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October 27, 1994

ORIGINAL
FILE COPY

Blanca Bayó, Director
Division of Public Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399

In re: Docket No. 940797-EQ

Petition for Approval, to the extent required, of certain
action relating to approved cogeneration contracts by FLORIDA
POWER CORPORATION.

Dear Ms. Bayó,

Please find enclosed the original and fifteen copies of the
Petition To Intervene of Tiger Bay Limited Partnership to be filed
in the above cited docket.

Thank you for your attention in this matter.

Sincerely,

Suzanne Brownless
Suzanne Brownless
Attorney for Tiger Bay
Limited Partnership

ACK
AFA _____
APP _____
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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for approval, to the) Docket No. 940797-EQ
extent required, of certain actions)
relating to approved cogeneration)
contracts by Florida Power Corporation.)
_____)

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PETITION TO INTERVENE

Tiger Bay Limited Partnership (Tiger Bay), by its undersigned attorneys and pursuant to Rules 25-22.039 and 25-22.036(7)(a), F.A.C., files this petition to intervene and in support thereof states as follows:

1. The name and address of the Petitioner is:

Tiger Bay Limited Partnership
c/o Destec Energy Company, Inc.
2500 CityWest Blvd.
Suite 150
Houston, Texas 77210-4411

2. The name and address of the persons who should receive notices and other communications is as follows:

Suzanne Brownless
Suzanne Brownless, P.A.
2546 Blairstone Pines Drive
Tallahassee, Florida 32301

Barry N.P. Huddleston
Regional Manager
Regulatory Affairs
Destec Energy Company, Inc.
2500 CityWest Blvd.
Suite 150
Houston, Texas 77210-4411

Substantial interest

3. In this docket Florida Power Corporation (FPC) has requested that the Commission approve certain actions taken by FPC with regard to three FPC negotiated contracts entered into with General Peat Resources, L.P. in 1988; a FPC Standard Offer Contract entered into with Timber Energy Resources, Inc. in 1989; and a FPC negotiated contract entered into with EcoPeat Avon Park in 1991.

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These actions include the full and partial assignments of the cogeneration contracts to Tiger Bay, agreements which allow all of these contracts to be served from the Tiger Bay facility, back-up fuel arrangements at the Tiger Bay facility, and a curtailment schedule.

4. All of these contracts will be served from the 218 MW gas-fired Tiger Bay facility located in Polk County, Florida.

5. As party to these contracts and post-contract actions for which FPC is seeking approval, the substantial interests of Tiger Bay will be affected by any decision that the Commission makes in this docket. Any decision regarding these contracts and post-contract actions is as applicable to Tiger Bay as to FPC. The Commission has consistently allowed the affected contractual parties to intervene in Commission proceedings dealing with those contracts and should do so in this instance as well. See: In re: Petition for approval of amendment and assignment of standard offer contract with KES Dade, L.P. to Osceola Power Limited Partnership, by Florida Power & Light Company, Docket No. 940569-EQ, Orders Nos. PSC-94-0728-PCO-EQ and PSC-94-0729-PCO-EQ, issued on June 13, 1994 granting KES Dade and Osceola Power intervenor status.

6. Tiger Bay would also note that the Commission has allowed Metropolitan Dade County, Montenay-Dade, Ltd., and Orlando CoGen Limited contractual parties to cogeneration contracts with FPC whose post-contract actions and curtailment agreements with FPC are also at issue in this docket, to intervene. Orders Nos. PSC-94-1068-PCO-EQ, issued on August 30, 1994 and PSC-94-1135-PCO-EQ,

issued on September 15, 1994. Tiger Bay occupies the same contractual relation to FPC as does Orlando CoGen, Dade County and Monteny-Dade. As in the cases of Dade County, Orlando CoGen, and Monteny-Dade, intervention is necessary in order to permit Tiger Bay to fully protect its interests.

Disputed issues of material fact

7. FPC's petition raises at least the following issues of law and material fact:

- a. Whether the FPSC has the jurisdiction to review actions associated with Tiger Bay's previously approved cogeneration contracts when those actions are taken during the course of contract performance and are either expressly provided for in the contracts or are within the contract administration authority.
 - b. Whether the actions taken by FPC regarding Tiger Bay's contracts are contrary to the public interest or the interests of FPC's ratepayers.
 - c. Whether the actions taken by FPC have, or will have, any material effect on any factor related to the FPSC's approval of the contracts for cost recovery under Rule 25-17.0832(2), F.A.C.
 - d. Whether any perjury, fraud, collusion, deceit, mistake, inadvertence, or intentional withholding of key information was present at the time of the initial contract approval of Tiger Bay's cogeneration contracts.
8. Tiger Bay takes the position that the agreements and

clarifications implementing the standard offer and negotiated contracts to which Tiger Bay is a party do not require the approval of the Commission. Further, it is Tiger Bay's position that the Commission's jurisdiction over previously approved cogeneration contracts is limited to review for cost recovery purposes only. None of the post contract actions for which FPC is seeking FPSC approval in this docket are in any way contrary to the public interest or the interests of FPC's ratepayers. Nor do, or will, any of the post contract actions which are the subject of this petition have any material effect on any factor related to the FPSC's approval of these contracts for cost recovery purposes. All of the post contract actions taken by FPC and Tiger Bay are expressly allowed by the contracts or are within the scope of actions routinely taken to administer power sales agreements. Tiger Bay's contracts are wholesale power purchases which FPC should be free to manage in the same way and with the same level of FPSC oversight given its other wholesale power contracts.

WHEREFORE, Tiger Bay Limited Partnership requests that this Commission grant the above petition for intervention and give full party status in this docket to Tiger Bay Limited Partnership in accord with all applicable rules and statutes. Further, Tiger Bay requests that the Commission dismiss this docket as unnecessary, or

in the alternative, given the issues in dispute, set this matter
for a §120.57(1) evidentiary hearing.

Respectfully submitted this 27th day of October, 1994 by:

Suzanne Brownless
Suzanne Brownless

Suzanne Brownless, P.A.
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(904) 877-5200

Attorney for Tiger Bay
Limited Partnership

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition for Approval, to the extent)
required, of certain action relating)
to approved cogeneration contracts)
by FLORIDA POWER CORPORATION)
_____)

Docket No. 940797-EQ

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Petition to Intervene filed on behalf of Tiger Bay Limited Partnership has been furnished by U.S. Mail or Hand Delivery (*) this 27th day of October, 1994 to the following individuals:

*Bob Elias
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Florida Public Service Commission
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Tallahassee, FL 32399-0863

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