

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Cane Island Power Park Unit 4 electrical power plant in Osceola County, by Florida Municipal Power Agency.

DOCKET NO. 080253-EM
ORDER NO. PSC-08-0485-PHO-EM
ISSUED: July 31, 2008

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on July 21, 2008, in Tallahassee, Florida, before Commissioner Nancy Argenziano, as Prehearing Officer.

APPEARANCES:

GARY V. PERKO, ESQUIRE, Hopping, Green & Sams, P.A., 123 South Calhoun Street, P. O. Box 6526, Tallahassee, Florida 32314; FREDERICK M. BRYANT, ESQUIRE, and JODY L. FINKLEA, Florida Municipal Power Agency, P.O. Box 3209, Tallahassee, Florida 32315-3209
On behalf of Florida Municipal Power Agency (FMPA).

KATHERINE E. FLEMING and ERIK SAYLER, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

PREHEARING ORDER

I. BACKGROUND

On May 7, 2008, Florida Municipal Power Agency (FMPA) filed a petition for a determination of need for a proposed electrical power plant in Osceola County pursuant to Section 403.519, Florida Statutes (F.S.), and Rule 25-22.080, Florida Administrative Code (F.A.C.). FMPA's proposal consists of constructing one new unit, to be known as Cane Island Unit 4, which will be a high-efficiency, 1x1 F class, natural gas-fueled combined cycle unit, consisting of a combustion turbine and a heat recovery steam generator that will drive a steam turbine generator. The new unit will be capable of generating nominally 300 megawatts (MW). The projected in-service date for Cane Island Unit 4 is May 1, 2011.

The Commission issued a Notice of Commencement of Proceedings to the appropriate agencies, local governments, and interested persons on May 13, 2008. By Order No. PSC-08-0322-PCO-EM, issued May 15, 2008, the matter was scheduled for a formal administrative hearing on August 4-5, 2008.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, F.A.C., 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 Chapters 120, 366, and 403, F.S. This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., 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, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., 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, F.S. 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, F.S., 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, F.S., 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 Office of Commission Clerk's 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), F.A.C., 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 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

As a result of discussions at the prehearing conference, each witness whose name is preceded by an asterisk (*) will be excused from this hearing if no Commissioner assigned to this case seeks to cross-examine the particular witness. Parties shall be notified as soon as possible as to whether any such witness shall be required to be present at the hearing. The testimony of excused witnesses will be inserted into the record as though read, and all exhibits submitted with those witnesses' testimony shall be identified as shown in Section IX of this Prehearing Order and be admitted into the record.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
*Roger A. Fontes	FMFA	1, 2, and 7
*Thomas E. Reedy	FMFA	3, 4, 6, and 7

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
*Jonathan P. Nunes	FMPA	1, 2, 4, and 7
*Myron R. Rollins	FMPA	1, 2, 5, and 7
*Jason L. Wolfe	FMPA	7
*Nicholas P. Guarriello	FMPA	2, 4, 6, and 7
*Bradley E. Kushner	FMPA	2, 5, 6, and 7

VII. BASIC POSITIONS

FMPA: Cane Island Unit 4 is the most cost-effective option available to meet FMPA's needs beginning in 2011. There are no cost-effective conservation or demand-side measures available to offset the need. Cane Island Unit 4 will provide FMPA adequate electricity at a reasonable cost and it will contribute to the reliability and integrity of FMPA's system. In addition, FMPA and the All-Requirements Power Supply Project (ARP) members have utilized renewable energy sources and technologies as well as conservation measures to the extent reasonably available.

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

STIPULATED

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

POSITION: Yes. FMPA needs Cane Island Unit 4 to meet the growing capacity requirements of the ARP. For planning purposes, FMPA has established a 15 percent minimum planned reserve margin criterion for the winter period and an 18 percent planned reserve margin criterion for the summer period. Because FMPA's forecast annual peak demands are projected to occur in the summer of each year, capacity additions necessary to maintain forecast capacity requirements are driven by projected summer peak demands. As shown in the following table, FMPA's summer reserve margins are forecast to fall slightly below the 18 percent level in the summer of 2010. By the following summer of 2011, FMPA's reserve margin is projected to decrease to -1.3 percent, or 286 MW below the required capacity.

With the -1.3 percent reserve margin, FMPA is projected to be unable to meet peak loads in the summer of 2011. By the summer of 2012, 363 MW is needed to maintain an 18 percent reserve margin. By providing approximately 300MW of capacity, Cane Island Unit 4 will help to meet the ARP’s growing needs and contribute to the reliability and integrity of the FMPA/ARP electric system.

Projected Reliability Levels With and Without Cane Island 4 in 2011 Summer – Base Case Load Forecast			
Year	Reserve Margin Without Cane Island 4 in 2011 (%)	Reserve Margin Reflecting Expansion Plan With Cane Island 4 in 2011 (%)	Generating Unit Additions (Summer MW)
2008	25.0%	25.0%	
2009	24.7%	24.7%	
2010	17.7%	17.7%	
2011	-1.3%	18.9%	Cane Island 4 (300 MW)
2012	-5.9%	23.7%	7FA CT (149 MW)
2013	-10.6%	26.9%	7FA CT (149 MW)
2014	-12.6%	24.1%	
2015	-14.5%	21.3%	
2016	-16.4%	20.3%	

STIPULATED

ISSUE 2: Is there a need for Cane Island 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?

POSITION: Yes. FMPA evaluated several supply side technologies, either as alternatives to Cane Island Unit 4 or as capacity resource options for installation following the proposed unit. As part of that analysis, FMPA evaluated renewable technologies, conventional technologies, and emerging technologies. As FMPA’s most cost-effective means of meeting the ARP’s growing needs, Cane Island Unit 4 will help FMPA and the ARP members provide adequate electricity at a reasonable cost. Cane Island Unit 4 is highly efficient and takes advantage of existing electric, natural gas, and other infrastructure to lower the cost of installation.

STIPULATED

ISSUE 3: Is there a need for Cane Island Unit 4, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519, Florida Statutes?

POSITION: Yes. FMPA's capacity resources consist of a diversified mix of generation ownership and purchase power, including fossil-fuel (natural gas, oil and coal), nuclear, and renewable resources. FMPA issued a Request for Proposals (RFP) for purchase power, but received no purchase power proposals in response. Building additional coal or nuclear generation by 2012 is not feasible due to construction and permitting lead times required for these types of generation alternatives. There are several new natural gas storage and pipeline projects that should increase the supply of natural gas to the Southeast region. Moreover, the Cane Island Site is served by two independent suppliers of natural gas: Florida Gas Transmission Company (FGT) and Gulfstream Natural Gas System, LLC. For these reasons, Cane Island Unit 4 should have a reliable fuel supply.

STIPULATED

ISSUE 4: Are there any conservation measures taken by or reasonably available to the Florida Municipal Power Agency which might mitigate the need for the proposed Cane Island Unit 4?

POSITION: No. As a wholesale supplier of electric energy to the ARP, FMPA is not directly responsible for conservation and demand-side management (DSM) programs. However, ARP members offer a variety of conservation and DSM programs to their consumers. The impact of these existing conservation and DSM programs are reflected in the ARP's load forecast. In July 2007, FMPA issued an RFP for DSM activities. Discussions are proceeding with the two vendors for the potential implementation of load control measures designed to reduce peak load demand. Subsequent to the filing of the Cane Island 4 Need for Power Application, FMPA has entered into a contract with an energy service company (ESCO) to design, develop, and implement energy efficiency projects for commercial and industrial customers. Additionally, FMPA is developing a program to assist ARP Members in implementing energy conservation measures. Under this program, FMPA could collect funds through its rates that would be allocated among the ARP Members for conservation programs.

STIPULATED

ISSUE 5: Is the proposed Cane Island Unit 4 the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?

POSITION: Yes. Cane Island Unit 4 provides the most cost-effective solution to satisfy FMPA's forecast capacity requirements. Although FMPA, an association of

municipal utilities, is not subject to the Commission's "Bid Rule," the agency issued a competitive RFP for purchase power options, as well as separate RFPs for renewable and solar energy resources. Based on the results of production cost modeling of multiple economic scenarios, FMPA identified a new nominal 300 MW combined cycle generating facility as the most cost-effective alternative to meet the ARP's capacity needs. FMPA's evaluation included several sensitivity analyses utilizing different fuel costs and potential CO2 regulatory costs based on estimates developed by the U.S. Department of Energy's Energy Information Agency and the U.S. Environmental Protection Agency. Results of the analysis showed that building Cane Island Unit 4 would produce savings through 2027 of \$21.6 million to \$81.5 million. All of the analyses demonstrate that the proposed Cane Island Unit 4 with an in-service date of 2011 is FMPA's most cost-effective alternative to meet the ARP's need for additional capacity.

STIPULATED

ISSUE 6: Are renewable energy sources and technologies, as well as conservation measures, utilized to the extent reasonably available?

POSITION: Yes. FMPA's generating mix already includes reasonably available renewable resources. In addition, FMPA issued RFPs for renewable and solar energy resources. Based on FMPA's evaluation, none of the RFP responses were cost-effective compared to the self-build alternative. However, the ARP is continuing to investigate a new solar initiative which would include initial installation of 10 MW of solar photovoltaic (PV) capacity with potential to ultimately increase the PV capacity to 100 MW. FMPA also is in discussions with a vendor regarding a potential purchase of renewable energy from a new biomass facility. However, FMPA's ultimate decision whether or not to utilize the additional biomass resource at the attendant higher cost will depend on the ability to reach acceptable contractual terms, as well as the resolution of numerous regulatory issues. Although FMPA has not made a final decision on the potential solar and biomass purchases, they have been included in two of the alternative resource plans examined in the economic analyses. Those analyses demonstrate that Cane Island Unit 4 would still be the most cost-effective alternative for meeting the ARP's capacity needs even if FMPA were to enter into the biomass and solar purchases. As compared to the reference case, the modeling scenarios with the solar and biomass alternatives would increase total system costs by approximately \$285.9 million. FMPA will report on the status of the potential solar and biomass projects in its annual ten year site plan.

The ARP Members offer a variety of conservation and DSM programs to their consumers. Additionally, as a result of the DSM RFP and other efforts, FMPA continues to explore potential conservation measures and, subsequent to the filing of the Cane Island 4 Need for Power Application, has signed an agreement with the vendor who proposed to provide ESCO services. Potential demand and

energy savings associated with these projects would not affect the need for Cane Island Unit 4, but could affect the timing of future capacity addition. Even though a contract for a demand response program resulting from the RFP has not been finalized, the economic evaluations included the demand response program from the proposal with the largest capacity reduction proposed. Cane Island Unit 4 remained the most cost-effective alternative available to provide the additional capacity necessary for FMPA's system including the DSM proposal.

STIPULATED

ISSUE 7: Based on the resolution of the foregoing issues, should the Commission grant the Florida Municipal Power Agency's petition to determine the need for the proposed Cane Island Unit 4?

POSITION: Yes. The Commission should grant the petition for determination of need for Cane Island Unit 4 because it is the most cost-effective option available to meet FMPA's needs beginning in 2011. There are no cost-effective conservation or demand-side measures available to offset the need. Cane Island Unit 4 will provide adequate electricity at a reasonable cost and it will contribute to the reliability and integrity of FMPA's system. In addition, FMPA and the ARP members have utilized renewable energy sources and technologies as well as conservation measures to the extent reasonably available.

STIPULATED

ISSUE 8: Should this docket be closed?

POSITION: Yes. This docket should be closed after expiration of the time for filing an appeal of the Commission's final order addressing the petition for determination of need.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
<u>Direct</u>			
All witnesses	FMPA	FMPA-1	Need for Power Application
Roger A. Fontes	FMPA	RAF-1	Map of ARP Members
Thomas E. Reedy	FMPA	TER-1	ARP's Existing and Approved/Planned Resource Capacity

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Thomas E. Reedy	FMPA	TER-2	Resumé of Thomas E. Reedy
Jonathan P. Nunes	FMPA	JPN-1	Resumé of Jonathan P. Nunes
Myron R. Rollins	FMPA	MRR-1	Resumé of Myron R. Rollins
Myron R. Rollins	FMPA	MRR-2	Cane Island 4 In-Service Capital Cost Estimate
Myron R. Rollins	FMPA	MRR-3	Estimated 1x1 F Class Combined Cycle Performance
Jason L. Wolfe	FMPA	JLW-1	Resumé of Jason L. Wolfe
Nicholas P. Guarriello	FMPA	NPG-1	Resumé of Nicholas P. Guarriello
Bradley E. Kushner	FMPA	BEK-1	Resumé of Bradley E. Kushner
Bradley E. Kushner	FMPA	BEK-2	Reference Case Fuel Price Projections
Bradley E. Kushner	FMPA	BEK-3	High Case Fuel Price Projections
Bradley E. Kushner	FMPA	BEK-4	Low Case Fuel Price Projections
Bradley E. Kushner	FMPA	BEK-5	Economic Analysis Summaries

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

X. PROPOSED STIPULATIONS

FMPA and Staff propose the stipulated positions on Issues 1-8, as identified in Section VIII, to resolve all issues in this docket.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

FMPA's Request for Confidential Classification of material provided in response to Staff's Second Request for Production of Documents No. 4, filed July 11, 2008.

On July 10, 2008, FMPA filed a Notice of Intent Request for Confidential Classification of certain documents provided in response to Staff's Fourth Set of Interrogatories (No. 33). The Request for Confidential Classification is due no later than July 31, 2008.

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 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 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, F.A.C., 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 be limited to no more than ten minutes per party.

It is therefore,

ORDERED by Commissioner Nancy Argenziano, 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 Nancy Argenziano, as Prehearing Officer, this 31st day of July, 2008.



NANCY ARGENZIANO
Commissioner and Prehearing Officer

(S E A L)

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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 Office of Commission Clerk, 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.