

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by CFR-Biogen ) Corporation against Florida Power ) Corporation for alleged violation ) of standard offer contract, and ) request for determination of ) substantial interests. ) <hr/>	DOCKET NO. 900383-EQ  ORDER NO. 24908  ISSUED: 8/12/91
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ORDER ON PREHEARING PROCEDURE

Pursuant to the provisions of Rule 25-22.038(3), Florida Administrative Code, all parties are hereby required, either collectively or individually, to file with the Director of Records and Reporting a prehearing statement on or before November 12, 1991. Each prehearing statement shall set forth the following:

- (a) all known witnesses that may be called and the subject matter of their testimony;
- (b) all known exhibits, their contents, and whether they may be identified on a composite basis and the witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue;
- (f) a statement of each policy question the party considers at issue and which of the party's witnesses will address the issue;
- (g) a statement of the party's position on each issue identified pursuant to paragraphs (d), (e) and (f) and the appropriate witness;
- (h) a statement of issues that have been stipulated to by the parties;
- (i) a statement of all pending motions or other matters the party seeks action upon; and
- (j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefor.

DOCUMENT NUMBER-DATE

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The original and fifteen copies of each prehearing statement must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on November 12, 1991. Failure of a party to timely file a prehearing statement shall be a waiver of any issues not raised by other parties or by the Commission Staff. In addition, such failure shall preclude the party from presenting testimony in favor of his or her position on such omitted issues. Copies of prehearing statements shall also be served on all parties. Prehearing statements shall substantially conform to the Florida Rules of Civil Procedure requirements as to form, signatures, and certificates.

In addition to the filing with the Division of Records and Reporting, each party shall furnish, if available, a copy of its Prehearing Statement to the Division of Legal Services, Room 226, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0863, on computer diskette formatted to the specifications of WordPerfect, version 5.1. The Legal Division's WordPerfect 5.1 program is set up with the following parameters:

- 1) Courier 10 pitch type-face
- 2) Tabs are set at 1.5", 2.5", 4.25" and 5.5"
- 3) 3 and 1/2" high density diskette

#### Prefiled Testimony and Exhibits

In accordance with Rule 25-22.048, Florida Administrative Code, each party shall be required to prefile all written testimony that it intends to sponsor. Commission Staff may file prefile testimony in this case. Written testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double-spaced, with 25 numbered lines, on consecutively numbered pages, each with a sufficient left margin to allow for binding.

Each witness giving prefiled testimony shall be assigned a number at the prehearing conference. A copy of any exhibit sponsored by a witness shall be attached to the written testimony of that witness. The pages of each exhibit shall be consecutively numbered. All known exhibits shall be marked for identification at the prehearing conference.

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The original and twelve copies of all prefiled testimony and exhibits shall be filed with the Division of Records and Reporting, on or before the close of business on the dates provided for the respective parties herein below. A copy of the prefiled testimony and exhibits shall also be mailed to all other parties simultaneously with their filing with the Commission.

#### Prehearing Conference

A prehearing conference will be held on December 18, 1991 at 9:30 a.m. in Room 106, Fletcher Building, 101 East Gaines Street, Tallahassee, Fla. The conditions of Rule 25-22.038 (5)(b), Florida Administrative Code, shall be observed. Any party who fails to attend the prehearing conference, unless excused by the prehearing officer, will have waived all issues and positions raised in that party's prehearing statement.

#### Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the prehearing officer.

#### Provisions Governing Discovery

The hearing in this docket is presently to begin on January 8, 1992. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by December 31, 1991. In addition, to facilitate their identification, all interrogatories, requests for admissions, and requests for production of documents shall be numbered consecutively. Each set of discovery requests shall be numbered sequentially from any previous set(s). Unless

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authorized by the Prehearing Officer, the following shall apply: interrogatories, including all subparts, shall be limited to 100, and requests for production of documents, including all subparts, shall be limited to 100.

Controlling Dates

The following dates have been established to govern the key activities of this proceeding in order to maintain an orderly procedure:

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| 1. September 27, 1991 | Petitioner's Direct Testimony to be filed |
| 2. October 18, 1991   | Respondent's Direct Testimony to be filed |
| 3. November 01, 1991  | Rebuttal Testimony to be filed            |
| 4. November 12, 1991  | Prehearing Statements to be filed         |
| 5. December 18, 1991  | Prehearing Conference                     |
| 6. January 8, 1992    | Hearings to be held                       |

By ORDER of Commissioner Thomas M. Beard, as Prehearing Officer, this 12th day of AUGUST, 1991.

  
 THOMAS M. BEARD, Commissioner  
 and Prehearing Officer

( S E A L )

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