

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Turkey  
Point Unit 5 electrical power plant, by Florida  
Power & Light Company.

DOCKET NO. 040206-EI  
ORDER NO. PSC-04-0432-PCO-EI  
ISSUED: April 28, 2004

ORDER GRANTING INTERVENTION

By petition, dated March 31, 2004, Calpine Energy Services, L.P. (Calpine), has requested permission to intervene in this proceeding. In its petition, Calpine claims that it is entitled to intervene in this proceeding, because it was a respondent to the Request for Proposals (RFP) that Florida Power & Light (FPL) issued on August 25, 2003, in which FPL solicited competitive alternatives to the next planned generating unit in its generation expansion plan. FPL issued the RFP to comply with Commission Rule 25-22.082 (2), Florida Administrative Code, which requires all electric utilities to issue an RFP before submitting a petition for a Determination of Need to the Commission. Calpine alleges that FPL rejected all proposals submitted in response to its RFP, and ultimately filed a petition to determine the need for its own proposal to build an additional power plant itself in Dade County. Calpine challenges the validity of FPL's RFP process and alleges that FPL failed to comply with the requirements of Rule 25-22.082. Calpine claims that its substantial interests will be affected by the Commission's decision in this need determination proceeding, and it is entitled to intervene to protect those interests and to challenge FPL's RFP process.

Having reviewed the Petition, it appears that Calpine's substantial interests may be affected by this proceeding. There has been no response filed in opposition to this request, and the time for doing so has expired. Therefore, the Petition shall be granted. Pursuant to Rule 25-22.039, Florida Administrative Code, Calpine takes the case as it finds it.

Therefore, it is

ORDERED by the Florida Public Service Commission that the Petition to Intervene filed by Calpine Energy Services, L.P. is hereby 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, Flanagan, Katz, Raymond, & Sheehan, P.A.  
118 North Gadsden Street  
Tallahassee, Florida 32301

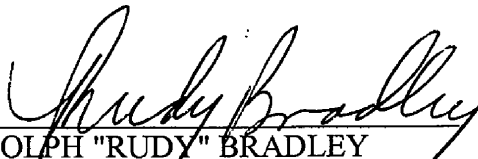
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FPSC-COMMISSION CLERK

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By ORDER of Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, this  
28th day of April, 2004.

  
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RUDOLPH "RUDY" BRADLEY  
Commissioner and Prehearing Officer

( 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.