

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for proposed Stanton Energy Center Combined Cycle Unit B electrical power plant in Orange County, by Orlando Utilities Commission.

DOCKET NO. 060155-EM
ORDER NO. PSC-06-0401-PHO-EM
ISSUED: May 11, 2006

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on May 8, 2006, in Tallahassee, Florida, before Commissioner Matthew M. Carter II, as Prehearing Officer.

APPEARANCES:

ROY C. YOUNG, ESQUIRE, Young VanAssenderp, PA, Post Office Box 1833, Tallahassee, Florida 32302-1833, and THOMAS B. TART, ESQUIRE, Orlando Utilities Commission, 500 S. Orange Avenue, Orlando, Florida 32801
On behalf of Orlando Utilities Commission.

MARTHA CARTER BROWN, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission.

PREHEARING ORDER

I. CASE BACKGROUND

On February 22, 2006, the Orlando Utilities Commission (OUC) filed a petition for determination of need for a proposed electrical power plant in Orange County pursuant to section 403.519, Florida Statutes, and Rule 25-22.080, Florida Administrative Code. The proposed Stanton B electrical power plant is a 283 megawatt (MW) integrated gasification combined cycle unit to be located in Orange County at OUC's existing Stanton Energy Center site. Stanton B will operate primarily on coal-derived synthetic gas, but will also have the capability to burn natural gas. The unit is expected to be placed in service by June 1, 2010. The matter has been scheduled for a formal administrative hearing on May 22, 2006.

II. 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

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FPSC-COMMISSION CLERK

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 403, Florida Statutes, specifically section 403.519, and Chapter 366, Florida Statutes. This hearing will be governed by said Chapter and Chapters 25-22, and 28-106, Florida Administrative Code.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, shall be treated by the Commission 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 pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, Florida Statutes. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this 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. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. 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.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

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' confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), Florida Administrative Code, if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and 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 timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. 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.

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. After all parties and Staff have had the opportunity to cross-examine the witness, 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.

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.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>Issues #</u>	<u>Subject Matter</u>
Nelson F. Rekos (DOE)	OUC	5	DOE CCPI, Selection of Stanton B for CCPI cost-sharing, benefits of Stanton B.
Randall Rush (SCS)	OUC	5	Role of Southern Company and subsidiaries in Stanton B, overview of Stanton B, gasification technology employed by Stanton B.
Frederick F. Haddad, Jr. (OUC)	OUC	1, 2, 5	Business and strategic advantages of Stanton B.
Eric Fox (Itron)	OUC	5	Preparation of OUC load forecast.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>	<u>Subject Matter</u>
Seth Schwartz (EVA)	OUC	5	Description of how fuel forecasts were developed and reasonableness for use.
Chris Klausner (Black & Veatch)	OUC	5	Overview and summary of conventional, advanced, emerging, energy storage, and distributed generation supply-side alternatives.
Bradley E. Kushner (Black & Veatch)	OUC	2, 3, 4, 5	Economic evaluation of supply-side alternatives, OUC's existing demand-side management and conservation measures, evaluation of demand-side management measures.
Thomas Washburn (OUC)	OUC	5	Impact to OUC and Central Florida transmission systems.
John E. Hearn (OUC)	OUC	5	OUC's ability to finance Stanton B.
Myron Rollins (Black & Veatch)	OUC	1, 4, 5	Overview and summary of economic evaluation criteria and methodology, renewable supply-side alternatives, supply-side screening, environmental considerations, consequences of delay of Stanton B, and peninsular Florida's need for Stanton B.

Note: Witnesses Fox and Rollins have been excused from attendance at the May 22, 2006, hearing. All other witnesses will be excused from attendance if the Commissioners do not have questions for them. Staff will notify OUC by close of business May 11, 2006, if the witnesses have been excused.

VII. BASIC POSITION

Pursuant to Section 403.519, Florida Statutes, and Rule 25-22.081, Florida Administrative Code, OUC seeks an affirmative determination of need for the proposed Stanton Energy Center Unit B (Stanton B). As demonstrated in OUC's Need for Power Application and pre-filed testimony, Stanton B is needed to maintain electric system reliability and integrity by the summer of 2010, when OUC's reserve margin would fall below its reserve margin criteria if

Stanton B is not constructed. Stanton B is the most cost-effective alternative available to OUC to satisfy forecast capacity requirements in a reliable, environmentally responsible manner. OUC and its partners will receive federal cost-sharing through the United States Department of Energy's Clean Coal Power Initiative for the project. Stanton B will be capable of operating on either coal derived syngas or natural gas.

Stanton B is the most cost-effective alternative available to OUC based on a comprehensive analysis of various supply-side technologies (including conventional, advanced, renewable, emerging, energy storage, and distributed generation technologies) under base case and numerous sensitivity scenario assumptions related to fuel forecasts, load and energy growth, capital costs, and emissions allowance prices, among others. Based on the detailed economic analysis, Stanton B was found to be more cost-effective than any other capacity resource. Additionally, OUC considered in excess of 180 demand-side management measures, and none were found to mitigate the need for Stanton B. OUC has also demonstrated that a delay in the commercial operation date of Stanton B (beyond June 2010) would result in reduced reliability and increased system costs.

Stanton B will help OUC to further diversify its fuel supply portfolio. The unit will gasify subbituminous Powder River Basin (PRB) coal, which represents a very abundant source of coal in the United States. In addition to increasing fuel diversity, Stanton B will operate at very low emission rates for coal fired generation. Moreover, the DOE selection of Stanton B for federal cost-sharing indicates the importance of the proposed project in the long-term energy strategy for the United States.

VIII. ISSUES AND POSITIONS

STIPULATED

ISSUE 1: IS THERE A NEED FOR THE PROPOSED STANTON B GENERATING UNIT, TAKING INTO ACCOUNT THE NEED FOR ELECTRIC SYSTEM RELIABILITY AND INTEGRITY, AS THIS CRITERION IS USED IN SECTION 403.519, FLORIDA STATUTES?

POSITION: Yes. OUC needs Stanton B to satisfy forecast capacity requirements to maintain its 15 percent reserve margin criteria beginning in the summer of 2010. Without the Stanton B addition, OUC's reserve margin will decrease to approximately 13.2 percent by summer 2010, a 25 megawatt deficit of the required minimum. Without adding capacity, by the summer of 2014, OUC will need 240 MW to meet its reserve margin requirements. OUC's need is driven primarily by population growth. OUC's forecasted compound average annual growth rate of 2.8 percent for net energy for load appears to be reasonable. OUC's analysis is based on the conservative assumptions that during the 25 year evaluation period: (1) no existing generating units will be retired, other than the St. Cloud diesel units scheduled to retire in 2006, and (2) OUC will exercise its option to extend its existing purchase power agreement for Stanton A capacity with Southern Company.

STIPULATED

ISSUE 2: IS THERE A NEED FOR THE PROPOSED STANTON B GENERATING UNIT, TAKING INTO ACCOUNT THE NEED FOR ADEQUATE ELECTRICITY AT A REASONABLE COST, AS THIS CRITERION IS USED IN SECTION 403.519, FLORIDA STATUTES?

POSITION: Yes. As stated in Issue 1, the proposed Stanton B unit is needed to maintain OUC's reserve margin criteria. OUC conducted an extensive analysis of available supply-side and demand-side options. OUC's analysis of supply-side options included conventional natural gas and coal-fired options, renewable generating technologies, distributed generation technologies, energy storage options, and advanced generation options such as nuclear, fuel cells and advanced coal technologies. OUC's load forecast and financial assumptions appear to be reasonable. OUC's need study identified Stanton B as the most cost-effective option available with a \$12.9 million cumulative present worth cost savings over the lowest cost alternative generation plan. A key factor in the cost-effectiveness of the unit is the \$235 million in United States Department of Energy (DOE) cost-sharing under the President's Clean Coal Initiative. Stanton B will also increase OUC's fuel diversity through gasification of subbituminous Powder River Basin coal. OUC provided adequate assurances that sufficient rail capacity is available to transport the coal. To increase reliability, Stanton B will be capable of operating on either coal-derived syngas or natural gas. OUC has mitigated ratepayer risk associated with the gasification technology by obtaining contractual reliability guarantees with substantial penalties from the Southern Power Company – Orlando Gasification LLC.

STIPULATED

ISSUE 3: ARE THERE ANY CONSERVATION MEASURES TAKEN BY OR REASONABLY AVAILABLE TO OUC WHICH MIGHT MITIGATE THE NEED FOR THE PROPOSED STANTON B GENERATING UNIT?

POSITION: No. OUC evaluated the cost-effectiveness of over 180 demand-side management (DSM) measures in its Need for Power Application. OUC used the Florida Integrated Resource Evaluator (FIRE) model, which the Commission has found to be appropriate for evaluating conservation and DSM measures. None of the potential measures were found to be cost-effective, as none of the measures passed the rate impact test. On August 9, 2004, the Commission issued Order No. PSC-04-0767-PAA-EG, in Docket No. 040035-EG, which set OUC's DSM goals at zero because no DSM programs were found to be cost-effective. OUC does offer a wide variety of DSM measures under its existing seven residential and seven commercial/industrial DSM programs, and OUC also offers two pilot DSM programs, a green pricing program and a photovoltaic generation program. Those

programs, however, do not provide OUC a cost-effective way to mitigate the need for the Stanton B Unit.

STIPULATED

ISSUE 4: IS THE PROPOSED STANTON B GENERATING UNIT THE MOST COST-EFFECTIVE ALTERNATIVE AVAILABLE, AS THIS CRITERION IS USED IN SECTION 403.519, FLORIDA STATUTES?

POSITION: Yes. Stanton B provides the most cost-effective alternative to satisfy OUC's forecast capacity requirements beginning in summer 2010. As noted in Issue 2, the project results in a projected \$12.9 million cumulative present worth savings over the lowest cost alternative generation plan, primarily due to the \$235 million in United States Department of Energy (DOE) cost-sharing. The projected savings for Stanton B appear relatively small; however, OUC's least-cost alternative expansion plan contains a pulverized coal unit in 2013. If Stanton B is compared to a natural gas-only alternative expansion plan, Stanton B is projected to have a \$120.7 million cumulative present worth savings. While OUC did not issue a request for proposals (RFP), OUC conducted an extensive analysis of available supply-side and demand-side options, and compared Stanton B to the evaluation of the bids received by the Florida Municipal Power Agency in its recent Treasure Coast need proceeding. OUC was not required to issue an RFP by Commission rules. OUC stated that if OUC had issued an RFP, the delay could have precluded OUC from participating in the one-time opportunity to participate in the Stanton B project and in the DOE's \$235 million cost-sharing award. OUC performed numerous sensitivity analyses in its need study, in which OUC varied the assumed fuel prices, peak demand and energy growth, capital cost and emission allowance prices. In all but two cases, Stanton B was the least-cost alternative. As a whole, the results of OUC's sensitivity analysis support the conclusion that Stanton B is the least-cost alternative.

STIPULATED

ISSUE 5: BASED ON THE RESOLUTION OF THE FOREGOING ISSUES, SHOULD THE COMMISSION GRANT OUC'S PETITION TO DETERMINE THE NEED FOR THE PROPOSED STANTON B GENERATING UNIT?

POSITION: Yes. The Commission should grant OUC's petition for determination of need for Stanton B because it is the most cost-effective option available to meet OUC's need for additional capacity and achieve its reserve margin criteria beginning in summer 2010. There are no cost-effective demand-side management measures available to offset the need. Stanton B will provide OUC with adequate electricity at a reasonable cost and it will contribute to the reliability and integrity of OUC's system as well as to Florida's reliability. Stanton B will contribute to OUC's and Florida's fuel diversity by using Powder River Basin coal. Stanton B will also demonstrate new technology with the support of the United States DOE.

STIPULATED

ISSUE 6: SHOULD THIS DOCKET BE CLOSED?

POSITION: Yes. When the Commission has issued its final order in the case and the time for reconsideration has passed, this docket should be closed.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Randall Rush	OUC	<u>OUC-1</u>	Stanton B Need for Power Application
Frederick F. Haddad, Jr.	OUC	<u>OUC-1</u>	Stanton B Need for Power Application
Eric Fox	OUC	<u>OUC-1</u>	Stanton B Need for Power Application
Chris Klausner	OUC	<u>OUC-1</u>	Stanton B Need for Power Application
Bradley E. Kushner	OUC	<u>OUC-1</u>	Stanton B Need for Power Application
Thomas Washburn	OUC	<u>OUC-1</u>	Stanton B Need for Power Application
John E. Hearn	OUC	<u>OUC-1</u>	Stanton B Need for Power Application
Myron Rollins	OUC	<u>OUC-1</u>	Stanton B Need for Power Application

Note: The witnesses listed above all sponsor sections of OUC-1, the Stanton B Need for Power Application

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Randall Rush	OUC	<u>RER-1</u>	Relevant Southern Company subsidiaries
Seth Schwartz	OUC	<u>SS-1</u>	Resume
Seth Schwartz	OUC	<u>(SS-2)</u>	EVA forecast of delivered prices for coal and petroleum coke
Seth Schwartz	OUC	<u>(SS-3)</u>	EVA forecast of delivered natural gas prices
Seth Schwartz	OUC	<u>(SS-4)</u>	EVA forecast of oil prices

Staff reserves the right to identify additional exhibits for the hearing.

X. PROPOSED STIPULATIONS

OUC and Staff propose the stipulated positions on Issues 1-5, as identified in Section VIII above.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters.

XIII. POST-HEARING PROCEDURES

If no bench decision is made at the hearing on the issues identified in Section VIII above, 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 this 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 80 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.

XIV. RULINGS

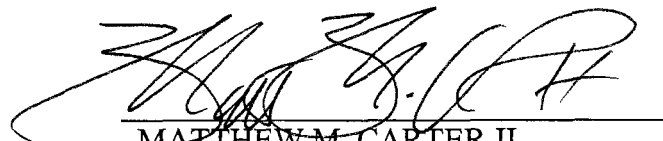
Opening statements, if any, shall not exceed five minutes per party.

Witnesses Fox and Rollins are excused from attendance at the hearing for good cause shown. All other witnesses will be notified by Thursday, May 11, 2006, if the Commissioners have no questions and the witnesses can be excused.

It is therefore,

ORDERED by Commissioner Matthew M. Carter II, 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 Matthew M. Carter II, as Prehearing Officer, this 11th day of May, 2006.


MATTHEW M. CARTER II
Commissioner and Prehearing Officer

(SEAL)

MCB

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.