

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida ) DOCKET NO. 911142-EQ  
Power Corporation for Authority ) ORDER NO. PSC-92-0038-FOF-EQ  
to refuse Standard Offer ) ISSUED: 3/10/92  
Contracts )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
LUIS LAUREDO

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING PETITION FOR AUTHORITY TO  
REFUSE STANDARD OFFER CONTRACTS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Florida Power Corporation's (FPC) standard offer contract was made available on September 13, 1991. In Docket 910004-EU (Order No. 24989) FPC's avoided unit for its standard offer contract was designated as 80 MW from a 150 MW 1997 combustion turbine. Instead of using a "first-in-time, first-in-line" mechanism for selecting standard offers, FPC established a two week "open season" from September 20, 1991 (the first day that the standard offer was effective) through October 4, 1991 during which potential providers had an opportunity to submit standard offer contracts for evaluation. FPC received nine contracts during its "open season" and one after the "open season" concluded.

Pursuant to Rule 25-17.0832 (3) (d), FPC has 60 days to petition the Commission to reject a standard offer contract. Therefore, on November 19, 1991 FPC petitioned the Commission for authority to reject the first standard offer contract it had received on September 20, 1991 from Noah IV Power GP, Incorporated (Noah IV). Subsequently, on November 26, 1991 FPC filed a petition with the Commission for authority to refuse all standard offer contracts except the one submitted by Panda Kathleen L.P. This petition also included rejection of Noah IV's contract. Therefore, the two petitions have been combined into this single docket.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. PSC-92-0038-FOF-EQ  
DOCKET NO. 911142-EQ  
PAGE NO. 2

Two filings were received subsequent to FPC's petition. Both filings concern FPC's method of selecting which standard offer contract(s) to accept. On December 6, the Charon Corporation (Charon), on behalf of Sparrow Energy Incorporated (Sparrow), filed with the Commission comments regarding FPC's selection of Panda Kathleen L.P.'s standard offer contract. However, neither Charon nor Sparrow requested a hearing on this matter. On December 13, Noah IV and Ark Energy, Incorporated (Ark), jointly filed an Answer and Cross-Petition to FPC's petition. In the petition Noah IV and Ark requested the Commission to reject FPC's petition and either (1) order FPC to execute the standard offer contract submitted by Noah IV to FPC or (2) set the matter for hearing. Subsequently, counsel for Noah IV and Ark agreed to permit the petition by FPC to be treated as a Proposed Agency Action.

FPC chose to evaluate the standard offer contracts submitted during an "open season" instead of using a "first-in-time, first-in-line" mechanism, reasoning that it was better to choose a project on its merit rather than on the date it was received. We believe that an evaluation method based on merit is superior and, likewise, in the best interest of the ratepayer.

FPC evaluated the seven unmodified standard offer contracts it received during the two week submittal period. FPC's evaluation of each submittal was based on the following criteria: location (10%), feasibility (40%), reliability (30%), developer qualifications (10%) and size (10%). Based on these evaluations, FPC chose Panda Kathleen L.P. to fill 74.9 MW of the 80 MW available for its standard offer contract, leaving a balance of 5.1 MW in its standard offer. This analysis appears to be well reasoned, fairly and equally applied to all projects, and based on sound criteria. We find that FPC's selection of the Panda Kathleen L.P. project is reasonable to meet FPC's capacity need. Since each of the remaining standard offer contracts submitted would greatly exceed the 5.1 MW balance remaining after acceptance of Panda Kathleen L.P.'s contract, we find FPC should be granted authority to reject them.

With 5.1 MW remaining in its current standard offer and no capacity projected to be available for a new standard offer contract, we find that FPC shall keep its standard offer open until the 5.1 MW is filled or capacity for a new standard offer is available.

FPC shall not be required to file a new standard offer contract pending review of FPC's next ten year site plan, to be filed in April, 1992.

Based on the foregoing, it is

ORDER NO. PSC-92-0038-FOF-EQ  
DOCKET NO. 911142-EQ  
PAGE NO. 3

ORDERED that the Petition for authority to refuse standard offer contracts is GRANTED. It is further

ORDERED that to the extent the eighty megawatt subscription limit remains unfilled, Florida Power Corporation's standard offer contract shall remain open. It is further

ORDERED that Florida Power Corporation shall not be required to file a new standard offer at this time. It is further

ORDERED that this Order shall become final and this docket shall be closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission, this 10th day of March, 1992.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

RVE

by: Kay Jenson  
Chief, Bureau of Records

ORDER NO. PSC-92-0038-FOF-EQ  
DOCKET NO. 911142-EQ  
PAGE NO. 4

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 3/31/92.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.