

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Tampa	)	DOCKET NO.	910883-EI
Electric Company for	)	ORDER NO.	25568
determination of need for	)	ISSUED:	1/6/92
proposed electrical power plant	)		
and related facilities.	)		
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The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
BETTY EASLEY

ORDER DENYING CONTINUANCE

BY THE COMMISSION:

On August 26, 1991, Tampa Electric Company (TECO) filed a notice of intent to file a petition for determination of need.

On September 6, 1991, TECO filed a petition to certify the need for a planned IGCC unit, along with a need study and the testimony of six witnesses. On October 8, 1991, FICA filed a Motion for Extension of Time asserting that the period to file testimony was too short. On October 16 and 23, 1991, Commissioner Wilson as prehearing officer issued Order Nos. 25224 and 25224-A granting a partial extension of time to file testimony. The orders granted intervenors an additional twenty days, from October 11, 1991 until October 31, 1991, in which to file testimony.

On October 28, 1991, Floridians for Responsible Utility Growth (FRG) filed a petition to intervene in this docket. On October 31, 1991, FRG filed 173 pages of testimony in this docket. On November 5, 1991 FRG filed a motion for continuance, requesting that the hearing in this docket be postponed "until March, 1992, or the month which TECO indicates it will file its siting petition with DER, whichever is sooner."

For the most part FRG's Motion for Continuance constitutes a discussion of the merits of TECO's petition to determine need with regard to the question of whether conservation measures might mitigate the need for the proposed plant. We believe that this is a legitimate issue for the hearing, but not a ground for continuing the hearing.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. 25568  
DOCKET NO. 910883-EI  
PAGE 2

After its discussion of the merits, FRG states its sole ground for a continuance as follows:

On the expedited schedule now proposed by the Commission, there is not enough time for parties to complete adequate discovery, critically evaluate the assumptions which underlie the study, and prepare the detailed expert analyses and recommendations to best assist the Commission's review.

We disagree. The schedule in this docket is not "expedited", but rather conforms to the time mandated by the legislature for a need determination under the Power Plant Siting Act. We recognize that we are not bound by the time strictures of the Siting Act where no application has been filed with DER. However, the legislature in its wisdom, set these time limits (5 months for the Commission's report and 45 days notice prior to hearing) because they constitute reasonable time for the Commission and participating parties, to conduct discovery, evaluate the proposed project under the criteria set forth in Section 403.519, and determine whether need exists for the proposed plant. It is well within our discretion to comply with the statutory time limitations whether or not an application has been filed with DER. FRG has shown no circumstances in this docket that would justify going outside of those time periods deemed reasonable by our legislature.

Intervenors such as FRG take "the case as they find it." See Rule 25-22.039, Florida Administrative Code. In this case, the prehearing officer granted intervenors an extension of time of 20 days (for a total of 55 days) to file testimony. FRG has been able to submit 173 pages of testimony prior to the revised due date as a result of the prehearing officer's order. It would appear that FRG, as a late intervenor, has already benefitted from a substantial extension of time in this docket.

The legislature has determined that 5 months is a reasonable amount of time within which to conduct a need determination. FRG has shown no reason that this case should be continued beyond the time deemed reasonable by the legislature.

It is, therefore,

ORDERED by the Florida Public Service Commission that the Motion for Continuance filed in this docket by Floridians For Responsible Utility Growth on October 28, 1991, is hereby denied.

ORDER NO. 25568  
DOCKET NO. 910883-EI  
PAGE 3

By ORDER of the Florida Public Service Commission, this  
6th day of JANUARY, 1992.

  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 Director, Division of Records and Reporting, 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.