

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for
determination of need for
Collier-Orange River 230 kV
transmission line in Collier,
Hendry, and Lee Counties, by
Florida Power & Light Company.

DOCKET NO. 030084-EI
ORDER NO. PSC-03-0462-PHO-EI
ISSUED: April 2, 2003

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on March 31, 2003, in Tallahassee, Florida, before Commissioner Braulio L. Baez, as Prehearing Officer.

APPEARANCES:

KENNETH A. HOFFMAN, ESQUIRE, Rutledge, Ecenia, Purnell & Hoffman, P.A., P. O. Box 551, Tallahassee, Florida 32302 and R. WADE LITCHFIELD, ESQUIRE, Florida Power & Light Company, Senior Attorney, 700 Universe Boulevard, Juno Beach, Florida 33408-0420
On behalf of Florida Power & Light Company.

ROBERT SCHEFFEL WRIGHT, ESQUIRE, and JOHN T. LAVIA, III, ESQUIRE, Landers & Parsons, P.A., P.O. Box 271, Tallahassee, Florida 32302
On behalf of Barron Collier Companies.

LAWRENCE D. HARRIS, ESQUIRE, and W. COCHRAN KEATING, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission.

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

DOCUMENT NUMBER-DATE

03094 APR-28

FPSO-DOCKETING CLERK

II. CASE BACKGROUND

Pursuant to Section 403.537, Florida Statutes, and Rules 25-22.075 and 25-22.076, Florida Administrative Code, on February 26, 2003, Florida Power & Light Company (FPL) filed a petition for determination of need for a 230 kV electrical transmission line connecting its Orange River and Collier electrical substations, to be sited through portions of Collier, Hendry, and Lee Counties. These proceedings are held to determine whether there is a need for FPL's proposed electrical transmission line given the need for electric system reliability and integrity, the need for abundant, low cost electrical energy to assure the economic well-being of the citizens of the State, whether FPL's Collier and Orange River electrical substations are the appropriate starting and ending points of the proposed electrical transmission line, and any other matters within the Commission's jurisdiction that it deems relevant, according to the requirements of Section 403.537, Florida Statutes.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapters 120 and 403, Florida Statutes. This prehearing conference will be governed by said Chapter and Chapters 25-22 and 28-106, Florida Administrative Code.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- b) Failure of any party to comply with a) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.

- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of the Commission Clerk and Administrative Services's confidential files.

V. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

VI. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes

the stand. Summaries of testimony shall be limited to five minutes. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VII. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
William Robert Schoneck	FP&L	1, 2, 3, 4
Vicente Ordax, Jr.	FP&L	1, 2, 3
C. Martin Mennes	FP&L	1, 2, 3, 4
Michel P. Armand	BARRON	The subject matter of Mr. Armand's testimony includes the cost-effectiveness of FPL's proposed route for the Project and reliability issues associated with FPL's proposed route for the Project.
<u>Rebuttal</u>		
Martin C. Mennes	FP&L	

VIII. BASIC POSITIONS

FP&L: FPL's proposal to build a new 230kV transmission line in a separate right-of-way ("ROW") from the Orange River Substation in Lee County to the Collier Substation in Collier County (the "Project") should be approved. The Project is clearly the most desirable alternative when considering costs, ROW diversity, reliability, operational flexibility and feasibility of implementation.

The Project Service Area which consists of Naples and surrounding areas is a large and rapidly growing load center. As of January 2003, FPL served approximately 357,700 customers in the Project Service Area, a population of approximately 594,900. Annual customer growth in the Project Service Area is approximately three percent, or 11,300 new customers per year, resulting in an incremental load of approximately 68MW per year.

Based on FPL's forecasted winter peak of 2005/2006 and the forecasted summer peak for 2006, the increase in load will result in the capacity of the existing transmission system between the Orange River and Collier Substations to be exceeded under numerous single contingency events. A new 230kV line is needed by December 2005 to mitigate potential overloads and low voltage conditions.

This rapidly growing load center can best be described as an electrical peninsula. There is no major source of generation in this area to compensate for the loss of the major transmission facilities that could occur in the existing common ROW. The loss of these facilities would result in loss of service to an unacceptably large number of customers for an extended period of time. Therefore, the need to establish a geographically diverse path for the transmission of power into the Project Service Area is critical. Specifically, a new, geographically diverse ROW is necessary to address increasing security concerns following the September 11, 2001 attacks on the United States of America. Further, a new, separate ROW would dramatically shorten service restoration periods for the

heavily populated Project Service Area, potentially lower integration costs for new distribution substations, enhance efficiencies and mitigate reliability risks in the maintenance of transmission facilities, and help accommodate transmission facility expansion to serve future growth in the Project Service Area. Moreover, the establishment of a new, separate ROW in the Project Service Area will facilitate future long range transmission expansion by acquiring additional ROW while practicable routes remain available.

For these reasons, FPL's Petition to Determine the Need for the Collier-Orange River #3 Project should be approved.

BARRON: The Commission should make an appropriate determination as to whether FPL has a general reliability need for additional bulk transmission resources in the area to be served by the proposed line. Pending the results of discovery, Barron Collier has no position at this time on whether FPL has such a need. FPL's own information shows that the proposed Collier-Orange River #3 Project (the "Project") is not the most cost-effective alternative for meeting FPL's alleged reliability need. Barron Collier believes that FPL has not adequately considered all viable alternatives for meeting its reliability needs, assuming that such needs can be established, and accordingly, Barron Collier believes that the Commission should deny FPL's petition for determination of need for the Project.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

IX. ISSUES AND POSITIONS

ISSUE 1: Is there a need for Florida Power & Light Company's proposed Collier-Orange River #3 project given the need for electric system reliability and integrity, as that phrase is used in §403.537, Florida Statutes?

POSITIONS

FP&L: Yes. FPL's Petition and testimony demonstrate the need for a 230kV line by December 2005 to mitigate potential overloads and low voltage conditions. The establishment of a geographically diverse path for the transmission of power into the Project Service Area is critical for reliability and efficient service restoration. A new, geographically diverse ROW is necessary in light of increased security risks to electrical facilities posed by potential terrorist activities following the September 11, 2001 attacks. The new, separate ROW will dramatically shorten service restoration periods in the Project Service Area. It will also provide the potential for lower integration costs for new distribution substations and enhanced transmission facility expansion necessary to serve future growth in the Project Service Area. In addition, the Project will enhance FPL's ability to efficiently maintain transmission facilities and mitigate the risks of an impact on reliability. When considering costs, ROW diversity, reliability, operational flexibility, and feasibility of implementation, FPL's Project is clearly the most desirable alternative to meet the need for electric system reliability and integrity, as well as the provision of low cost electrical energy to FPL's customers and the population in the Project Service Area. (Schoneck, Ordax, Mennes).

BARRON: No position at this time pending the completion of discovery. In particular, Barron Collier needs to review FPL's load forecasts for FPL's Western Division before taking a position on this issue.

STAFF: No position at this time.

ISSUE 2: Is there a need for Florida Power & Light Company's proposed Collier-Orange River #3 project given the need for abundant, low cost electrical energy to assure the economic well-being of the citizens of the State, as that phrase is used in §403.537, Florida Statutes?

POSITIONS

FP&L: Yes. See FPL's Position on Issue 1. (Schoneck, Ordax, Mennes).

BARRON: No position at this time pending the completion of discovery. In particular, Barron Collier needs to review FPL's load forecasts for FPL's Western Division before taking a position on this issue.

STAFF: No position at this time.

ISSUE 3: Are Florida Power & Light Company's Collier and Orange River electrical substations the appropriate starting and ending points of the proposed Collier-Orange River #3 project, as required by §403.537, Florida Statutes?

POSITIONS

FP&L: Yes. The load flow maps contained in Appendices A and B to Exhibit "A" to the Petition demonstrate that the appropriate starting and ending points are the Orange River Substation and the Collier Substation, respectively. (Schoneck, Ordax, Mennes).

BARRON: No position at this time pending the completion of discovery. In particular, Barron Collier needs to review FPL's load forecasts for FPL's Western Division before taking a position on this issue. (Armand)

STAFF: No position at this time.

ISSUE 4: Should the Commission grant Florida Power & Light Company's petition for determination of need for the proposed Collier-Orange River #3 project?

POSITIONS

FP&L: Yes. (Schoneck, Mennes).

BARRON: No. (Armand)

STAFF: No position at this time.

ISSUE 5: Should this docket be closed?

POSITIONS

FP&L: Yes, following the issuance of a final order granting FPL's Petition and the expiration of time for an appeal, this docket should be closed.

BARRON: Yes, upon issuance of an order either denying FPL's petition or requiring FPL to explore additional alternative routes, this docket should be closed.

STAFF: No position at this time.

X. **EXHIBIT LIST**

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			<u>Direct</u>
None	FP&L		Notices of Final Hearing and Affidavits of Publication

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
William Robert Schoneck	FP&L		Exhibit "A" to the Petition to Determine Need for the Collier-Orange River #3 Project including Attachments 1-8 and Appendices A and B [Composite Exhibit]
William Robert Schoneck	FP&L	WRS-1	(Illustration Electrical Peninsula)
Vicente Ordax, Jr.	FP&L		Attachment 8 and Appendices A and B to Exhibit "A" to the Petition (co-sponsor with Mr. Schoneck)
C. Martin Mennes	FP&L		Attachment 6 of Exhibit "A" to the Petition (co-sponsor with Mr. Schoneck)

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Michel P. Armand	BARRON		Resume' of Michel P. Armand. Barron Collier reserves the right to introduce additional exhibits as such may be identified through discovery. Barron Collier will endeavor to notify the Staff and FPL, and any other parties, of its intentions with regard to such exhibits as soon as practicable.

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination, and to introduce exhibits for cross-examination, impeachment, or for any other purpose authorized by the applicable Florida Rules of Evidence and rules or orders of this Commission.

XI. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XII. PENDING MOTIONS

There are no pending motions at this time.

XIII. PENDING CONFIDENTIALITY MATTERS

Florida Power & Light Company's Request for Confidential Classification, filed March 19, 2003.

XIV. OTHER MATTERS

None.

XV. RULINGS

1. Opening Statements shall not exceed ten minutes per party.

2. Barron Collier Companies' Motion To Compel and Alternative Motion for Continuance of Hearing in Part is withdrawn by Barron Collier. FPL shall make witness Mennes available for deposition for two hours on Monday, April 7, 2003.

3. As announced by the parties, Florida Power & Light Company's Objections to Barron Collier Companies' First Set of Interrogatories and First Request for Production of Documents are resolved by agreement of the parties without the necessity of a ruling.

4. Barron Collier Companies' Notice of Taking Deposition of Florida Power & Light Company, filed March 28, 2003, contains 12 points of subject matter. Florida Power & Light Company's Motion for Protective Order regarding this subject matter is granted in part and denied in part, as follows:

- A. For items 1-9 on pages 3-4, Barron Collier will only be allowed to inquire about rights of way, not route specific information. Any questions involving a specific route or location information shall not be allowed.
- B. Items 10 and 11 on page 4 are limited to FPL's transmission system only. Questions regarding FPL's generation system shall not be allowed.
- C. No ruling is made as to item 12, page 4.

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Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission. It is further

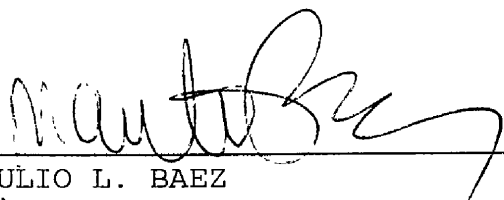
ORDERED that opening statements, if any, shall not exceed ten minutes per party. It is further

ORDERED that Florida Power & Light Company shall make witness C. Martin Mennes available for deposition for two hours on Monday, April 7, 2003. It is further

ORDERED that Florida Power & Light Company's Objections to Barron Collier Companies' First Set of Interrogatories and First Request for Production of Documents are resolved without ruling. It is further

ORDERED that Florida Power & Light Company's oral Motion for Protective Order as to Barron Collier Companies' Notice of Taking Deposition of Florida Power and Light Company is granted in part and denied in part, as set forth in the body of this order.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 2nd day of April, 2003.



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.

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; or (2) 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.