

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for determination of need for electrical power plant in Taylor County by Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee.

DOCKET NO. 060635-EU  
ORDER NO. PSC-07-0016-PHO-EU  
ISSUED: January 5, 2007

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on December 21, 2006, in Tallahassee, Florida, before Commissioner Katrina J. Tew, as Prehearing Officer.

APPEARANCES:

GARY V. PERKO, ESQUIRE, CAROLYN S. RAEPPLER, ESQUIRE, and VIRGINIA C. DAILEY, ESQUIRE, Hopping Law Firm, P.O. Box 6526, Tallahassee, FL 32314-6526  
On behalf of Florida Municipal Power Agency, JEA, Reedy Creek Improvement District and City of Tallahassee (FMPA, JEA, RCID, Tallahassee).

E. LEON JACOBS, JR., ESQUIRE, Williams & Jacobs, 1720 S. Gadsden Street, MS 14, Suite 201, P. O. Box 1101, Tallahassee, FL 32302  
On behalf of The Sierra Club, Inc., John Hedrick, Brian Lupiani, Rebecca J. Armstrong, and Dr. Anthony Viegbesie (Sierra Club, et al.)

SUZANNE BROWNLESS, ESQUIRE, 1975 Buford Boulevard, Tallahassee, FL 32308 and PATRICE L. SIMMS, ESQUIRE, Natural Resources Defense Council, Inc., 1200 New York Avenue, N. W., Suite 400, Washington, D. C. 20005  
On behalf of National Resources Defense Council (NRDC)

JEANNE ZOKOVITCH PABEN, ESQUIRE AND BRETT M. PABEN, ESQUIRE, Wildlaw, 1415 Devils Dip, Tallahassee, FL 32308-5140  
On behalf of John Carl Whitton, Jr. (Whitton)

JENNIFER S. BRUBAKER, ESQUIRE, KATHERINE E. FLEMING, ESQUIRE, and LORENA A. HOLLEY, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Florida Public Service Commission (Staff).

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

## PREHEARING ORDER

### I. CASE BACKGROUND

On September 19, 2006, the Florida Municipal Power Agency (FMPA), JEA, Reedy Creek Improvement District (RCID), and City of Tallahassee (Tallahassee) (collectively, Applicants) filed a petition for a determination of need for a proposed electrical power plant in Taylor County pursuant to Section 403.519, Florida Statutes, and Rule 25-22.080, Florida Administrative Code (F.A.C.). Intervention was granted to the Sierra Club, Inc., John Hedrick, and Brian Lupiani (collectively, Sierra Club), the Natural Resources Defense Council, Inc. (NRDC), John Carl Whitton, Jr. (Whitton), and Rebecca J. Armstrong and Anthony Viegbesie. By Order No. PSC-06-0819-PCO-EU, issued October 4, 2006, the matter was scheduled for a formal administrative hearing on January 10, 2007.

### II. CONDUCT OF PROCEEDINGS

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

### III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Section 403.519, Florida Statutes. This hearing will be governed by that statute, Chapter 120, Florida Statutes, and Rules 25-22.075 and 28-106, Florida Administrative Code, as well as any other applicable provisions of law.

### 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 two 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

As a result of discussions at the prehearing conference, each witness whose name is followed by an asterisk (\*) may be excused from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. Parties shall be notified as to whether any such witness shall be required to be present at hearing. The testimony of 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.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct and Supplemental</u> <sup>1</sup>		
Myron Rollins	Applicants	1, 2, 3, 5, 6, 9, 10
Michael Lawson	Applicants	2, 7, 9, 10
William May	Applicants	1, 2, 3, 4, 9, 10
Jonathan Nunes*	Applicants	1, 2, 10
Don Gilbert	Applicants	1, 2, 3, 4, 9, 10
Nicholas Guarriello	Applicants	1, 2, 3, 4, 9, 10
Gary Brinkworth	Applicants	1, 2, 3, 4, 9, 10
Paul Arsuaga	Applicants	9, 10
Paul Hoornaert	Applicants	1, 2, 3, 6, 9, 10
Jim Myers	Applicants	1, 2, 3, 9, 10
Theodore Breton*	Applicants	9, 10
Matthew Preston	Applicants	1, 2, 3, 9, 10
James Heller*	Applicants	2, 3, 9, 10
Peter Norfolk*	Applicants	2, 3, 9, 10
Ryan Pletka	Applicants	2, 9, 10

<sup>1</sup> Please note that Witnesses Hoornaert, Klausner, and Kushner have Prefiled Supplemental Testimony in addition to their Prefiled Direct Testimony.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Christopher Klausner	Applicants	9, 10
Bradley Kushner	Applicants	2, 4, 9, 10
Steven Fetter	Applicants	1, 2, 3, 10
Dale Bryk	NRDC	2, 4, 5, 9
Daniel Lashof	NRDC	2, 4, 5, 9
Steve Urse <sup>2</sup>	NRDC	4
Hale Powell	The Sierra Club, et al.	1, 2, 3, 4, 9
Dian Deevey	Whitton	4, 5 6, 9
<u>Rebuttal</u>		
Ryan Pletka	Applicants	2, 9, 10
Bradley Kushner	Applicants	2, 4, 9, 10
Matthew Preston	Applicants	1, 2, 3, 9, 10
Myron Rollins	Applicants	1, 2, 3, 5, 6, 9, 10
P. G. Para	Applicants	4, 10

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<sup>2</sup> It was agreed at the Prehearing Conference that the testimony of Steve Urse will be sponsored by NRDC. The testimony of Stephen A. Smith, originally filed on behalf of Intervenor Armstrong and Viegbesie, was withdrawn at the Prehearing Conference.

VII. BASIC POSITIONS

**APPLICANTS:** The Commission should grant the petition for determination of need for the Taylor Energy Center (TEC). TEC is needed to satisfy each Applicant's forecast capacity requirements and to maintain their respective reserve margins. TEC is the most cost-effective option to meet the Applicants' capacity needs. As a cost-effective and reliable resource, TEC will provide adequate electricity at a reasonable cost. There are no conservation measures taken by or reasonably available to the Applicants which would mitigate the need for the proposed plant. Fuel diversity and supply reliability also will be increased through the capability to utilize fuel sourced from multiple international and domestic supply regions. The use of demonstrated supercritical pulverized coal technology will also increase reliability. As such, TEC meets all of the pertinent statutory criteria and, therefore, should be approved.

**NRDC:** Due to the fact that the Applicants have not appropriately evaluated demand side management programs and the cost of CO<sub>2</sub> allowances, the Applicants have failed to prove that the Taylor Energy Center (TEC) represents the least cost alternative to meet their identified need.

**THE SIERRA CLUB, ET AL:** The Participants have not submitted adequate data upon which the Florida Public Service Commission ("Commission") can base its decision as to whether the proposed addition of the pulverized coal plant at the Taylor Energy Center is the most cost effective alternative available to the Participants. The glaring absence of a probing analysis by the Participants, along with questionable inputs and assumptions into econometric models, pose fundamental obstacles. When coupled with volatility currently found in the costs to construct coal plants, in the commodity prices of coal, and in the transportation costs to deliver coal to Florida, the request for proposal procedure ("RFP") cannot offer the Commission any assurance that this proposal is the most cost effective for each Participant, and the Participants' initial economic analysis is rendered useless. The Commission must undertake its own cost effectiveness analysis in this case.

Given the uncertainties of building new coal plants, these public owners, who are funding this project with public funds, are accepting imprudent risk to build large, capital intensive units which largely foreclose the integration of innovative, cost effective energy resources in the near term. An especially important omission is the absence of a meaningful assessment of demand-side management, energy efficiency and conservation resources as alternatives to the coal plant. The City of Tallahassee's course of action is noteworthy. While still supporting the petition as a Participant, Tallahassee has explored and opened prospects for a host of cost effective energy alternatives that diversity the risk inherent in the coal plant.

Moreover, these Participants are electing to take on the clear risk that the operating costs of this coal plant will double due to a restructured regulatory regime. The Participants have chosen to ignore the virtual certainty that the regulatory environment for coal plants will change drastically in the short term, and that this plant, should it be constructed, will be affected by these changes. Even if the Participants are willing to undertake this risk for their taxpayers, the Commission is foreclosed from approving it under the provisions of section 403.519, Florida Statutes, which requires that this plant be the most cost effective alternative, as actually implemented, not as proposed.

Thus, the Commission should deny this petition because the need for this plant has not been demonstrated. Alternatively, the Commission can only consider this petition with a true and accurate definition of the costs this facility will impose, and a true and accurate analysis of cost effective alternatives.

**WHITTON:**

The Applicants have not submitted sufficient data upon which the Public Service Commission ("PSC" or "Commission") can determine whether the proposed pulverized coal power plant is needed and the most cost effective alternative available. Because all the Applicants have not adequately considered demand-side management ("DSM"), energy efficiency and conservation, and innovative alternatives such as woody biomass utilization, the Applicants have not adequately attempted to diminish the need for this proposed coal power plant. Given the current volatility in the costs associated with constructing coal power plants and the commodity prices of coal, the undetermined costs of transportation to deliver coal to Taylor County, the reasonably anticipated future carbon costs as well as the direct health and environmental costs of operating a coal power plant, the Commission is unable to determine if this proposal is indeed the most cost effective based on the information submitted by the Applicants. Thus, the Commission should deny this Petition because the need has not been adequately demonstrated.

**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.

VIII. ISSUES AND POSITIONS

**ISSUE 1:** **Is there a need for the proposed Taylor Energy Center (TEC) generating unit, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?**

**APPLICANTS:** Yes. TEC is needed to satisfy each Applicant's forecast capacity requirements and to maintain their respective reserve margins. Fuel diversity and supply reliability also will be increased through the capability to utilize fuel sourced from

multiple international and domestic supply regions. The use of demonstrated supercritical pulverized coal technology will also increase reliability.

**NRDC:** No.

**THE SIERRA  
CLUB ET AL:**

No. While the individual Participants do evidence demand growth and the need for additional capacity, they have elected to meet their needs by the addition of a large, base-load, coal-fired plant which brings with it substantial economic and operational risk. The application fails to demonstrate adequate measures to manage this risk over the life of the proposed plant addition, instead asserting that pulverized coal plants generically manage the risk of volatility in global fossil fuel markets.

The City of Tallahassee has benefited from expert advice which demonstrates that with the implementation of a well-managed portfolio of energy resources, it can reliably serve its growth in energy needs without the risk and cost of TEC.

Additionally, FMPA is dramatically affected by transmission constraints in Florida in serving its dispersed members. The addition of TEC will require FMPA to take energy from North Florida and distribute to several of its members in Central Florida and South Florida, thereby increasing its operating costs, and complicating its ability to meet growth in demand reliably.

**WHITTON:** No.

**STAFF:** Staff has no position pending evidence adduced at hearing.

**ISSUE 2:** **Is there a need for the proposed TEC 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?**

**APPLICANTS:** Yes. TEC was identified as the most cost-effective unit addition available to each of the Applicants for meeting their projected capacity needs. Comprehensive economic analyses have been performed for each Applicant, including numerous sensitivity analyses. TEC was identified as the most cost-effective alternative for each Applicant.

**NRDC:** No.

**THE SIERRA  
CLUB ET AL:**

No. Section 403.519, Florida Statutes, clearly discusses the physical need for capacity in the context of cost effectiveness. Each of the Participants is electing to invest in a large, base-load coal-fired plant essentially as an economic hedge in



volatile fossil fuel markets. These Participants are presently facing the reality of escalating capital costs, of uncertain operating and maintenance costs, and of shifting financing costs. Until the full impact of these cost increases are known, the Participants cannot understand if they are reasonable, or if there are reasonable alternatives.

The Participants have grossly miscalculated the risk of adverse economic impact caused by shifts in air quality regulation for coal-fired electric power plants. The Participants, with one noteworthy exception, apparently intend to forego this important opportunity to implement demand-side alternatives to address growth in demand, and to insulate themselves from the risk of more stringent air quality regulation.

**WHITTON:** No.

**STAFF:** Staff has no position pending evidence adduced at hearing.

**ISSUE 3:** **Is there a need for the proposed TEC generating unit, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519, Florida Statutes?**

**APPLICANTS:** Yes. TEC will increase fuel diversity and supply reliability for each Applicant and the State of Florida as a whole. TEC will be capable of utilizing fuel sourced from multiple international and domestic supply regions with multiple transportation alternatives.

**NRDC:** The NRDC recognizes in principle the value of fuel diversity in the state's current generation mix. However, fuel diversity would be better served by an IGCC unit. Further, diversity should also include serious consideration of renewable sources of energy which was not done by the Applicants in this case.

**THE SIERRA CLUB ET AL:** The Sierra Club, John Hedrick and Brian Lupiani ("Intervenors") note that there is a need for a formal definition of the term "fuel diversity" as used in Section 403.519, Florida Statutes. It is acknowledged that cost effective fuel diversity has value in the state's current generation mix. However, cost effective fuel diversity would be better served by an appropriate portfolio of energy efficiency measures, conservation, demand-side management (DSM) and renewables.

**WHITTON:** Whitton recognizes the need for fuel diversity in the State of Florida's electric power generation facilities. However, fuel diversity should include renewable sources of fuel, which have not been seriously considered by the Applicants in this proceeding.

**STAFF:** Staff has no position pending evidence adduced at hearing.

**ISSUE 4:** Are there any conservation measures taken by or reasonably available to the Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee (Applicants) which might mitigate the need for the proposed TEC generating unit?

**APPLICANTS:** No. The Applicants' analyses of conservation and DSM measures demonstrate that there are no conservation measures taken by or reasonably available to the Applicants which may mitigate the need for TEC. FMPA and JEA used the Commission-approved FIRE model and determined that no conservation or DSM measures were cost-effective. Tallahassee's evaluation was consistent with the methodology used in recent internal evaluations. If Tallahassee's DSM measures result in the assumed capacity reductions, Tallahassee's capacity need for TEC may be delayed until 2016, but such a delay would not affect Tallahassee's economic need for TEC. RCID and its customers continually evaluate and implement opportunities for energy conservation. RCID has assisted and participated in numerous conservation and efficiency programs to meet customer needs, but further significant energy conservation for RCID is not feasible at this time.

**NRDC:** Yes, due to the fact that the total benefits of DSM opportunities and total cost of the proposed TEC generating unit have not been adequately evaluated in the economic analyses conducted by the Applicants.

**THE SIERRA**

**CLUB ET AL:** Yes. The Participants generally have undervalued the economic benefits of energy efficiency, conservation and DSM opportunities, especially when it is considered that these directives insulate them from the risk of more stringent air quality regulation.

**WHITTON:** Yes. The total benefits of DSM opportunities have not been adequately evaluated in the analyses conducted by each Applicant.

**STAFF:** Staff has no position pending evidence adduced at hearing.

**ISSUE 5:** Have the Applicants appropriately evaluated the cost of CO<sub>2</sub> emission mitigation costs in their economic analyses?

**APPLICANTS:** Yes. The Applicants have appropriately evaluated potential CO<sub>2</sub> emission mitigation costs by submitting a sensitivity analysis for the Commission's information. That sensitivity analysis indicates that TEC remains cost-effective for all Applicants under the assumed CO<sub>2</sub>-regulated environment. However,

because there currently are no federal, state, or local regulations that impose CO<sub>2</sub> mitigation costs on power plants in Florida, the Commission cannot make any dispositive findings regarding potential CO<sub>2</sub> emission costs. The Commission previously has recognized that it cannot reach findings of fact relating to proposed or possible regulations because such findings require speculation as to what might or might not occur. Accordingly, the Commission cannot base its decision on what, if any, CO<sub>2</sub> regulation and associated costs may be imposed in the future.

**NRDC:** No. The Applicants have drastically underestimated the costs of CO<sub>2</sub> allowances which will be necessary to operate the proposed TEC generating unit at the projected heat rate and capacity factors.

**THE SIERRA**

**CLUB ET AL:** No. In the face of existing best practices, of standing carbon trading markets and clear public policy initiatives, the sensitivity analyses submitted by Participants consistently underestimate the costs that would be incurred to operate TEC in the more stringent air quality regulatory structure that will certainly be in place before TEC becomes operational.

**WHITTON:** No. The Applicants have underestimated the cost of carbon dioxide allowances which will be required to operate the proposed pulverized coal power plant.

**STAFF:** Staff has no position pending evidence adduced at hearing.

**ISSUE 6:** Does the proposed TEC generating unit include the costs for the environmental controls necessary to meet current state and federal environmental requirements, including mercury, NO<sub>x</sub>, SO<sub>2</sub>, and particulate emissions?

**APPLICANTS:** Yes. The economic analyses performed for the TEC appropriately included costs for environmental controls necessary to meet current state and federal environmental requirements, including CAIR, CAMR, and applicable regulations governing particulate matter, NO<sub>x</sub> and SO<sub>2</sub> emissions.

**NRDC:** No.

**THE SIERRA**

**CLUB ET AL:** No.

**WHITTON:** No.

**STAFF:** Staff has no position pending evidence adduced at hearing.

**ISSUE 7: Have the Applicants requested available funding from DOE to construct an IGCC unit or other cleaner coal technology?**

**APPLICANTS:** Yes. Significant efforts were made on behalf of the Applicants to investigate the availability of DOE funding for IGCC or other emerging advanced technologies. However, seeking DOE funding to construct alternatives to the proposed plant is not one of the criteria listed in Section 403.519, F.S., and therefore, is an issue that is beyond the jurisdiction of the Commission.

**NRDC:** No. DOE has not received any formal written requests for funding from the Applicants to construct an IGCC unit or other cleaner coal technology.

**THE SIERRA CLUB ET AL:** No.

**WHITTON:** No. DOE has not received any formal requests for funding from the Applicants to construct a coal power plant utilizing IGCC technology.

**STAFF:** Staff has no position pending evidence adduced at hearing.

**ISSUE 8: Has each Applicant secured final approval of its respective governing body for the construction of the proposed TEC generating unit?**

**APPLICANTS:** The governing body of each Applicant has approved participation in the project through at least the permitting and licensing phases. Like any other utility seeking a need determination, the Applicants retain the ability to explore all options pending final approval of the project under the Florida Electrical Power Plant Siting Act (PPSA) and execution of appropriate contracts for construction of the facility. Final approval for *construction* is not one of the criteria listed in Section 403.519, F.S., and therefore, is an issue that is beyond the jurisdiction of the Commission.

**NRDC:** No. All Applicants have the contractual right to withdraw once all permitting has been secured necessary to construct the TEC generating unit and the final construction costs are known. At this time the Applicants predict that this "go or no go" vote will occur in 2008.

**THE SIERRA CLUB ET AL:** No. All Applicants have the contractual right to withdraw once all permitting has been secured necessary to construct the TEC generating unit and the final construction costs are known. At this time the Applicants predict that this "go or no go" vote will occur in 2008.

**WHITTON:** No. Each Applicant has the contractual right to withdraw from the TEC once all permitting has been secured necessary to construct the TEC generating unit and the final construction costs are known.

**STAFF:** Staff has no position pending evidence adduced at hearing.

**ISSUE 9:** **Is the proposed TEC generating unit the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?**

**APPLICANTS:** Yes. TEC is the most cost-effective alternative available to the Applicants to satisfy forecast capacity requirements. This determination was made by conducting comprehensive, detailed economic analyses of each Applicant's system considering numerous other potentially available generating and DSM alternatives. TEC is the most cost-effective alternative for each Applicant and will provide combined cumulative present worth cost (CPWC) savings of approximately \$899 million.

**NRDC:** No.

**THE SIERRA CLUB ET AL:** No. In the present market for electricity, the Participants could effectively meet their needs using cost effective alternatives to diversify away from fossil fuels until these markets demonstrate a period of stability. Economic and technological advances surrounding demand-side management measures, including energy efficiency and conservation measures, along with renewables, present Participants with an excellent opportunity to manage the cost of their capacity needs in this period.

**WHITTON:** No.

**STAFF:** Staff has no position pending evidence adduced at hearing.

**ISSUE 10:** **Based on the resolution of the foregoing issues, should the Commission grant the Applicants' petition to determine the need for the proposed TEC generating unit?**

**APPLICANTS:** Yes. The Commission should grant the petition for determination of need for TEC. TEC provides the Applicants and the Florida electric system reliability and integrity, adequate electricity at a reasonable cost, fuel diversity and supply reliability, and is the most cost-effective alternative available. There also are no conservation measures taken by or reasonably available to the Applicants which mitigate the need for the unit.

**NRDC:** No.

**THE SIERRA CLUB ET AL:** No.

**WHITTON:** No.

**STAFF:** Staff has no position pending evidence adduced at hearing.

**ISSUE 11:** Should this docket be closed?

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

**NDRC:** This docket should be closed when the Commission has issued its final order and all motions for reconsideration have been disposed of.

**THE SIERRA CLUB ET AL:** This docket should be closed when the Commission has issued its final order and all motions for reconsideration have been disposed of.

**WHITTON:** This docket should be closed when the Commission has issued its final order and all motions for reconsideration have been disposed of.

**STAFF:** Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Michael Lawson	Applicants	<u>(MNL-1)</u>	Resumé of Michael Lawson
		<u>(TEC-1)</u>	Section A.3.1
		<u>(MNL-1R)</u>	Letter to Taylor County Board of County Commissioners
William May	Applicants	<u>(WSM-1)</u>	ARP Member Cities

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(WSM-2)</u>	Percentages of ARP, Member, Nuclear, and Purchase Power Capacity
		<u>(WSM-3)</u>	ARP's Existing and Approved/Planned Resource Capacity
		<u>(WSM-4)</u>	Resumé of William S. May
		<u>(TEC-1)</u>	Sections B.1.0, B.2.0, B.4.0, B.7.1, B.8.0, and B.10
Jonathan Nunes	Applicants	<u>(JPN-1)</u>	Resumé of Jonathan Nunes
		<u>(TEC-1)</u>	Section B.3.0
Don Gilbert	Applicants	<u>(DG-1)</u>	Resumé of Don Gilbert
		<u>(TEC-1)</u>	Sections C.1 through C.4, C.7.1, C.8, and C.10
Nicholas Guarriello	Applicants	<u>(TEC-1)</u>	Sections D.1.0, D.2.0, D.3.0, D.4.0, D.7.0, D.8.0, and D.10.0
Gary Brinkworth	Applicants	<u>(GSB-1)</u>	Resumé of Gary S. Brinkworth
		<u>(TEC-1)</u>	Sections A.3.3.7, E.1.0, E.2.0, E.3.0, E.4.0, E.7.1, E.8.0, and E.10
Paul Arsuaga	Applicants	<u>(PAA-1)</u>	Resumé of Paul Arsuaga
		<u>(TEC-1)</u>	Section A.7 and Appendix A.1
Paul Hoornaert	Applicants	<u>(PH-1)</u>	Resumé of Paul Hoornaert

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(TEC-1)</u>	Sections A.3.2, A.3.3 through A.3.3.6, A.3.3.8, A.3.5, A.3.6, A.3.7, A.3.8, and A.3.9
		<u>(PH-1R)</u>	Updated Capital Cost Summary
Jim Myers	Applicants	<u>(JM-1)</u>	Resumé of Jim Myers
		<u>(JM-2)</u>	Delivered Fuel Price Forecast for the Base Case
		<u>(JM-3)</u>	Delivered Fuel Price Forecast for the High Sensitivity Case
		<u>(JM-4)</u>	Delivered Fuel Price Forecast for the Low Sensitivity Case
		<u>(JM-5)</u>	Delivered Fuel Price Forecast for the Regulated-CO <sub>2</sub> Case
		<u>(TEC-1)</u>	Sections A.3.4, A.4.6.8, and A.4.7.4
Theodore Breton	Applicants	<u>(TRB-1)</u>	Resumé of Theodore R. Breton
		<u>(TRB-2)</u>	Henry Hub Natural Gas Price Projections and National Natural Gas Demand Forecast
		<u>(TRB-3)</u>	Fuel Oil Price Projections – US Gulf Coast (\$2005/BBI)
		<u>(TEC-1)</u>	Sections A.4.6.3, A.4.6.4, A.4.6.5.3, and A.4.6.5.4
Matthew Preston	Applicants	<u>(MP-1)</u>	Resumé of Matt Preston
		<u>(MP-2)</u>	Base Case Fuel and Corresponding Emission Allowance Price Forecasts – Constant 2005 \$/Ton, Unless Otherwise Specified



<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		(MP-3)	High Fuel and Corresponding Emission Allowance Price Forecasts - Constant 2005 \$/Ton, Unless Otherwise Specified
		(MP-4)	Low Fuel and Corresponding Emission Allowance Price Forecasts - Constant 2005 \$/Ton, Unless Otherwise Specified
		(MP-5)	Regulated CO <sub>2</sub> Fuel and Corresponding Emission Allowance Price Forecasts - Constant 2005 \$/Ton, Unless Otherwise Specified
		(TEC-1)	Sections A.4.6 (excluding Sections A.4.6.3, A.4.6.4, A.4.6.5.3, A.4.6.5.4, A.4.6.6, A.4.6.7, and A.4.6.8) & A.5.5
		(MP-1R)	European CO <sub>2</sub> Allowance Price Trend and US SO <sub>2</sub> Allowance Prices
James Heller	Applicants	(JH-1)	Resumé of James Heller
		(JH-2)	Rail Rate Forecasts for Proposed New Plant Site Near Perry, FL (Constant 2005 \$/Short Ton)
		(TEC-1)	Section A.4.6.6
Peter Norfolk	Applicants	(PN-1)	Resumé of Peter Andrew Norfolk
		(PN-2)	Dry Bulk Carrier Freight Projections for Coal Imports into Florida (Constant 2005 US \$/Short Ton)
		(TEC-1)	Section A.4.6.7
Ryan Pletka	Applicants	(RJP-1)	Resumé of Ryan J. Pletka

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(TEC-1)</u>	Sections A.6.1, A.6.3, A.6.4, and A.6.5
		<u>(RJP-1R)</u>	Biomass Unit Size by Year of Commercial Operation
Christopher Klausner	Applicants	<u>(CK-1)</u>	Resumé of Christopher Klausner
		<u>(CK-2)</u>	"Generating Unit Alternatives for Selected Sites"
		<u>(TEC-1)</u>	Section A.6.2
Myron Rollins	Applicants	<u>(MRR-1)</u>	Resumé of Myron Rollins
		<u>(TEC-1)</u>	Sections A.1.0, A.2.0, A.4.1, A.4.2, A.4.3, A.4.4, A.4.5, A.5.1, A.5.2, A.5.3, A.5.4, A.5.6, A.6.6, A.10.0, B.9.0, C.9.0, D.9.0, and E.9.0
Bradley Kushner	Applicants	<u>(BEK-1)</u>	Resumé of Bradley E. Kushner
		<u>(BEK-2)</u>	Cumulative Present Worth Cost (CPWC) Analyses
		<u>(BEK-3)</u>	Summaries of Sensitivity Analyses
		<u>(TEC-1)</u>	Sections A.8.0, A.9.0, B.5.0, B.6.0, B.7.2 through B.7.4, C.5.0, C.6.0, C.7.2 through C.7.4, D.5.0, D.6.0, E.5.0, E.6.0, E.7.2, and Appendices B.1, C.1, D.1, and E.1
Steven Fetter	Applicants	<u>(SMF-1)</u>	Resumé of Steven Fetter
Daniel Lashof	NRDC	<u>(DAL-1)</u>	Resume

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(DAL-6)</u>	Hawkins, D., Lashof, D. and Williams, R., <i>What to do about Coal</i> , Scientific American, Sept., 2006.
Steve Urse	NRDC	<u>(SU-1)</u>	Resume
		<u>(SU-2)</u>	Potential Impact of DSM- Total Plan Costs
		<u>(SU-3)</u>	Capacity Need Deferred by DSM
		<u>(SU-4)</u>	Potential Impact of BG&E on Selected Cases
		<u>(SU-5)</u>	Biomass Impact on Resource Plan Cost
		<u>(SU-6)</u>	Evaluation of Biomass Options
		<u>(SU-7)</u>	Tallahassee IRP Update
Hale Powell	The Sierra Club, et al.	<u>(HP-1)</u>	Excerpt of 2005 Annual Report of National Grid USA's DSM Programs
		<u>(HP-3)</u>	Resume of Mr. Powell
		<u>(HP-4)</u>	Resolutions by Board of Directors of the National Association of Regulatory Utility Commissioners Regarding Critical Infrastructure and Global Warming

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<hr/> (HP-5)	Report of the American Council for an Energy Efficient Economy, "Aligning Utility Interests with Energy Efficiency Objectives: A Review of Recent Efforts at Decoupling and Performance Incentives"
Dian Deevey	Whitton	<hr/> (DD-1)	Dian Deevey and David Harlos, Review of the Gainesville Regional Utilities' Proposal for a New Coal-Fired Power Plant (submitted to Alachua County Commission, September 15, 2005).
		<hr/> (DD-2)	Alan Hodges and M. Rahmani, <i>Sustainability of Wood: How Much Do We Have and Where Is It Coming From?</i> (UFAFAS Extension Fact Sheet, 2006).
		<hr/> (DD-3)	Alan W. Hodges <i>et al.</i> , Economic Impacts of the Forest Industry in Florida, 2003 (University of Florida/IFAS, 2005).
		<hr/> (DD-4)	Dian Deevey, Woody Biomass Fuel Available to Tallahassee (Presentation to Tallahassee City Commission, September 27, 2006).
		<hr/> (DD-5)	Lucy Johnston <i>et al.</i> , Climate Change and Power: Carbon Dioxide Emissions and Electricity Resource Planning (Synapse Energy Economics, June 8, 2006).

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		<u>(DD-6)</u>	Edward S. Rubin <i>et al.</i> , <i>Comparative Assessments of Fossil Fuel Power Plants</i> , Proceedings of 7 <sup>th</sup> Int'l Conference on Greenhouse Gas Control Technologies (2004).
		<u>(DD-7)</u>	Sense of the Senate on Climate Change, H.R. 6 §1612, Energy Policy Act of 2005 (Approved 54-43)

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

X. PROPOSED STIPULATIONS

No stipulations have been proposed at this time.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending requests for confidential treatment at this time.

XIII. 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 200 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 200 words, it must be reduced to no more than 200 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 100 pages and shall be filed at the same time.

XIV. RULINGS

1. Opening statements, if any, shall not exceed fifteen minutes per side.

2. It is acknowledged that due to a scrivener's error, Section III of the Order Establishing Procedure, Order No. PSC-06-0819-PCO-EU, should be corrected as follows:

In addition to the notice of commencement of proceedings and the usual notice the Commission issues for administrative hearings, Section 403.519, Florida Statutes, provides that the applicant shall publish a notice of the proceeding at least 21 days before the hearing in a newspaper of general circulation in each county in which the proposed electrical power plant will be located. That newspaper notice will be published no later than December 20, 2006.

3. The Applicants' Motion for Leave to File Supplemental Testimony and Exhibits of Bradley E. Kushner is granted.

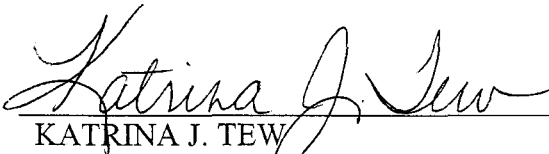
4. The Applicants are granted leave to file supplemental or revised testimony for Applicant witnesses whose rebuttal testimonies are affected by the withdrawal of Stephen A. Smith's testimony.

5. As a result of discussion held at the Prehearing Conference, the following Applicant Motions to Strike Issues raised in Intervenor Petitions and associated requests for oral argument, filed on the dates indicated, are moot: October 16, 2006 (re. Armstrong petition); November 9, 2006 (re. Sierra Club petition); November 20, 2006 (re. Whitton petition); November 22, 2006 (re. NRDC petition); and November 22, 2006 (re. Viegbesie petition).

It is therefore,

ORDERED by Commissioner Katrina J. Tew, 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 Katrina J. Tew, as Prehearing Officer, this 5th day of January, 2007.

  
KATRINA J. TEW  
Commissioner and Prehearing Officer

(SEAL)

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.