

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Consol-) DOCKET NO. 911103-EI
idated Minerals, Inc. against) ORDER NO. PSC-92-0076-PCO-EI
Florida Power and Light) ISSUED: 3/18/92
Company for failure to)
negotiate cogeneration)
contract.)
_____)

ORDER ON CMI'S AMENDED MOTION FOR
OFFICIAL RECOGNITION

BY THE COMMISSION:

On March 6, 1992, Consolidated Minerals, Inc. (CMI) filed an Amended Motion for Official Recognition of certain Commission vote sheets, transcripts of hearings and agenda conferences conducted at the Commission, Commission orders, Interrogatories propounded by Staff, and Staff Recommendations. In addition, CMI seeks official recognition of certain pleadings that have been filed with the Commission by parties to various proceedings conducted at the Commission. Florida Power and Light Company (FPL) filed a response to CMI's Amended Motion on March 13, 1992.

Rule 25-22.048, Florida Administrative Code, provides that "any relevant evidence shall be admitted if it is the sort of evidence which is normally admissible in civil trials in Florida" Thus, we follow the provisions of the Florida Evidence Code which deal with judicial notice (Sections 90.21-203, Florida Statutes).

For the purposes of this docket, we shall officially recognize Order No. 23080, issued June 15, 1990; Order No. 23623, issued October 10, 1990; Order No. 25668, issued February 3, 1992; and the vote sheet from the May 15, 1990 Agenda Conference (DN 4212-90).

However, we deny CMI's request for official recognition as it relates to the other documents listed in CMI's amended motion. We find that it would not be appropriate for us to officially recognize transcripts from other dockets, Staff recommendations from other dockets, interrogatories propounded by Staff in other dockets, and post-hearing pleadings filed by parties to other dockets in this instance. These documents are neither "official acts" of a department of the state, nor do they consist solely of "facts not subject to dispute because they are capable of accurate and ready determination by sources of unquestionable accuracy." Although some of these documents may contain facts not subject to dispute, they also reflect the opinion of the person(s) who wrote them. As such, they either serve an advisory role to the Commission (as do Staff Recommendations), or they present arguments

DOCUMENT NUMBER-DATE

02691 MAR 18 1992

F-PSC-RECORDS/REPORTING

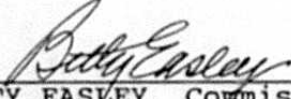
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to the Commission in an attempt to persuade us to reach some conclusion (as do post-hearing pleadings by parties).

It is, therefore,

ORDERED by Commissioner Betty Easley, as Prehearing Officer, that Consolidated Mineral, Inc.'s Amended Motion for Official Recognition is granted in part and denied in part as discussed in the body of this order.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 18th day of MARCH, 1992.


BETTY EASLEY, Commissioner
and Prehearing Officer

(S E A L)

MAB:bmi

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

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review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.