

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power and Light Company for approval of cogeneration agreement with AES Cedar Bay, Inc. ) DOCKET NO. 881570-EQ  
 ) ORDER NO. 21062  
 ) ISSUED: 4-17-89

Pursuant to Notice, a Prehearing Conference was held on April 13, 1989, in Tallahassee, Florida, before Chairman Michael McK. Wilson, Prehearing Officer.

APPEARANCES: MATTHEW M. CHILDS, Esquire, Steel, Hector and Davis, 310 West College Avenue, Tallahassee, Florida 32301-1406  
On behalf of Florida Power and Light Company.

SUZANNE BROWNLESS, Esquire, Florida Public Service Commission, Division of Legal Services, 101 East Gaines Street, Tallahassee, Florida 32399-0863  
On behalf of the Commission Staff.

PRENTICE P. PRUITT, Esquire, Florida Public Service Commission, General Counsel, 101 East Gaines Street, Tallahassee, Florida 32399-0862  
On behalf of the Commissioners.

PREHEARING ORDERBackground

On December 13, 1988, Florida Power and Light Company (FPL) filed a petition asking for approval of a negotiated agreement for the purchase of cogenerated power from the AES's proposed Cedar Bay facility. The proposed facility is a qualifying facility (QF) pursuant to the applicable federal and state regulatory rules. Simultaneous with the filing of the petition and the agreement, FPL requested that certain portions of the agreement be classified as specified confidential information. Subsequent to oral argument on its motion for confidentiality, the prehearing officer denied confidentiality in Order No. 20672, issued on January 30, 1989. FPL then amended its request for confidentiality on February 13, 1989. This amended request for confidentiality was also denied.

Staff and FPL filed prehearing statements on April 5, 1989 and April 12, 1989, respectively. The direct testimony of Dennis Corn was filed on April 13, 1989, on behalf of FPL.

Use of Prefiled Testimony

All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and exhibits, unless there is a sustainable objection. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his testimony at the time he or she takes the stand.

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Use of Depositions and Interrogatories

If any party desires to use any portion of a deposition or an interrogatory, at the time the party seeks to introduce that deposition or a portion thereof, the request will be subject to proper objections and the appropriate evidentiary rules will govern. The parties will be free to utilize any exhibits requested at the time of the depositions subject to the same conditions.

Order of Witnesses

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
Dennis C. Corn	Negotiated contract	1, 2, 3, 4, 5

EXHIBIT LIST

<u>Exhibit Number</u>	<u>Witness</u>	<u>Description</u>
301	Corn	Comparison of cost of AES Cedar Bay contract to 1986 APH Statewide Avoided Unit (D. C. Corn's Document I)
401	Corn	November 9, 1989 negotiated power sales agreement between FPL and AES
402	Enjamio	Deposition Exhibit 1 of Juan Enjamio
403	Collier	Deposition Exhibit 1 of J. Collier

PARTIES' STATEMENT OF BASIC POSITION

FPL: The Commission's Cogeneration rules, Rule 25-17.082, et seq., Florida Administrative Code, encourage electric utilities and the owners or operators of Qualifying Facilities ("QFs") to negotiate for the purchase and sale of a QF's energy and capacity. In addition, the Commission cogeneration rules require that electric utilities file tariffs for the purchase of firm energy and capacity. The capacity payments in those filed tariffs are based on the Commission's determination of the type, timing and cost of the "statewide avoided unit" and the resulting "full avoided cost" of deferring or avoiding that unit. Pursuant to the Commission's cogeneration rules, payments for firm energy are the lesser of the fuel cost of the statewide avoided unit or the price for as-available energy. Electric utilities must purchase firm energy and capacity at these prices pursuant to the cogeneration rules and the filed Standard Offer Tariff implementing those rules if a QF elects

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the Standard Offer. The contract which FPL and AES Cedar Bay, Inc. have negotiated for the purchase and sale of 225 MW of capacity and related firm energy will have a cost below that of the Standard Offer at the 70% capacity factor. Because of these factors and the security provided by the contract between FPL and AES Cedar Bay, Inc. the criteria specified by Rule 25-17.083 have been met and the contract should be approved for cost recovery.

STAFF: Since the contract submitted for approval meets the criteria set forth in Rule 25-17.083, Florida Administrative Code, it should be approved.

#### STATEMENT OF ISSUES AND POSITIONS

##### Factual Issues

ISSUE 1: Can the purchase of firm energy and capacity from AES Cedar Bay pursuant to the terms and conditions of the negotiated contract be reasonably expected to result in the economic deferral or avoidance of additional capacity construction by Florida utilities from a statewide perspective?

##### POSITIONS

FPL: Yes.

STAFF: Yes.

ISSUE 2: Is the cumulative present worth of firm energy and capacity payments made to AES Cedar Bay over the term of the contract no greater than the cumulative present worth of the value of a year-by-year deferral of the statewide avoided unit over the term of the contract?

##### POSITIONS

FPL: Yes.

STAFF: Yes.

ISSUE 3: To the extent that the annual firm energy and capacity payments made to AES Cedar Bay in any year exceed that year's annual value of deferring the statewide avoided unit, does the contract contain adequate security provisions to protect the utility's ratepayers in the event that AES Cedar Bay fails to perform pursuant to the terms and conditions of the contract?

##### POSITIONS

FPL: Yes.

STAFF: Yes.

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ISSUE 4: Should FPL be entitled to recover all payments made pursuant to the contract with AES Cedar Bay for the purchase of energy and capacity and all costs reasonably and prudently incurred in connection with that agreement?

POSITIONS:

FPL: Yes.

STAFF: Yes.

ISSUE 5: Should FPL be required to sell to another Florida utility, at its own cost, any energy or capacity purchased pursuant to this contract which it does not need to satisfy the requirements of its own system?

POSITIONS

FPL: No. This is a negotiated contract so the provisions of Rule 25-17.083(5) are not applicable. Moreover, FPL should not be required to sell at cost if a higher price is obtainable.

STAFF: Yes.

Legal Issues

ISSUE 6: Based on the resolution of the above factual issues, should the cogeneration agreement between Florida Power & Light Company and AES Cedar Bay, Inc. be approved?

POSITIONS

FPL: Yes.

STAFF: Yes.


REQUIREMENTS

All applicable orders and rules have been complied with.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that these proceedings shall be governed by this order unless modified by the Commission.

By ORDER of Chairman Michael McK. Wilson, as Prehearing Officer, this 17th day of APRIL, 1989.

  
MICHAEL MCK. WILSON, Chairman  
and Prehearing Officer

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