

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for Hines 4 power plant in Polk County by Progress Energy Florida, Inc. | DOCKET NO. 040817-EI
| ORDER NO. PSC-04-1062-PHO-EI
| ISSUED: October 28, 2004

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on October 18, 2004, in Tallahassee, Florida, before Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer.

APPEARANCES:

GARY L. SASSO, ESQUIRE, and JAMES MICHAEL WALLS, ESQUIRE,
Carlton Fields, P.A., P.O. Box 3239, Tampa, Florida 33601-3239
On behalf of Progress Energy Florida, Inc. (PEF)

WM. COCHRAN KEATING IV, 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.

II. CASE BACKGROUND

On August 5, 2004, Progress Energy Florida, Inc. filed a petition for determination of need for a proposed electrical power plant pursuant to Section 403.519, Florida Statutes, and Rules 25-22.080 and 25-22.081, Florida Administrative Code. This matter has been assigned Docket No. 040817-EI and has been set for a formal evidentiary hearing on November 3, 2004.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapters 120, 366, and 403, Florida Statutes. This hearing will be governed by said Chapters and Chapters 25-6, 25-22, and 28-106, Florida Administrative Code.

DOCUMENT NUMBER-DATE

11656 OCT 28 04

FPSC-COMMISSION CLERK

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 parties 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 1) 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 Commission Clerk and Administrative Service's confidential files.

V. POST-HEARING PROCEDURES

If no bench decision is made, 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. As a result of discussions at the Prehearing Conference, the testimony of each witness listed in Section VII of this Prehearing Order has been stipulated to by the parties and staff. Each witness may be excused from the hearing, because no Commissioner assigned to this case seeks to cross-examine the witnesses. The testimony of the excused witnesses will be inserted into the record as though read, and all exhibits submitted with those witnesses' testimony, as shown in Section IX of this Prehearing Order, shall be identified and admitted into the record.

VII. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Samuel S. Waters	PEF	1, 2, 3, 4, 5
Daniel J. Roeder	PEF	2, 4, 5
Pamela R. Murphy	PEF	1, 2, 5
John M. Robinson	PEF	2, 5, 6
John J. Hunter	PEF	2, 5
Alfred G. McNeill	PEF	1, 2, 5
Charles G. Beuris	PEF	4, 5

VIII. BASIC POSITIONS

PEF: Pursuant to Section 403.519 Florida Statutes, and Rule 25-22.081, F.A.C., PEF filed a petition on August 5, 2004, for determination of need for a proposed electric power plant, called Hines Unit 4, located in Polk County, Florida. In support of its petition, PEF submitted a detailed Need Study and appendices, along with pre-filed testimony and exhibits, that develop more fully the information required by Rule 25-22.081, F.A.C. PEF seeks an affirmative determination of need for Hines Unit 4 to enable the Company to meet its obligation to maintain electric system reliability and integrity and to continue to provide adequate electricity to its ratepayers at a reasonable cost.

Through PEF's planning process, the Company identified Hines 4 as its next-planned generating addition. The Company needs Hines Unit 4 to meet its 20% Reserve Margin planning criterion for Winter 2007/2008 and beyond. Without the addition of Hines Unit 4, PEF's Reserve Margin will decrease to about 19 percent in 2007/2008 and 16 percent by 2008/2009. Hines Unit 4 will be a state-of-the-art, highly efficient, environmentally-benign combined cycle unit with an expected winter rating of 517 megawatts (MW). Hines Unit 4 will be built at the Hines Energy Complex (HEC), a site planned and well suited for expansion of PEF's generation system. Because Hines Unit 4 will be located at the HEC, it also benefits from the economies of scale achieved from using the HEC's existing

facilities, adding to the cost-effectiveness of the plant. Hines Unit 4 is expected to commence commercial operation by December 2007.

Hines Unit 4 is the most cost-effective alternative available to PEF. PEF determined to seek approval to build Hines Unit 4 only after conducting an internal review of supply-side and demand-side options and after soliciting and evaluating competing proposals submitted by interested third-party suppliers. PEF received five proposals and two variations from a total of four bidders in response to its RFP. **All proposals received were evaluated by PEF.** One proposal from a bidder did not pass the threshold screening, however, and the remaining four proposals and two variations from the four bidders were narrowed down to one proposal from each bidder that were compared to Hines Unit 4. After a thorough analysis of the bids it received in response to its RFP, PEF concluded that Hines Unit 4 was the most cost-effective supply-side alternative available to PEF to meet its need for power. Following a detailed economic analysis, Hines Unit 4 was found to be approximately \$55 million (2004 dollars) less expensive than the least cost alternative proposal. The least cost New Unit Proposal (another combined cycle plant) was found to be more than \$95 million (2004 dollars) more expensive than Hines Unit 4.

The Company has attempted to avoid or defer constructing the unit by considering and pursuing demand-side options reasonably available to it, but the Company has nonetheless concluded that it cannot avoid or defer its need to build the unit.

For all these reasons, as more fully developed in PEF's Need Study (and the Confidential Section of that Study) and supporting appendices and tables, and its pre-filed testimony and exhibits, PEF respectfully requests that the Florida Public Service Commission ("FPSC" or "Commission") grant a favorable determination of need for Hines Unit 4.

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: Proposed Stipulation. See Section XI of this Order.

ISSUE 2: Proposed Stipulation. See Section XI of this Order.

ISSUE 3: Proposed Stipulation. See Section XI of this Order.

ISSUE 4: Proposed Stipulation. See Section XI of this Order.

ISSUE 5: Proposed Stipulation. See Section XI of this Order.

ISSUE 6: Proposed Stipulation. See Section XI of this Order.

ISSUE 7: Proposed Stipulation. See Section XI of this Order.

X. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Samuel S. Waters	PEF	<u>SSW-1</u>	PEF's Need Determination Study for Hines Unit 4 (with attachments), a composite exhibit.
Samuel S. Waters	PEF	<u>SSW-2</u>	Forecast of Winter Demand and Reserves With and Without Hines Unit 4.
Samuel S. Waters	PEF	<u>SSW-3</u>	Levelized Busbar Cost Curves
Samuel S. Waters	PEF	<u>SSW-4</u>	PEF's 2008 System Energy Mix
Daniel J. Roeder	PEF	<u>DJR-1</u>	Results of Detailed Economic Analysis
Daniel J. Roeder	PEF	<u>DJR-2</u>	RFP Evaluation Process
Daniel J. Roeder	PEF	<u>DJR-3</u>	Summary of Proposals
Daniel J. Roeder	PEF	<u>DJR-4</u>	Threshold Requirements
Daniel J. Roeder	PEF	<u>DJR-5</u>	Results of Threshold Screening

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Daniel J. Roeder	PEF	<u>DJR-6</u>	Results of Economic Screening
Daniel J. Roeder	PEF	<u>DJR-7</u>	Results of Optimization Analysis
Daniel J. Roeder	PEF	<u>DJR-8</u>	Minimum Evaluation Requirements
Daniel J. Roeder	PEF	<u>DJR-9</u>	Technical Criteria
Daniel J. Roeder	PEF	<u>DJR-10</u>	Final Results of Technical Evaluation
Daniel J. Roeder	PEF	<u>DJR-11</u>	Results of Detailed Economic Analysis—Costs by Component
Pamela R. Murphy	PEF	<u>PRM-1</u>	Natural Gas Forecast Compared to Other Industry Forecasts
Pamela R. Murphy	PEF	<u>PRM-2</u>	Base High and Low Case Natural Gas Forecasts
Pamela R. Murphy	PEF	<u>PRM-3</u>	Fuel Price Forecast for Hines
John M. Robinson	PEF	<u>JMR-1</u>	Hines Energy Complex Map
John M. Robinson	PEF	<u>JMR-2</u>	Site Arrangement – Overall Plan
John M. Robinson	PEF	<u>JMR-3</u>	Site Arrangement – Power Block Area
John M. Robinson	PEF	<u>JMR-4</u>	Typical Combined Cycle Schematic
John M. Robinson	PEF	<u>JMR-5</u>	Projected Cost Estimate for Hines Unit 4

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
John M. Robinson	PEF	<u> </u> JMR-6	Project Schedule for Hines 4
Charles G. Beuris	PEF	<u> </u> CGB-1	Standard and Poors Article: "Buy versus Build": Debt Aspects of Purchased-Power Agreements. May 8, 2003
	STAFF	<u> </u>	Specified Public Responses to Staff Discovery
	STAFF	<u> </u>	Specified Confidential Responses to Staff Discovery

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

XI. PROPOSED STIPULATIONS

PEF and Staff agree to the following proposed stipulations to resolve all issues in this docket:

ISSUE 1: **Is there a need for the proposed Hines Unit 4, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?**

STIPULATED

POSITION: Yes. There is a need for Hines Unit 4, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes. Through PEF's planning process, the Company identified Hines Unit 4 as its next planned generating addition. The Company needs Hines Unit 4 to meet its 20 percent reserve margin planning criterion for Winter 2007/2008 and beyond. In reaching this conclusion, PEF developed a ten-year load forecast. PEF's forecast assumptions, regression models and the projected system peak demands are appropriate for use in this docket. PEF's forecasted 2.3 percent and 2.2 percent annual growth rates of winter peak demand and net energy for load, respectively, appear to be a reasonable extension of historical trends.

Without the Hines Unit 4 capacity addition, PEF's Reserve Margin will decrease to approximately 19 percent in 2007/2008 and 16 percent by 2008/2009. The Hines Unit 4 addition allows PEF to satisfy its commitment to maintain a

minimum 20 percent Reserve Margin and it will do so by improving not just the quantity, but also preserving the quality, of its total reserves, maintaining an appropriate portion of physical generating assets in the Company's overall resource mix. The addition of Hines Unit 4 will increase PEF's share of physical reserves to approximately one half of total reserves capacity, which includes dispatchable DSM programs. In the winter of 2007/2008, this level of reserve capacity is sufficient to maintain coverage of an unplanned outage of PEF's largest unit. Hines Unit 4 will also add diversity to PEF's fleet of generating assets, in terms of fuel, technology, age, and functionality of the unit. The dual-fuel capability of the unit provides operational flexibility.

ISSUE 2: **Is there a need for the proposed Hines Unit 4, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?**

STIPULATED

POSITION: Yes. There is a need for the proposed Hines Unit 4, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes. As stated in Issue 1, PEF needs Hines Unit 4 to meet its 20 percent Reserve Margin planning criterion for winter 2007/2008 and beyond. Moreover, PEF determined to seek approval to build Hines Unit 4 only after conducting an internal review of supply-side and demand-side options and after soliciting and evaluating competing proposals submitted by interested third-party suppliers. The fuel price forecasts used in PEF's planning analysis appear to be reasonable for planning purposes. Based on responses to staff's discovery and production of documents, the Company has provided assurance that natural gas transportation and natural gas supply will adequately be provided at reasonable costs to Hines Unit 4. The results of PEF's resource planning analysis show that the economics favor combined cycle units over combustion turbines or coal-fueled technology when a generator is needed to run more than approximately 20 percent of the time. Hines Unit 4 is projected to operate as an intermediate unit, with capacity factors ranging from 50 to 70 percent over the life of the unit. The unit also has the flexibility to serve as an economical base load unit, if needed.

After a thorough analysis of the bids it received in response to its request for proposals (RFP), PEF concluded that Hines Unit 4 was the most cost-effective supply-side alternative available to PEF to meet its need for power. There were no protests regarding PEF's RFP filed with the Commission. Hines Unit 4 is a state-of-the-art, highly efficient, and reliable combined cycle unit producing low-cost electricity for PEF's customers. It is the lowest cost option available to meet the needs of PEF's customers for the winter of 2007/2008 and beyond.

ISSUE 3: Are there any conservation measures taken by or reasonably available to Progress Energy Florida which might mitigate the need for the proposed Hines Unit 4?

STIPULATED

POSITION: No. There are no conservation measures taken by or reasonably available to PEF which could avoid or defer the need for Hines Unit 4. The Commission approved PEF's Demand-Side Management (DSM) Goals and DSM Plan in Docket Nos. 971005-EG and 991789-EG, respectively. These dockets established the cost-effective level of demand and energy savings reasonably achievable by PEF through DSM programs. PEF's DSM Plan consists of five residential programs, eight commercial and industrial programs, and one research and development program. Through its efforts in these programs, PEF has successfully met its approved DSM goals. PEF anticipates that it will meet its approved goals in the future.

The anticipated demand and energy savings from PEF's DSM goals and programs, as established in Docket Nos. 971005-EG and 991789-EG, were appropriately included in PEF's resource planning process. However, PEF's analysis showed that the savings from these programs will not avoid or defer the need for Hines Unit 4.

Subsequent to PEF's resource planning process for Hines 4, the Commission approved new numeric DSM goals for PEF for the period 2005 through 2014, in Docket No. 040031-EG, as well as a DSM Plan designed to meet these goals. PEF's new goals are generally lower than those established in Docket No. 971005-EG. This would tend to increase PEF's forecasted winter and summer peak demand, further establishing a need for Hines 4.

ISSUE 4: Is the proposed Hines Unit 4 the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?

STIPULATED

POSITION: Yes. The proposed Hines Unit 4 is the most cost-effective alternative available, as the criterion is used in Section 403.519, Florida Statutes. The Company conducted a careful screening of various other supply-side alternatives as part of its Resource Planning process before identifying Hines Unit 4 as its next-planned generating alternative. The Company screened out less cost-effective supply-side alternatives, identifying Hines Unit 4 as the most cost-effective alternative available to the Company.

PEF engaged in an extensive capacity solicitation process through its RFP. PEF received five proposals from four bidders. In addition, one of the bidders provided two alternatives to its proposal. One proposal did not pass the threshold requirements and was eliminated, but one proposal from each of the four bidders was put on the short list and compared to the self-build alternative, Hines Unit 4. PEF performed a significant amount of analysis, evaluating the price and non-price attributes of the alternatives. The final evaluation of the non-price attributes demonstrated Hines Unit 4 to be one of the top two ranked alternatives in nearly all of the categories. The detailed economic analysis found Hines 4 to be approximately \$55 million (2004 dollars) less expensive than the least cost alternative proposal, a combination existing and new unit proposal. The least cost New Unit Proposal (another combined cycle plant) was found to be more than \$95 million (2004 dollars) more expensive than Hines Unit 4. PEF demonstrated that the self-build option had reduced costs due to the economies of scale associated with siting Hines Unit 4 at the existing Hines site with three similar units and due to the favorable equipment pricing PEF was able to negotiate. Sensitivity analyses were run, which either gave advantages to the third-party proposals by assuming decreases in their costs or assuming increases in the costs associated with Hines Unit 4. In all cases, Hines Unit 4 was the least cost alternative.

As a result of the Company's detailed evaluation of the supply-side alternatives available to PEF in the RFP evaluation process, Hines Unit 4 was selected because it is the most cost-effective alternative for meeting the needs of PEF's customers for the winter of 2007/2008 and beyond.

ISSUE 5: **Based on the resolution of the foregoing issues, should the Commission grant Progress Energy Florida's petition to determine the need for the proposed Hines Unit 4?**

STIPULATED

POSITION: **Yes.** PEF's petition for determination of need for Hines Unit 4 meets the requirements of Section 403.519, Florida Statutes, as discussed above. PEF should continue to monitor the cost-effectiveness of Hines Unit 4 prior to committing substantial capital dollars.

ISSUE 6: **If an affirmative determination of need is granted, should Progress Energy Florida be required to annually report the budgeted and actual cost compared to the \$286.1 million estimated total in-service cost of Hines Unit 4?**

STIPULATED

POSITION: Yes. PEF should be required to annually report the budgeted and actual cost compared to the \$286.1 million estimated total in-service cost of Hines Unit 4. PEF should provide such information on an annual basis with the understanding that some costs may be higher than estimated and other costs may be lower. Providing this information on an annual basis will allow the Commission staff to monitor PEF's progress toward achieving its estimated cost of \$286.1 million. The categories to be reported are: Major Equipment/EPC, Permitting, Transmission Interconnection and Integration, Natural Gas Infrastructure Upgrades, Operations and Start-Up, Project Management, Owners Cost, and AFUDC. Per Rule 25-22.082, Florida Administrative Code, PEF would need to demonstrate that costs in addition to the \$286.1 million were prudently incurred and due to extraordinary circumstances for such additional costs to be recoverable. Alternatively, if the actual cost is less than \$286.1 million, customers will receive the benefit of such cost under runs.

ISSUE 7: Should this docket be closed?

STIPULATED

POSITION: Yes. This docket should be closed after the time for filing an appeal of the Commission's post-hearing order has expired.

XII. PENDING MOTIONS

There are no pending motions at this time.

XIII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

XIV. RULINGS

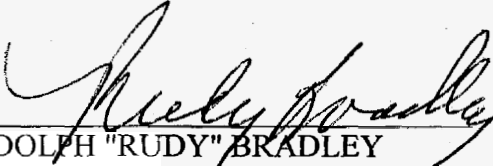
Opening statements, if any, shall not exceed ten minutes per party.

ORDER NO. PSC-04-1062-PHO-EI
DOCKET NO. 040817-EI
PAGE 13

It is therefore, .

ORDERED by Commissioner Rudolph "Rudy" Bradley, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

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



RUDOLPH "RUDY" BRADLEY
Commissioner and Prehearing Officer

(S E A L)

WCK

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,

ORDER NO. PSC-04-1062-PHO-EI
DOCKET NO. 040817-EI
PAGE 14

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.