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RICHARD W. REEVES
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MATTHEW D. SOYSTER
PAUL A. STRAMER

November 15, 1994

ORIGINAL
FILE

HAND DELIVERED

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
101 East Gaines Street
Tallahassee, Florida 32399

Re: Docket No. 941101-EQ, Petition of Florida Power Corporation for determination that its plan for curtailing purchases from Qualifying Facilities in minimum load conditions is consistent with Rule 25-17.086, F.A.C.

ACK

AFA _____

APP Dear Ms. Bayo:

CAF _____ Enclosed for filing and distribution are the original and 15
CAM _____ copies each of Orlando CoGen Limited, L.P.'s Petition to Intervene,
CTD _____ in the above docket.

E. J. Fisher Please acknowledge receipt of the above on the extra copy
L.E. Brown enclosed herein and return it to me. Thank you for your
assistance.

L. _____

C. _____

P. _____

S. _____

W. _____

JAM/159
Joseph A. McGlothlin
Enclosures

Yours truly,

Joseph A. McGlothlin
Joseph A. McGlothlin

JD

DOCUMENT NUMBER - DATE

11550 NOV 15 94

FPSC-REGGROS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE COPY

In re: Petition of Florida Power) DOCKET NO. 941101-EQ
Corporation for determination that)
its plan for curtailing purchases) FILED: November 15, 1994
from Qualifying Facilities in)
minimum load conditions is)
consistent with Rule 25-17.086,)
F.A.C.)

ORLANDO COGEN LIMITED, L.P.'S PETITION TO INTERVENE

Pursuant to rules 25-22.036(7)(a) and 25-22.039, Florida Administrative Code, Orlando CoGen Limited, L.P. ("OCL"), through its undersigned counsel, petitions for leave to intervene as a full party in the above docket, and in support states:

1. The name and address of Petitioner is:

Orlando CoGen Limited, L.P.
c/o Air Products and Chemicals, Inc.
7201 Hamilton Boulevard
Allentown, PA 18195

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

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson & Bakas
315 S. Calhoun Street
Suite 716
Tallahassee, FL 32301

Gregory Presnell
Akerman, Senterfitt &
Eidson, P.A.
255 S. Orange Avenue
P. O. Box 231
Orlando, FL 32802-0231

3. On October 14, 1994, Florida Power Corporation (FPC) filed a petition seeking approval of its proposed "curtailment plan." FPC proposes to apply the steps described in the plan if and when it declares an operational emergency under which FPC may validly suspend its obligation under PURPA and its QF contracts to purchase power from Qualifying Facilities.

DOCUMENT NUMBER-DATE

11550 NOV 15 94

FPSC-RECORDS/REPORTING

4. OCL is a Qualifying Facility. In March, 1991, OCL and FPC entered into a negotiated contract, pursuant to which OCL has committed to provide 79.2 MW of firm capacity. OCL financed, constructed, and now operates an \$86 million gas-fired cogeneration plant with which it meets the obligations of its contract to deliver capacity and energy to FPC.

5. OCL's plant was designed, configured, and optimized as a base-loaded cogeneration plant. OCL entered into arrangements for fuel supply that were premised on the continuous, base-loaded operation for which the plant was designed.

6. In the course of developing its cogeneration project, OCL applied for and received permits governing the limitations on pollutants which the unit can emit. The limits contained in the air emission permits were based on the levels of emissions that the unit is capable of achieving in its most environmentally efficient mode, which is the base loaded design basis.

7. OCL is one of the contracting QFs to which FPC's proposed curtailment plan is intended to apply. If FPC suspends or curtails its statutory and contractual obligation to purchase OCL's full committed capacity, FPC's action will, depending on the frequency and duration of curtailments, potentially impact OCL's ability to comply with the requirements of environmental regulatory agencies; subject OCL to the possibility of penalties under OCL's take-or-pay arrangements with its fuel supplier; and expose OCL to the possibility of penalties imposed by its fuel transporter under tariff provisions governing imbalances between fuel deliveries and


fuel receipts. Since FPC proposes to apply the plan attached to its petition to any such interruptions or curtailments, OCL's substantial interests would be affected by any decision of the Commission regarding FPC's request. OCL is entitled to intervene and participate as a full party to protect its interests. Specifically, OCL is entitled to participate to assure that any description of events warranting curtailment is confined to the limited circumstances countenanced by federal law; that any plan require the utility to exhaust all measures available to the utility to avoid or mitigate the need for curtailment; that the plan incorporate appropriately rigorous verification criteria and access by QFs to all pertinent data bearing on verification; and that FPC's approach to curtailment give due regard -- not only to the purchasing utility's needs -- but to the rights and needs of the QFs being interrupted or curtailed.

8. OCL's position is that FPC's proposed plan is deficient in at least the following respects: (a) FPC's description of the occasions which justify the extreme measure of curtailment is overbroad, because it is not specifically limited to circumstances under which reducing FPC's own generation in lieu of curtailment of QF purchases would result in negative avoided costs, a threat to safety, and/or impaired reliability; (b) FPC's plan fails to incorporate all measures available to FPC with which FPC could avoid or mitigate the need for curtailment; (c) FPC's criteria for curtailment are inequitable and discriminatory, in that they eschew a consideration of the specific needs and individual circumstances

of the QFs (such as minimum adequate notice requirements, steam host needs, fuel supply or transportation arrangements or environmental constraints) in favor of arbitrary categories of QFs; (d) the provisions in FPC's plan for post-event documentation and verification of the need for the curtailment are vague, superficial, and inadequate.

9. On October 21, 1994, OCL requested FPC to demonstrate the legitimacy of its October 19 curtailment directive and to provide information with which OCL could independently verify that the curtailment was necessary to prevent negative avoided costs or affect the reliability of FPC's service. See attached letter to James McGee (Exhibit A). On November 1, 1994, FPC refused to provide any data, based in part on FPC's position that it had no obligation to do so until OCL became a party to this docket. See Exhibit B (attached). While OCL strenuously disagrees with FPC's assertion, it is clear that intervention in this docket is necessary to enable OCL to protect its interests.

WHEREFORE, OCL requests the Commission to enter an order authorizing OCL to intervene as a full party.


Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin,
Davidson & Bakas
315 S. Calhoun Street
Suite 716
Tallahassee, Florida 32301
904/222-2525

Attorneys for Orlando CoGen
Limited, L.P.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Orlando CoGen Limited, L.P.'s Petition to Intervene has been furnished by hand delivery* or by U.S. Mail to the following parties of record, this 15th day of November, 1994.

Martha Brown*
Division of Legal Services
Florida Public Service
Commission
101 East Gaines Street
Fletcher Building, Rm. 212
Tallahassee, FL 32399

Richard Zambo, Esquire
Richard Zambo, P.A.
598 S.W. Hidden River Avenue
Palm City, FL 34990

James A. McGee
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33733

Ansley Watson
MacFarlane, Ausley, Ferguson
& McMullen
111 Madison Street, Suite 2300
First Florida Tower, 23rd Floor
P. O. Box 1531
Tampa, FL 33601

Gail Fels
Dade County Attorneys Office
111 NW 1st Street, Suite 2810
Miami, FL 33128

Schef Wright
Landers & Parsons
310 West College Avenue
Third Floor
P. O. Box 271
Tallahassee, FL 32302



Joseph A. McGlothlin

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JOHN W. MCWHIRTER, JR.
RICHARD W. REEVES
FRANK J. RIEP, III
MATTHEW D. SOTTEY
PAUL A. STRASSE

October 21, 1994

VIA FAX

James A. McGee
Florida Power Corporation
P. O. Box 14042
St. Petersburg, Florida 33733-4042

Dear Jim:

As you know, during the early morning of October 19, Florida Power Corporation (FPC) curtailed its purchases of the power generated by Orlando CoGen Limited (OCL) and other QFs. FPC notified OCL to reduce its output to 50% of committed capacity. Due to operational constraints specific to its circumstances, of which FPC was previously made aware by OCL, OCL removed its unit from service completely in order to respond to the notification from FPC.

The suspension by FPC of its obligation to purchase OCL's energy in accordance with the terms of the negotiated contract between them is an extraordinary measure, which federal law permits only under narrowly defined operational circumstances. To enable OCL to verify whether the October 19 curtailment satisfied those criteria, we request that FPC provide OCL with the following information:

1. Please provide all of the data, assumptions, and calculations that FPC made prior to announcing the curtailment that led FPC to conclude that the curtailment was necessary and warranted by the circumstances.

2. Please describe in full all efforts FPC took to avoid the curtailment by entering into additional off-system sales. Specifically state whether FPC sought to sell additional energy through the Florida Energy Broker system or to its industrial customers, and describe the results of any such efforts.

Mr. McGee
November 1, 1994
Page 2

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Exhibit A to Orlando
CoGen's Petition to Intervene
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3. Please delineate the steps FPC took to avoid curtailing its purchases of QF power by reducing the total amount of generation from its own units. Was there sufficient generation on FPC's system to have enabled FPC to balance generation and load, either by lowering the output of its own units or by removing certain of its units from service?

4. Does FPC maintain that to have removed its own units from service in lieu of curtailing its contractual purchases of QF power would have increased its system operating costs? If FPC's answer is yes, please provide the following information:

a. all data reviewed by FPC, plus all assumptions and calculations made by FPC prior to announcing the curtailment, on which FPC relies in support of its assertion that curtailment was necessary to avoid increases in operating costs under the circumstances. Please include all information which FPC reviewed concerning the availability and price of purchased power that FPC could have bought in lieu of operating its own units during the period immediately following the operating episode that led FPC to curtail purchases from QFs.

b. All data reviewed by FPC and all calculations performed by FPC subsequent to the curtailment for the purpose of verifying its conclusion that curtailment of its contractual obligation to purchase power from QFs was necessary to avoid an increase in its operating costs under the circumstances.

5. Does FPC maintain that reducing its own generation or removing its own units from service in lieu of suspending its contractual obligation to purchase QF power would have constituted a threat to the reliability or safety of its system? If so, provide all of the assumptions, and calculations which were made or performed by FPC and all data which was reviewed by FPC on which FPC relies in support of that assertion.

6. Does FPC assert that reducing its own generation or removing its own units from service in lieu of suspending its contractual obligation to purchase power from QFs would have impaired its ability to provide continuous, reliable service to its customers? If so, provide all data that FPC reviewed in forming that conclusion and all pertinent assumptions and calculations.

In addition, if not provided in response to the above questions, please provide the following information and data:

1. Integrated hourly loads for the following periods of time:

- a. the 24 hour period prior to the day of the operating condition that led FPC to curtail QF purchases.
 - b. the 24 hours of the day on which the condition occurred.
 - c. the 48 hour period immediately following the day on which the condition occurred.
2. During each hour for the period beginning 24 hours prior to the day the condition occurred and continuing through 48 hours after the day on which the condition occurred, please provide the following:
- a. The total kilowatt hours generated by each FPC generating resource.
 - b. The minimum operating level for each FPC generating resource.
 - c. The maximum normal operating level for each FPC generating resource.
 - d. The automatic generation control (AGC) status of each FPC generating resource.
 - e. The ramp rate in MW/minute for each FPC generating resource on AGC.
 - f. The operating reserve requirement.
 - g. The FPC resources that were providing the required operating reserve (and the amount in MW).
 - h. The FPC generating resources that were on-line for system integrity (e.g., voltage support).
 - i. The total kilowatt hours sold to other utilities.
 - j. For each purchase transaction during the period, provide the kilowatt hours and price.
 - k. The price and amount of additional purchased power available to FPC during the period.
 - l. The startup cost (in total dollars and Btus) for each FPC generating resource.

Mr. McGee
November 1, 1994
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CoGen's Petition to Intervene
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- m. The minimum down times for each FPC generating resource.
 - n. The time needed to return a resource to minimum operating levels after the resource has been off line for a period of 8 hours or less.
 - o. The time required to return a resource to minimum operating levels after the resource has been off line for a period of 4 hours or less.
 - p. The fuel cost for each FPC generating resource.
 - q. The heat rate equation (including current coefficients) for each FPC generating resource.
3. Please provide copies of the Energy Control Center dispatch logs for the periods designated above.
4. Please provide copies of all communications between FPC and other utilities regarding:
- a. Sales or attempts to sell in order to mitigate the operating condition which led FPC to curtail its purchases of QF power.
 - b. Status of other utilities' system load conditions.
 - c. Other utilities' plans to curtail purchases of QF power due to operating conditions on their systems similar to those FPC faced.

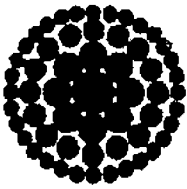
Please provide the requested information by October 28, 1994. If you need clarification of any of these items, please call me. Thank you.

Yours truly,


Joseph A. McGlothlin

JAM/jfg

cc: Roger Yott



**Florida
Power**
CORPORATION

JAMES A. MCGEE
SENIOR COUNSEL

November 1, 1994

Joseph A. McGlothlin, Esq.
McWhirter, Reeves, McGlothlin,
Davidson & Bakas
100 North Tampa Street, Suite 2900
Tampa, Florida 33602-5126

Re: Florida Power Corporation October 19, 1994 Curtailment

Dear Mr. McGlothlin:

In response to your October 21, 1994 request for information related to Florida Power Corporation's (Florida Power) October 19, 1994 Curtailment of Qualified Facilities (QFs), Florida Power directs your attention to Section 25-17.086, *Periods During which Purchases are not Required*, of the rules of the Florida Public Service Commission. This rule provides the proper forum for QFs affected by a utility's election not to purchase power to seek an investigation of the utility's claim by formally requesting the Commission Staff to do so. To date, Florida Power knows of no such request on behalf of OCL. Accordingly, the informal request for information on behalf of OCL is improper and inconsistent with the responsibilities assigned to Staff regarding this matter.

In addition, on October 14, 1994, Florida Power filed its petition for determination that its plan for curtailing purchases from Qualifying Facilities in minimum load conditions is consistent with Rule 25-17.086, F.A.C. (Docket No. 941101-EQ.) OCL has neither petitioned for nor been granted intervention in this docket. Thus, until a request for such information is properly made by a party to this proceeding, Florida Power is under no obligation to respond.

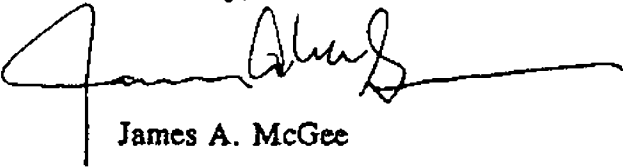
GENERAL OFFICE

Joseph A. McGlothlin, Esq.
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Page 2 of 2

If you have any questions of if I can be of any further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "James A. McGee". The signature is written in a cursive style with a long horizontal stroke extending to the right.

James A. McGee

JAM/jb