florida Power is currently in negotiations in connection with certain aspects of the Hines 3 project that may be impaired by the early and unnecessary disclosure of these preliminary detailed cost estimates - if any.

Ruling: Denied subject to an appropriate Request for Confidential Classification.

Interrogatory No. 20:

What are your plans relative to your future participation in the Florida wholesale market? Identify any documents that relate to these plans.

Florida Power objects to this interrogatory as irrelevant, immaterial, outside the proper scope of this need proceeding, and an improper fishing expedition to obtain competitive information that is not reasonably calculated to lead to the discovery of admissible evidence. The need for Hines 3 is driven by firm load.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 21:

Identify and describe your plans to increase wholesale power or capacity sales to Florida-based municipal utilities and electric cooperatives.

FPC objects: see objection to interrogatory No. 20, which is incorporated by reference herein.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 23:

Please identify any purchased power contract, in the last three (3) years, that FPC or its affiliates, acting either as a purchaser or seller, has been accused of not completing, has been unable to complete or has otherwise failed to perform or has been accused of failing to perform.

FPC objects to this interrogatory as overbroad, irrelevant, immaterial, outside the scope of this need proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 24:

Please list any and all litigation, including the court and case number, that ensued as a result of any item identified in your response to the previous Interrogatory, and state the present status or resolution of the litigation and whether any judgment or settlement resulted.

FPC objects to this interrogatory as overbroad, irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 25:

Please identify any power project FPC or affiliates of Progress Energy are currently constructing, including the FPC manager or coordinator of any such project, the project's projected date of completion (original and current), whether such project is on schedule, and if not on schedule, the total number of days such project is delayed.

FPC objects to this interrogatory as overbroad, irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. This also amounts to an improper attempt to seek proprietary, confidential information.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 26:

Please identify every Invitation to Bid ("ITB") or Request for Proposal ("RFP") for electrical energy and/or capacity to which FPC or affiliates or subsidiaries of Progress Energy has responded in the last three (3) years. For such ITB or RFP indicate: (1) whether FPC or its affiliates was the winning bidder or proposer; and (ii) whether the ITB or RFP resulted in the execution of a purchased power contract.

FPC objects to this interrogatory as overbroad, unduly burdensome, irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 28:

Please identify for the remainder of 2002 and each year 2003, 2004, and 2005 any anticipated acquisition or construction of power plants by you and the capacity of each.

Florida Power objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 29:

For each project identified in response to the previous Interrogatory, explain how FPC proposes to finance such acquisitions, including the anticipated ratio of equity and debt as well as the plan for raising the financing.

Florida Power objects to this request as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 30:

Please identify by project and by year, any capital expenditure in excess of One Hundred Thousand Dollars (\$100,000) you anticipate making at any of its power plants (operating plants, plants under construction, planned plants) in the next three (3)

years, including, but not limited to, any expenditure anticipated to comply with any government regulations.

FPC objects to this interrogatory as overbroad, unduly burdensome, irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 31:

Describe FPC's financial condition, and list any changes in FPC's financial condition, its liquidity, and its capital resources over the last three (3) years and any existing conditions likely to result in a significant change in FPC's financial condition, liquidity or capital resources over the next three (3) years.

FPC objects to this interrogatory as irrelevant, immaterial, overbroad, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 32:

State the amount and types of monetary or in kind support FPC has directly or indirectly (including contributions through an entity of which FPC is a member) provided for Citizens For Rational Energy Policy.

FPC objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.



Interrogatory No. 33:

How many combustion turbines have you ordered in the last five (5) years? How many of these orders have you cancelled?

FPC objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 34:

Do you support competitive wholesale energy markets in the state of Florida? Identify any state in which you do not support a competitive wholesale energy market.

FPC objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 36:

Please list all off-system wholesale energy sales (energy and/or capacity) made by FPC within the last three (3) years. List the price per megawatt hour, the quantity bought or sold, the duration of the transaction, and the parties to the transaction.

FPC objects to this interrogatory as irrelevant, immaterial, overbroad, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, Florida Power would direct PACE to FPC's response to Staff interrogatory number 29, which identifies the winter 2005 and summer 2006 wholesale peak demands that are included in Florida Power's demand forecast in the year Hines 3 comes on line. FPC also believes that some of the information requested may be publicly available in its fuel docket filings, however irrelevant to this proceeding.

Ruling: Denied. This information is available through FPC's public filings.

Interrogatory No. 37:

List all capacity and/or energy FPC is presently seeking outside these Need Determination proceedings. What is the current bid price, the current ask price, the commencement date, the termination date, and the duration of each transaction?

Florida Power objects to this request as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 38:

Has FPC or its affiliates engaged in any "wash trade" or "round trip trade" transactions (i.e., selling energy or capacity, then promptly buying back the same portion of energy or capacity at the same price) within the last three (3) years? If so, identify all documents relating to these trades.

Florida Power objects to this request as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 39:

Have you experienced cost overruns during construction of the Hines 1 unit? If so, what are the amounts of the cost overruns or delays and identify any documents related to these cost overruns or delays.

Florida Power objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not

reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 40:

Have you experienced cost overruns during construction of the Hines 2 unit? If so, what are the amounts of the cost overruns or delays and identify any documents related to these cost overruns or delays.

Florida Power objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 41:

Did you complete the Hines 1 project on time as set forth in initial construction schedule documents? If not, why not? Please identify and produce all documents related to the construction schedule for the Hines 1 project.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 42:

Did you complete the Hines 1 project on time as set forth in the need determination petition for the Hines 1 unit filed with the PSC? If not, why not?

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 43:

Is the Hines 2 project on time as set forth in initial construction schedule documents? If not, why not? Please identify and produce all documents related to the construction schedule for the Hines 2 project.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 44:

Is the Hines 2 project on time as set forth in the need determination for the Hines 2 unit filed with the PSC? If not, why not? Please identify and produce all documents related to the construction schedule for the Hines 2 project.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 45:

Regarding the Hines 1 project, what was the dollar figure for contingencies set forth in the engineering, procurement and construction contract? Has that amount been exceeded, and, if so, by how much? Identify the EPC contract.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 46:

Regarding the Hines 2 project, what was the dollar figure for contingencies set forth in the engineering, procurement and construction contract? Has that amount been exceeded, and, if so, by how much? Identify the EPC contract.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 47:

If the actual engineering, procurement, and construction cost for the Hines 1 project is greater than the sums originally projected, how, if at all, will these costs be recovered? Identify all documents relating to recovery of cost overruns for the project.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 48:

If the actual engineering, procurement, and construction cost for the Hines 2 project is greater than the sums originally projected, how, if at all, will these costs be recovered? Identify all documents relating to recovery of cost overruns for the project.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 49:

Identify all change orders for the Hines 1 project submitted by your engineering, procurement, construction contractor or other entity.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 50:

Identify all change orders for the Hines 2 project submitted by your engineering, procurement, construction contractor or other entity.

Florida Power objects to this interrogatory as irrelevant, immaterial, unduly burdensome, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 54:

Please identify all analyses performed by or for FPC of stranded benefits or stranded costs relating to FPC's proposed Hines 3 unit, including risk exposure (a) to FPC; and (b) to FPC's retail customers under any scenario considered. In identifying any such analyses, please state whether such analyses addressed the revenue requirements impact on FPC's customers of the various risks considered, who performed such analyses, when such analyses were performed, and who now has possession of all such analyses in any format. If FPC performed no such analyses, please so state.

FPC objects to this interrogatory as irrelevant, immaterial, outside the scope of this need proceeding and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Denied.

Interrogatory No. 55:

Please identify all analyses performed by or for FPC of stranded benefits or stranded costs relating to any FPC power plant, including risk exposure (a) to FPC; and (b) to FPC's retail customers under any scenario considered. In identifying any such analyses, please state who performed such analyses, when such analyses were performed, and who now has possession of all such analyses in any format. If FPC performed no such analyses, please so state.

FPC objects to this request as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 60:

Please list the factors that you know rating agencies (such as Standard and Poor's and Moody's) use or otherwise consider in determining a bond rating for FPC.

FPC objects to this request as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. FPC has not based its resource selection in this case on such issues. Notably, the Commission Staff withdrew its own discovery concerning this topic for just this reason.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 70:

Do you support Rule 25-22.082, F.A.C., as it currently exists? If not, why not?

FPC objects to this request as irrelevant, immaterial, outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. FPC complied with this rule in this proceeding. This interrogatory plainly reveals that

PACE's true agenda in this proceeding is to obtain discovery in aid of its position in the Bid Rule docket.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Interrogatory No. 82:

Have you ever had the construction costs of a power plant project increase by 20 percent or more over the initial estimated costs of the project? If so, identify the project or projects and the percentage increase of said construction costs.

FPC objects to this interrogatory as irrelevant, overbroad, and unduly burdensome. Florida Power has been constructing power plants in this state for over 100 years. It would be impossible to compile this information in the time frame provided or to determine the extent to which such information exists. However, as noted in the testimony of Mr. Daniel Roeder, FPC did perform a sensitivity analysis and determine that the direct construction costs of Hines 3 would have to increase approximately 35% before the cost advantage of Hines 3 over the next best alternative would be eliminated.

Ruling: Granted. Overbroad and unduly burdensome.

Interrogatory No. 83:

Have you ever had fixed O&M costs of a power plant project increase by 20 percent or more over the initial estimated costs of the project? If so, identify the project or projects and the percentage increase of said O&M costs.

FPC objects to this interrogatory as irrelevant, overbroad, and unduly burdensome. Florida Power has been operating power plants in this state for over 100 years. It would be impossible to compile this information in the time frame provided or to determine the extent to which such information exists.



Ruling: Granted. Overbroad and unduly burdensome.

Interrogatory No. 85:

In evaluating the cost-effectiveness of Hines 3 and outside proposals, did FPC conduct any sensitivity analyses with regard to the actual achieved heat rate of Hines 3 as compared to the contractually guaranteed heat rates associated with the outside proposals? If so, please identify and explain any such analyses. If not, why not?

FPC objects to this interrogatory as ambiguous. Hines 3 has not been built and a question relating to the "achieved" heat rate for Hines 3 is thus impossible to respond to at this time. Further, no bidder "contractually guaranteed" any heat rate.

Ruling: Granted. Overbroad and unduly burdensome.

Interrogatory No. 87:

In evaluating the cost-effectiveness of Hines 3 and outside proposals, did FPC conduct any sensitivity analyses with regard to the actual achieved outage rate of Hines 3 as compared to the contractually guaranteed outage rates associated with the outside proposals? If so, please identify and explain any such analyses. If not, why not?

FPC objects to this interrogatory as ambiguous. Hines 3 has not been built and a question relating to the "achieved" outage rate for Hines 3 is thus impossible to respond to at this time. Further, no bidder "contractually guaranteed" anything.

Ruling: Granted. Overbroad and unduly burdensome.

Requests for Production of Documents

POD 1. All documents, including correspondence, contracts, or amendments to contracts, regarding contractual arrangements between you and any supplier of combustion turbines to provide combustion turbines for FPC's Hines 3 electrical power plant.

ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 18

FPC objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such equipment, but does not believe that producing detailed negotiated contracts is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding certain components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence.

Ruling: Denied subject to appropriate Request for Confidential Classification.

POD 2. All documents related to cancellation fees or other costs to you should you cancel orders for combustion turbines.

FPC objects to this request as overbroad, seeking documents outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it relates to something other than Hines 3. FPC further objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such equipment, but does not believe that producing detailed negotiated contracts or information about them is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence.

Ruling: Granted.

POD 3. All documents, including correspondence, regarding contractual arrangements between you and any supplier of heat recovery steam generators to provide heat recovery steam generators to Hines 3.

FPC objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such equipment,

but does not believe that producing detailed negotiated contracts is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence.

Ruling: Denied subject to appropriate Request for Confidential Classification.

POD 4. All documents related to cancellation fees or other costs to you should you cancel orders for heat recovery system generators.

FPC objects to this request as overbroad, seeking documents outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it relates to something other than Hines 3. FPC further objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such equipment, but does not believe that producing detailed negotiated contracts or information about them is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence.

Ruling: Granted.

POD 5. All documents, including correspondence, regarding contractual arrangements between you and any supplier of steam turbine generators to provide steam turbine generators for the Hines 3 project.

FPC objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such equipment, but does not believe that producing detailed negotiated contracts is material or probative of the ultimate issues in the case. FPC

has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence.

Ruling: Denied subject to appropriate Request for Confidential Classification.

POD 6. All documents related to cancellations fees or other costs to you should you cancel orders for steam turbine generators.

FPC objects to this request as overbroad, seeking documents outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence to the extent it relates to something other than Hines 3. FPC further objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such equipment, but does not believe that producing detailed negotiated contracts or information about them is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence.

Ruling: Granted.

POD 7. All documents, including correspondence, regarding contractual arrangements between you and any entity for the provision of construction services for the Hines 3 project.

FPC objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such service, but does not believe that producing detailed negotiated contracts, or related documents, is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding any agreements or on-going negotiations therefore is nothing more than a thinly veiled attempt

by PACE to obtain competitive intelligence. Indeed, such disclosure to PACE and its members could impair Florida Power's ability to bring the best possible result to its customers.

Ruling: Denied subject to appropriate Request for Confidential Classification.

POD 8. All documents, including correspondence, regarding contractual arrangements between you and any entity for the provision of engineering services for the Hines 3 unit.

FPC objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such service, but does not believe that producing detailed negotiated contracts, or related documents, is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding any agreements or on-going negotiations therefore is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence. Indeed, such disclosure to PACE and its members could impair Florida Power's ability to bring the best possible result to its customers.

Ruling: Denied subject to appropriate Request for Confidential Classification.

POD 9. All documents, including correspondence, regarding any contractual arrangements between you and any entity for the provision of maintenance services for the Hines 3 unit.

FPC objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such service, but does not believe that producing detailed negotiated contracts, or related documents, is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding any agreements or on-going negotiations therefore is nothing more than a thinly veiled attempt

by PACE to obtain competitive intelligence. Indeed, such disclosure to PACE and its members could impair Florida Power's ability to bring the best possible result to its customers.

Ruling: Denied subject to appropriate Request for Confidential Classification.

POD 10. All documents, including correspondence, regarding any contractual arrangements between you and any entity for the provision of fuel transport services to the Hines Energy Complex.

FPC objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such service, but does not believe that producing detailed negotiated contracts, or related documents, is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding any agreements or on-going negotiations therefore is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence. Indeed, such disclosure to PACE and its members could impair Florida Power's ability to bring the best possible result to its customers.

FPC further objects to the extent this request encompasses contracts or agreements unrelated to Hines 3 as irrelevant, immaterial, outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. If required to provide such contracts which as mentioned above are competitively sensitive, Florida Power would have to negotiate agreeable confidentiality agreements with at least four separate fuel transportation providers, which is unreasonable to request in the timeframe allotted. This is particularly onerous given that none of the contracts relate to transportation services to Hines 3.

Ruling: Denied subject to appropriate Request for Confidential Classification.

POD 13. Copies of your business plans for the last seven (7) years.

FPC objects to this request as overbroad, unduly burdensome, seeking documents outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. FPC's plans relating to the addition of new generation for the last 7 years is reflected publicly in its Ten-Year Site Plan documents. This amounts to an improper effort to use this proceeding to gain access to confidential, proprietary business information.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

POD 14. Copies of your strategic plans for the last seven (7) years.

FPC objects to this request as overbroad, unduly burdensome, seeking documents outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. FPC's plans relating to the addition of new generation for the last 7 years is reflected publicly in its Ten-Year Site Plan documents. This request amounts to an improper effort to use this proceeding to gain access to confidential, proprietary business information.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

POD 16. Copies of documents provided within the last five (5) years to your senior management (vice-president or above), if any, related to PSC Rule 25-22.082, F.A.C., otherwise known as the "bid rule."

FPC objects to this request as overbroad, seeking documents outside the scope of this need proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. The only relevant issue in this proceeding is whether FPC complied with the current Bid Rule. This request reveals PACE's true agenda to

ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 24

use this proceeding to gain discovery in aid of its position in the Bid Rule docket.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

POD 17. Copies of documents you prepared relating to the need determination cases for FPL's Martin 8 and Manatee 3 units, i.e., PSC Docket Nos. 020262-EI and 020263-EI.

FPC objects to this request as seeking documents outside the scope of this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. FPC was not a party to these dockets, nor do they have any relevance to a need determination for Hines 3.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

POD 19. All documents related to evaluating responses received in response to your Request for Proposals.

FPC objects to this request to the extent it calls for the disclosure of documents reflecting the confidential bid information of Bidders. No bidder has elected to participate in this proceeding in support of its confidential bid and may seek to protect its confidential, proprietary, bid information from PACE, which is an organization of competitive IPPs who has not - to date - obtained a waiver from its members of their confidential, proprietary bid information. Please see FPC's more detailed objection above, the letter to Bidder's attached hereto, and its request that the Prehearing Officer not require the disclosure of such confidential bidder information until such time as the individual bidders have an opportunity either to waive their rights or to seek protection of their confidential, proprietary, bids.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.



POD 21. All documents that have been provided to FPC senior management (vice-president or above) regarding FPC's generation planning within the last three (3) years.

FPC objects to this request as overbroad, unduly burdensome, seeking documents outside the scope of this proceeding, and not reasonably calculated to lead to the discovery of admissible evidence. FPC will produce documents responsive to this request as they relate specifically to the need for Hines 3 to the extent practicable. However, FPC would again incorporate its objection to providing confidential, proprietary, bidder information that may be contained in such documents as described in response to request 19 above.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

POD 22. All computer models used to evaluate proposals received in response to your Request for Proposal and all computer models used to evaluate the Hines 3 unit.

FPC objects to the request to produce "computer models" that FPC does not own but is only licensed to use by the model's vendor. FPC is working to make arrangements for appropriate access to the models at FPC, but may require parties to sign licensing and/or confidentiality agreements. Given the short timeframe remaining for FPC to respond to this request it may well be impossible to arrange access to these proprietary models before the final hearing. However, FPC would again object to providing access to the model to the extent it would require FPC to disclose the confidential, proprietary, bidder information that may be contained in such models as described in response to request 19 above.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

POD 23. All documents provided to PSC Staff related to your Request for Proposal process.

ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 26

FPC objects: FPC would again incorporate its objection to providing confidential, proprietary, bidder information that may be contained in such documents as described in response to request 19 above.

Ruling: Denied.

POD 24. All documents, including internal correspondence and e-mails, regarding all aspects of the bid process.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Granted. Overbroad and unduly burdensome.

POD 25. All documents related to your decision to self-supply the energy for which you sought proposals pursuant to the RFP.

FPC objects: same objection as is set forth in response to request 19 above. FPC further objects to this request to the extent it seek documents otherwise objected to herein.

Ruling: Granted. Overbroad and unduly burdensome.

POD 26. All documents reflecting communication between you and third parties, including bidders, related to the bid process or RFP.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 27. All documents relating to or reflecting communications between you and any third party who was involved in the bid evaluation process.

ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 27

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 28. All documents reflecting your evaluation of the bids received during the bid process.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 29. All documents relating to or reflecting any short list you prepared during the bid process.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 30. All documents relating to the criteria you used to evaluate bids during the RFP process.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied.

POD 31. All documents related to the development of the RFP, including drafts of the RFP document.

FPC objects to this request to the extent it purports to invade work product or the attorney-client privilege.

ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 28

Ruling: Granted as to those documents falling within the attorney-client or work product privileges only.

POD 32. All documents reflecting the costs and operating characteristics for each bid.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 33. All documents related to the cost effectiveness of the Hines 3 unit to meet FPC's need for additional electrical capacity and energy.

FPC objects: same objection as is set forth in response to request 19 above. FPC further objects to this request to the extent it seeks documents otherwise objected to herein.

Ruling: Granted. Overbroad and unduly burdensome.

POD 34. All documents, including e-mails and correspondence, related to the actual costs of bringing Hines Unit 2 on line, including, but not limited to, any comparisons to the projected costs of Hines 3.

FPC objects that it will produce documents relating to Hines 3. Otherwise, FPC objects to this request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Ruling: Granted.

POD 35. All documents, including e-mails and correspondence, related to the elimination of the two bidders for not fulfilling the "basic informational requirements."

ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 29

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 37. All documents, including e-mails and correspondence, related to what constituted "site control" during the evaluation process.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 39. All documents, including e-mails and correspondence, related to the "total system costs" as produced by the PROVIEW model.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 40. All documents related to the inputs used in the PROVIEW modeling program, and any documents dealing with the output of each run, including the "optimal generation plan" of each bidder's proposal.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 41. All documents related to scoring and ranking of the bidders' proposals, and the Hines 3 unit relative to the following "technical criteria":

- (a) financial viability";
- (b) permitting certainty";
- (c) commercial operation date certainty";
- (d) impact of PPA"; and
- (e) fuel supply and transportation reliability".

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 42. All documents related to how "acceptance of Key Terms and Conditions" was evaluated and the impact this criteria had relative to the self-build proposal and the bidders' proposals.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 43. All documents related to how "Reliability Assessment" was evaluated and the impact this criterion had relative to the self-build proposal and the bidders' proposals.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 44. Any documents relating to the relative importance or significance of the "Technical Criteria" to the overall evaluation, and relative to one another as set forth in Request 41 above.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 45. Any documents related to instructions given, methods employed or decisions made by the "separate technical" teams assigned evaluation responsibilities of various elements of the bidders' proposals.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 46. Any documents that relate to the appropriateness of using an "equity penalty" during the evaluation process.

Florida Power objects to this request as irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence, given that Florida Power did not apply any "equity penalty" in making its decision in this case. Indeed Staff withdrew its discovery on this topic for this reason. This request amounts to a fishing expedition in aid of PACE's arguments in the Bid Rule docket.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 32

POD 47. All documents that discuss the events of the two FP&L need cases (Martin and Manatee) relative to the impact or implications on the Hines 3 proposal.

FPC objects to this request as seeking documents outside the scope of this proceeding and not reasonably calculated to lead to the discovery of admissible evidence. FPC was not a party to these dockets, nor do they have any relevance to a need determination for Hines 3.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

POD 48. All documents related to FPC's lowering of the Hines 3 cost estimate prior to the short list letters being sent out.

FPC objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to and has described the circumstances and source of its refined costs estimate, but does not believe that producing related documents, is material or probative of the ultimate issues in the case. Again, FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding any agreements or on-going negotiations therefore is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence. Indeed, such disclosure to PACE and its members could impair Florida Power's ability to bring the best possible result to its customers.

Ruling: Denied, subject to an appropriate Request for Confidential Classification.

POD 49. Any documents related to the possibility of allowing a bidder to site a facility at the Hines Energy Complex.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied.



ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 33

POD 50. All documents related to your decision to provide a "tolling arrangement" modification for Bidder C's proposal.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

POD 51. All documents dealing with the decision not to issue a "Final List."

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 53. All documents related to your selecting the Hines 3 unit as the unit for which this need determination is sought.

FPC objects to this request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Hines 3 has been shown in FPC's Ten-Year Site Plan since at least 1997 as a planned future resource addition. Hines 3 was selected as the unit for which this need determination is sought because it is FPC's "next-planned generating addition" as that term is used in the Bid Rule. FPC will provide documents relating to its evaluation of alternatives in comparison to Hines 3 as part of the RFP Process.

Ruling: Granted. Overly broad and unduly burdensome.

POD 55. All documents reflecting bidders' proposed revisions to the terms and conditions of the contemplated purchase power agreement that was part of the RFP document.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Denied, subject to an appropriate Request for Confidential Classification and subject to disposition of motions for protective orders from individual bidders, if any.

POD 56. All documents authored, revised, edited or received by FPC senior management (vice-president or above) which relate to the RFP process, FPC's need determination, FPC's supplemental site certification for the Hines 3 unit or relate in any other way to the Hines 3 unit.

FPC objects to this request as overbroad and unduly burdensome. FPC will make a good faith effort to provide responsive materials that can reasonably be collected or identified in the relevant time frame.

Ruling: Granted subject to FPC's good faith effort to provide responsive documents as stated.

POD 57. All documents which relate to your use of an equity penalty when evaluating outside bids offering purchased power.

FPC objects to this request as overbroad and not reasonably calculated to lead to the discovery of admissible evidence. FPC did not use an equity penalty in evaluating bids in this case. Again, FPC notes that Staff withdrew its discovery on this topic for just this reason.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

POD 58. All documents relied upon your expert witnesses in formulating their opinions.

FPC objects: same objection as is set forth in response to request 19 above.

Ruling: Granted. Overbroad and unduly burdensome.

POD 59. All documents describing or related to your plan to store ground water for use at the Hines Energy Complex.

FPC objects to this request to the extent it covers matters outside the scope of Hines Power Block 3 and outside the scope of this need proceeding. Under the explicit holding of Agrico a competitor does not have standing to be heard in a Chapter 403 environmental permitting proceeding, let alone to raise such issues in a proceeding where such matters are not even at issue.

Ruling: Denied.

POD 60. All documents identified in your answers to PACE's First Set of Interrogatories to you.

FPC objects to this request as overbroad and unduly burdensome especially in light of the time constraints now facing FPC in this proceeding. FPC believes that a majority of the documents relevant to this proceeding will be provided in response to the above described requests and that additional documents should not be required to be produced that were not made the subject of a specific production request herein. FPC also incorporates the specific and general objections set forth in response to its interrogatories as though fully set forth herein. Also, FPC adds to the extent not covered that it also asserts the same objection as is set forth in response to request 19 above.

Ruling: Granted. Overbroad and unduly burdensome.

POD 61. All documents related to the resource planning or evaluation process used to identify the Hines 3 unit as the best FPC self-build option.

FPC objects to this request as overbroad and unduly burdensome. FPC will make a good faith effort to provide responsive materials that can reasonably be collected or identified in the relevant time frame.

Ruling: Granted. Overbroad and unduly burdensome.

ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 36

POD 62. All documents which relate to the Vandolah-Whidden line being associated with independent power producer transmission contracts.

FPC objects that it is undertaking to determine whether such contracts are confidential. However, it has been unable to do so given the absence of personnel in the time frame allowed for the making of these objections. Thus, FPC objects to this request to the extent it determines that such contracts are confidential, but agrees to provide same if it determines that they are not confidential.

Ruling: Denied, subject to an appropriate Request for Confidential Classification.

POD 65. All documents, including contracts, that relate to your ability "to negotiate and preserve beneficial combustion turbine equipment pricing and other favorable contract terms and conditions" as that term is used in Mr. Murphy's testimony at page 9.

FPC objects to this request as an improper attempt to obtain FPC's confidential, proprietary business information. FPC is willing to comment on the status of contracts for such equipment, but does not believe that producing detailed negotiated contracts or related documents is material or probative of the ultimate issues in the case. FPC has thoroughly described how it arrived at its cost estimate for Hines 3, and a fishing expedition into detailed terms - if known - surrounding certain components is nothing more than a thinly veiled attempt by PACE to obtain competitive intelligence.

Ruling: Granted.

POD 66. All documents related to your plans to increase wholesale energy or capacity sales within the State of Florida.

Florida Power objects to this request as irrelevant, immaterial, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Florida Power's

ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 37

plans to make future wholesale sales have nothing to do with whether Hines 3 is the most cost-effective means of meeting the firm load obligations on which the need for the plant is premised.

Ruling: Granted. Not appropriate to the issues established in the Prehearing Order.

Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that FPC's general objections are denied. It is further

ORDERED that as there are no specific objections stated, Florida Power Corporation shall respond to Interrogatories Nos. 1-4, 6-9, 11-18, 22, 27, 35, 51-53, 56-59, 61-69, 71-81, 84, 86, and 88 and Requests for Production of Documents Nos. 11, 12, 15, 18, 20, 36, 38, 52, 54, 63, and 64 no later than Wednesday, November 27, 2002.

ORDERED that Florida Power Corporations objections to Interrogatories Nos. 5, 10, 19, 28, 36, 39-50, and 54 are denied and shall be responded to no later than Wednesday, November 27, 2002. It is further

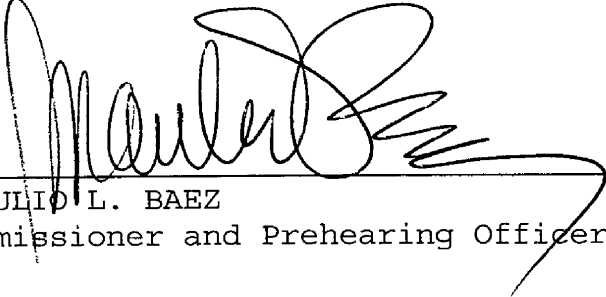
ORDERED that Florida Power Corporation's Objections to production of the documents specified in Requests for Production of Documents Nos. 1, 3, 5, 7-10, 19, 23, 26-30, 32, 35, 37, 39-45, 48, 49, 51, 55, 59 and 62 are denied and these documents shall be produced by Florida Power Corporation to the Florida Partnership for Affordable Competitive Energy no later than Wednesday, November 27, 2002. It is further

ORDERED that Florida Power Corporation's Objections to Interrogatories Nos. 20, 21, 23-26, 29-34, 37-38, 55, 60, 70, 82-83, 85 and 87 and to the items specified by Requests for Production of Documents Nos. 2, 4, 6, 13, 14, 16, 17, 21-22, 24-25, 31, 33, 34, 46-47, 50, 53, 56-58, 60-61, 65 and 66 are granted. Florida Power Corporation shall not be required to respond to these items. It is further

ORDER NO. PSC-02-1649-PCO-EI  
DOCKET NO. 020953-EI  
PAGE 38

ORDERED that Florida Power Corporation shall not be required to produce confidential bidder information which is the subject of an outstanding motion for protective order until such motion is disposed of.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 25th day of November, 2002.



BRAULIO L. BAEZ  
Commissioner and Prehearing Officer

( S E A L )

LDH

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.

ORDER NO. PSC-02-1649-PCO-EI

DOCKET NO. 020953-EI

PAGE 39

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.