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PLEASE REPLY TO:
TALLAHASSEE

COGENERATION
ALTERNATIVE ENERGY
ENERGY REGULATORY LAW
PUBLIC UTILITY LAW
ADMINISTRATIVE LAW
APPELLATE LAW

September 25, 1990

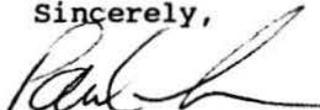
Mr. Steve Tribble
Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

Re: Docket No. 900004-EU - Hearings On Load Forecasts,
Generation Expansion Plans and Cogeneration Prices for
Peninsular Florida's Electric Utilities.

Dear Mr. Tribble:

Enclosed please find an original and ten copies of both
Broward County's Petition for Leave to Intervene and Brief for
filing in the above docket.

Sincerely,



Paul Sexton

ACK _____
AFA _____
APP _____ PS:lg
 _____ enclosures
CAF _____ cc: Parties of Record
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Brief
DOCUMENT NUMBER-DATE
08554 SEP 25 1990
PSC-RECORDS/REPORTING

Petition
DOCUMENT NUMBER-DATE
08553 SEP 25 1990
PSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Hearings On Load Forecasts,)
Generation Expansion Plans and)
Cogeneration Prices for Peninsular)
Florida's Electric Utilities.)

Docket No. 900004-EU
Submitted for Filing:
September 25, 1990

BRIEF OF BROWARD COUNTY

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INTRODUCTION

The Commission directed interested parties to submit briefs on issues relating to subscription limits by September 25, 1990. One of those issues was whether contracts for units with in-service dates prior to 1996 were to count against the subscription limit for the 1996 500MW coal unit. Broward County is concerned that an affirmative Commission ruling on this issue could make it difficult or impossible to negotiate a contract to sell excess firm capacity and energy produced by its solid waste facilities, due to be in-service in early to mid 1991.

Broward County's solid waste facilities are owned and operated by subsidiaries of Wheelabrator Technologies Inc., for the benefit of Broward County. The Broward North facility is owned and operated by Wheelabrator North Broward, Inc., and the Broward South facility is owned and operated by Wheelabrator South Broward, Inc. Each company has a standard offer contract (under the 1992 avoided unit) to sell firm capacity to FPL (45MW from Broward North and 50.6MW from Broward South). Although the Wheelabrator subsidiaries are the signatories to the contracts, Broward County is a beneficiary of the revenues from that contract and has a great interest in the amount of capacity that can be sold.

When the contracts were originally signed, Wheelabrator and Broward County fully expected the facilities to generate 95.6MW for sale to FPL. However, as the projects moved from conceptual to final design, Wheelabrator discovered that the facilities could actually produce 106.1MW for sale to FPL (an increase of 8.5MW for

Broward North and 2MW for Broward South) and sought to increase the capacity under the contracts with FPL. FPL refused, however, and Wheelabrator sought a Commission ruling on the issue. On June 19, 1990, the Commission determined that the standard offer contract did not require FPL to increase the capacity purchased under the contracts.

Broward County is now faced with the prospect of negotiating to sell up to 11.1MW of the uncommitted capacity of its solid waste facilities to a utility. Broward County is concerned that Commission action on the subscription issues could hinder or preclude such a contract, leaving Broward County unable to sell 11.1MW of capacity otherwise available from its solid waste facilities.

DISCUSSION

NEGOTIATED CONTRACTS WITH AN IN-SERVICE DATE PRIOR TO 1996 SHOULD NOT BE SUBJECT TO THE SUBSCRIPTION LIMIT.

According to the Commission Staff, over 2,500MW of QF capacity has been "signed up" against the 1996 unit and the subscription should be closed out (Staff Recommendation of 9/20/90). No replacement unit is being considered by the Commission and Broward County is concerned that a negotiated contract to sell the excess capacity from its two solid waste facilities may be precluded if it is to be counted against a subscription that has been closed out. The Commission has already precluded Broward County from adding that capacity to its current standard offer contracts. Unless Florida utilities are free to negotiate a contract to

purchase this excess capacity, the state will lose the benefit of this firm capacity (which is located in the middle of FPL's load center), Broward County will lose the benefit of the additional revenues and the solid waste facilities will lose revenue that will assist them in their operations.

The Commission has an established policy in favor of negotiated contracts for firm capacity and energy. In addition, both Florida law and Commission rules recognize the great value of solid waste facilities as an environmentally preferred means of disposing of solid waste and a reliable means of generating capacity for Florida's electrical needs.¹ Both Section 377.707 and Rule 25-17.091 provide for favored treatment of solid waste facilities as generating resources. Consistent with these policies, the Commission should determine that negotiated contracts based on avoided units that do not match the designated statewide avoided unit, particularly those associated with solid waste facilities, should be judged on the utility's avoided cost and not be counted against the subscription limit for the avoided unit.

There is a clear need for both additional generating capacity and solid waste facilities between now and 1996 and the Commission should make every effort to eliminate impediments to contracts for firm capacity from solid waste facilities prior to 1996. Utilities in Florida need to purchase firm capacity from solid waste facilities for the benefit of their ratepayers and the state

¹See §377.709 and Rule 25-17.091.

as a whole. The state needs to maximize the incentives for new generating capacity and for solid waste facilities and should take affirmative action to eliminate regulatory barriers that offset those incentives.

The Staff's August 30, 1990 recommendation appears to partially address Broward's concerns by recommending that negotiated contracts be applied against the subscription limit only if they have an in-service date prior to the 1996 unit and the subscription limit is not yet filled:

In summary, Staff believes that the proper treatment of negotiated contracts for subscription limit purposes is as follows:

- 1) a contract that has an in-service date prior to the in-service date of the statewide avoided unit and before the subscription limit is filled should be counted towards the subscription total until the subscription amount is closed by the Commission. . .

At p. 4

This would appear to eliminate the barrier to Broward County's successful negotiation of a firm capacity contract for the excess capacity at its solid waste facilities. Nevertheless, Broward County believes that, considering the clear need for capacity prior to 1996 and the state policy favoring solid waste facilities, pre-1996 contracts to sell capacity generated by solid waste facilities should not apply to the 1996 subscription limit.

CONCLUSION

Broward County requests that the Commission determine that negotiated contracts to purchase firm capacity from solid waste facilities with in-service dates preceding the 1996 coal-fired statewide avoided unit do not apply to the current subscription limit.

Dated: September 25, 1990

Respectfully submitted



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I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following persons by U.S. Mail (Hand-delivery)*, this 25th day of September, 1990.

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