

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.

DOCKET NO. 000824-EI  
ORDER NO. PSC-03-0771-PCO-EI  
ISSUED: June 30, 2003

ORDER OF COMMISSIONER CHARLES M. DAVIDSON DECLINING  
RECUSAL FROM DOCKET NO. 000824-EI

On June 27, 2003, in the above-captioned matter, Sugarmill Woods Civic Association, Inc. (Sugarmill) filed a petition requesting that Commission staff withdraw its recommendation filed May 8, 2003, and replace it with an earlier draft staff recommendation, and requesting the recusal of myself and Commissioner Bradley from further participation in this docket due to an alleged bias against the customers. This Order addresses Sugarmill's request for my voluntary recusal.

Under Section 120.665 (1), Florida Statutes:

any individual serving alone or with others as an agency head may be disqualified from serving in an agency proceeding for bias, prejudice, or interest when any party to the agency proceeding shows just cause by a suggestion filed within a reasonable period of time prior to the agency proceeding.

Just cause may be demonstrated when the facts alleged would prompt a reasonably prudent person to fear that they will not obtain a fair and impartial hearing. Charlotte County v. IMC-Phosphates Co., 824 So. 2d 298, 300 (Fla. 1st DCA 2002), citing Dept. of Agriculture v. Broward Co., 810 So. 2d 1056, 1058 (Fla. 1st DCA 2002).

Upon reviewing Sugarmill's petition, I find that the allegations contained therein are not legally sufficient pursuant to Section 120.665, Florida Statutes, to demonstrate a bias, prejudice, or interest in the instant proceeding. Therefore, I hereby decline to withdraw from these proceedings and in fact I view it as my duty to remain on the case.

It is therefore

ORDERED that Sugarmill's motion for me to recuse myself is denied.

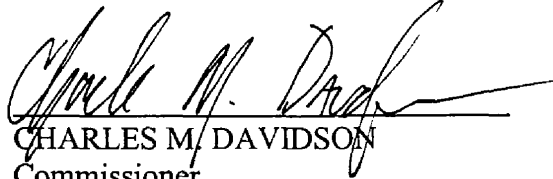
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By ORDER of Commissioner Charles M. Davidson this 30<sup>th</sup> day of June,  
2003.

  
CHARLES M. DAVIDSON  
Commissioner

( S E A L )  
JSB

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.