

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

MEMORANDUM

September 24, 1992

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF ELECTRIC AND GAS (FUTRELL, FLOYD) MF  
DIVISION OF LEGAL SERVICES (BROWN) MCB MF

RE: DOCKET NO. 920880-EQ PETITION FOR APPROVAL OF LEE COUNTY  
RESOURCE RECOVERY FACILITY ELECTRIC POWER PURCHASE  
AGREEMENT FOR AS-AVAILABLE ENERGY BETWEEN LEE COUNTY AND  
FLORIDA POWER AND LIGHT COMPANY

AGENDA: 10/06/92 - CONTROVERSIAL AGENDA - PROPOSED AGENCY ACTION

CRITICAL DATES: NONE

FILE NAME: I:\PSC\EAG\WP\920880.MAF

CASE BACKGROUND

On January 7, 1991, the Commission issued Proposed Agency Action (PAA) Order No. 23963 which stated the intent to grant Lee County's petition for determination of need for a solid waste-fired cogeneration power plant. The PAA order was contested on January 28, 1991 and a formal administrative hearing was requested. However, on May 20, 1991 the protesting party and Lee County filed a joint stipulation dismissing the request for an administrative hearing. The Commission accepted the dismissal of the protest and made Order No. 23963 final on July 16, 1991, thereby granting Lee County's petition for determination of need.

Florida Power and Light Company (FPL) now petitions the Commission for approval of a negotiated contract between FPL and Lee County for As-Available Energy.

DOCUMENT NUMBER-DATE  
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DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission approve FPL's petition for approval of the Lee County Resource Recovery Facility Electric Power Purchase Agreement for As-Available Energy?

**STAFF RECOMMENDATION:** Yes. The Commission should approve the negotiated contract between FPL and Lee County.

**STAFF ANALYSIS:** Lee County's 39.7 megawatt resource recovery facility has a scheduled in-service date of 1995. The facility is a "qualifying facility" pursuant to Federal Energy Regulatory Commission guidelines. The negotiated contract between FPL and Lee County was signed August 19, 1992, with a term from the execution date to December 31, 2015. A condition precedent to the enforceability of the provisions of the contract is approval of the contract by the Commission. The contract also requires the Commission to determine that (a) the agreement is reasonable, prudent and in the best interest of FPL's customers, (b) no cost in excess of FPL's avoided energy cost is likely to be incurred over the term of the agreement, and (c) FPL may recover from its customers all payments for as-available energy.

In evaluating this as-available energy negotiated contract, the relevant Commission rule is Rule 25-17.0825(6), F.A.C., which states in part

"Utility payments for as-available energy made to qualifying facilities pursuant to a separately negotiated contract shall be recoverable by the utility through the Commission's periodic review of fuel and purchased power costs if the payments are not reasonably projected to result in higher cost electric service to the utility's general body of ratepayers or adversely affect the adequacy or reliability of electric service to all customers."

The agreement provides that as-available energy payments by FPL to Lee County shall be in accordance with Rate Schedule COG-1 as approved by the Commission. The price paid shall be ninety-eight percent (98%) of FPL's avoided energy cost. Therefore FPL will pay less than it otherwise would, had FPL generated the energy itself, or purchased the energy at avoided cost. Based on this condition, Staff believes the payments will not result in higher cost electricity to FPL's customers.

Currently, the parties are negotiating a separate interconnection agreement. The negotiated contract contains provisions for the safe operation of the facility in connection

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with FPL's system. Staff believes the purchase of energy from this facility will not adversely affect the adequacy or reliability of electric service to FPL's customers.

Staff recommends that the Commission approve the negotiated contract between FPL and Lee County. Staff also recommends that the Commission make the findings as stated in the contract (a) the agreement is reasonable, prudent and in the best interest of FPL's customers, (b) no cost in excess of FPL's avoided energy cost is likely to be incurred over the term of the agreement, and (c) FPL may recover from its customers all payments for as-available energy.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. If no substantially affected person timely files a protest to the Commission's proposed agency action, this docket should be closed.

**STAFF ANALYSIS:** If no substantially affected person files a timely request for a Section 120.57, Florida Statutes, hearing within twenty-one days, no further action will be required and this docket should be closed.