

Steel Hector & Davis

Tallahassee, Florida

Bonnie E. Davis
(904) 222-2300

2

**ORIGINAL
FILE COPY**

October 24, 1990

Mr. Steve Tribble
Director of Records and Recording
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32301

~~RE: Docket No. 900004-EU~~

Dear Mr. Tribble:

Enclosed are the original and 15 copies of Florida Power & Light Company's Statement of Issues and Positions in Docket No. 900004-EU. In addition to serving FPL's Statement of Issues and Positions on all parties of record, we have delivered to Michael A. Palecki, Esq., at the Division of Legal Services, a disk containing our statement of issues and positions as discussed at the prehearing conference.

Very truly yours,

Bonnie E. Davis
Bonnie E. Davis

- ACK
- AFA _____
- APP _____
- CAF _____
- CMU BED:do
- CTR Enclosures
- EAC cc+ All Parties of Record
- LEG 1
- LIN 6
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

DOCUMENT NUMBER - DATE
09531 OCT 24 1990
PSC-RECORDS/REPORTING

Tallahassee Office
215 South Monroe
Suite 601
Tallahassee, FL 32301-1804
(904) 222-2300
Fax (904) 222-8410

4000 Southeast Financial Center
Miami, FL 33131-2368
(305) 577-2600
Fax (305) 368-1418

515 North Flagler Drive
1200 Northbridge Centre 1
West Palm Beach, FL 33401-4307
(407) 850-7200
Fax (407) 855-1509

440 Royal Palm Way
Palm Beach, FL 33480
(407) 850-7200

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Planning hearing on load fore-) Docket No. 900004-EU
casts, generation expansion plans,)
and cogeneration prices for Peninsular) Filed: Oct. 24, 1990
Florida's electric utilities)
_____)

FPL'S STATEMENT OF ISSUES AND POSITIONS

1. What is the purpose and effect of the subscription limit?

FPL POSITION: The subscription limit was intended to limit the obligation of utilities to purchase QF energy and capacity pursuant to a Standard Offer contract so that no utility would be required to purchase QF power in excess of the utility's individual need for additional power. Adoption of the subscription limit was not intended nor should it be interpreted to fix the need of an individual utility for additional power. The need of an individual utility for additional power must be determined on a case by case basis as individual contracts are considered in the determination of need process. This result is consistent with and required by the Commission's holding in Order No. 22341 as follows:

By this finding, we overrule those previous decisions in which we held that in qualifying facility (QF) need determination cases as long as the negotiated contract price was less than that of the standard offer and fell within the current MW subscription limit both the need for and the cost-effectiveness of the QF power has already been proven. See: In re: Petition of AES Cedar Bay, Inc. and Seminole Kraft Corporation for determination of need for the Cedar Bay Cogeneration Project (AEC), Order No. 21491, issued on June 30, 1989. In so doing we take the position that to the extent that a proposed electric power plant constructed as a QF is selling its capacity to an electric utility pursuant to a standard offer or negotiated contract, that capacity is meeting the needs of the purchasing utility. As such, that capacity must be evaluated from the purchasing utility's perspective in the need determination proceeding, i.e., a finding must be made that the proposed capacity is the most cost-effective means of meeting purchasing utility X's capacity needs in lieu of other demand and supply side alternatives.

DOCUMENT NUMBER-DATE

09531 OCT 24 1990

PSC-RECORDS/REPORTING

2. What is the effect of queuing contracts for subscription limit purposes?

FPL POSITION: Since a queue for the subscription limit can have no effect on the determination of need process, no purpose is served by establishing one.

3. Which contracts should be considered candidates for filling the current 500 MW subscription limit?

FPL POSITION: Any contract, whether it is a standard offer or negotiated contract, that would, in fact, defer or avoid the need of an individual utility for additional power that is represented in the subscription limit should be a candidate for filling the 500 MW subscription limit.

4. On what basis should the contracts to fill the 500 MW subscription limit be selected?

FPL POSITION: The contracts to fill the subscription limit should be selected from among those eligible on the basis of their relative merits so as to ensure the utility and its ratepayers the best available generating resources. The criteria used to evaluate the relative merits of competing offers to fill the subscription limit should include factors of value to the utility and its ratepayers. The criteria should include such factors as the impact of a proposed QF's location on the bulk power grid, its proximity to load centers, the availability and reliability of the proposed fuel supply, the operational flexibility of the proposed project, the expertise of the proposed project's developers and operators and their ability to finance the project, the status of its development, and the additional value, if any, of negotiated provisions as to a proposed project's operational performance and/or assurances therefore.

5. What is the order of priority of those contracts currently before the Commission?

FPL POSITION: FPL's negotiated contract with ICL should have first order of priority of those contracts currently before the Commission. The ICL project will supply need capacity to FPL and the contract contains several factors that in the aggregate make it the best QF project available to FPL. Those factors include the project's location, close to FPL's load centers; its dispatchability by FPL; the pay-for-performance contract provisions; the reliability of its fuel supply; and several specific, funded, assurances of design, construction, and operation performance.

The ICL contract was executed on May 21, 1990 and the capacity purchased pursuant to it meets FPL's need for additional capacity that was represented in the 500 MW subscription limit.

At the present time there is no basis to establish an order of priority beyond ICL's contract because the information about the entities that have submitted Standard Offer contracts is so incomplete that a final ranking based on their relative merits cannot be performed at this time.

If the Commission decides to rank the contracts it has received notice of on the basis of their execution dates, the Standard Offer contracts received by FPL are incomplete and it should not be presumed they will ultimately be valid. For example, the interconnection agreement proposed by Falcon Seaboard/Nassau Power, Inc. appears to be invalid because, in addition to technical concerns about the proposal, it appears that while the cogeneration facility is to be located in the service territory of Florida Public Utilities Company, Falcon Seaboard proposes a direct interconnection with FPL for both power sales and backup service.

At the present time FPL has not received any complete Standard Offer contracts. FPL has received incomplete Standard Offer contracts from the following entities:

1. Falcon Seaboard/Nassau Power, INC. (June 13, 1990 for 435 KW);
2. Cypress Energy, Inc./Mission Energy, Inc., Phase I (June 18, 1990 for 180 MW);
3. Cypress Energy, Inc./FHN/Mission Energy, Inc., Phase II (June 19, 1990 for 180 MW);
4. Mockingbird Energy, Inc. (July 25, 1990 for 220 MW);
5. Telluride Power Partners, Inc. (August 24, 1990 for 75 MW)

Because FPL believes there may be questions concerning the validity of the Standard Offer contracts it has received, an opportunity to prove and contest the validity of the contracts should be provided before they are ranked in any order of priority.

Respectfully submitted,

STEEL HECTOR & DAVIS
215 South Monroe Street
Suite 601
Tallahassee, Florida 32301-1804
Attorneys for Florida Power
& Light Company

By: Bonnie E. Davis
Bonnie E. Davis

CERTIFICATE OF SERVICE
DOCKET NO. 900004-EU

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Statement of Issues and Positions has been furnished to the following individuals by Hand Delivery or U. S. Mail on this 24th day of October, 1990.

Michael A. Palecki, Esq.
Division of Legal Services
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32301

Vicki Gordon Kaufman, Esq.
522 East Park Ave
Suite 200
Tallahassee, FL 32301

Paul Sexton, Esq.
Richard Zambo, P.A.
211 S. Gadsden Street
Tallahassee, FL 32301

Edison Holland, Jr., Esq.
Beggs and Lane
P. O. Box 12950
Pensacola, FL 32576

Richard D. Melson, Esq.
Hopping, Boyd, Green & Sams
P. O. Box 6526
Tallahassee, FL 32314

Jack Shreve, Esq.
Office of Public Counsel
111 W. Madison Street
Room 812
Tallahassee, FL 32301

Fla. Keys Electric Coop.
E. M. Grant
P. O. Box 377
Tavernier, FL 33070

Edward C. Tannen, Esq.
1300 City Hall
Jacksonville, FL 32202

Lee L. Willis, Esq.
James D. Beasley, Esq.
Ausley, McMullen, McGehee
Carothers and Proctor
P. O. Box 391
Tallahassee, FL 32302

James Stanfield, Esq.
P. O. Box 14042
St. Petersburg, FL 33733

Frederick M. Bryant, Esq.
Moore, Williams & Bryant
P. O. Box 1169
Tallahassee, FL 32302

Gainesville Regional
Ann Carlin, Esq.
P. O. Box 490, St. 52
Gainesville, FL 32602

Ray Maxwell
Reedy Creek Utilities Co.
P. O. Box 40
Lake Buena Vista, FL
32830

Terry Cole, Esq.
Suzanne Brownless, Esq.
2700 Blairstone Road
Suite C
Tallahassee, FL 32301

Roy Young, Esq.
Young, Van Assender,
P. O. Box 1833
Tallahassee, FL
32302-1833

Fla. Rural Electric Coop.
Yvonne Gsteiger
P. O. Box 590
Tallahassee, FL 32302

City of Chattahoochee
Attn: Superintendent
115 Lincoln Drive
Chattahoochee, FL 32324

Quincy Municipal Electric
P. O. Box 941
Quincy, FL 32351

Barney L. Capehart
601 N.W. 35th Way
Gainesville, FL 32605

Cogeneration Program Manager
Governor's Energy Office
301 Bryant Building
Tallahassee, FL 32301

John Blackburn
P. O. Box 405
Maitland, FL 32751

E. J. Patterson
Fla. Public Utilities Co.
P. O. Drawer C
West Palm Beach, FL 33402

Gene Tipps
Seminole Electric Coop.
P. O. Box 272000
Tampa, FL 33688-2000

Guyte P. McCord, III
P. O. Box 82
Tallahassee, FL 32302

Lawson Law Firm
P. O. Box 3350
Tampa, FL 33601

C. M. Naeve, Esq.
Shaheda Sultan, Esq.
Skadden, Arps, Slate
Meagher & Flom
1440 New York Ave. N.W.
Washington, D. C. 20005


Bonnie E. Davis