

4:50

LAW OFFICES

MCWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON & BAKAS, P.A.

JOHN W. BAKAS, JR.
LINDA C. DANSEY
C. THOMAS DAVIDSON
STEPHEN O. DECKER
LESLIE JOUGHIN, III
VICKI GORDON KAUFMAN
JOSEPH A. MCGLOTHLIN
JOHN W. MCWHIRTER, JR.
RICHARD W. REEVES
FRANK J. RIEP, III
PAUL A. STRASHE

100 NORTH TAMPA STREET, SUITE 2800
TAMPA, FLORIDA 33602-5126
MAILING ADDRESS: TAMPA
P.O. BOX 3350, TAMPA, FLORIDA 33601-3350

TELEPHONE (813) 224-0860
FAX (813) 221-1854
CABLE GRANDLAW

PLEASE REPLY TO
TALLAHASSEE

TALLAHASSEE OFFICE
315 SOUTH CALHOUN STREET
SUITE 710
TALLAHASSEE, FLORIDA 32301
TELEPHONE (904) 222-2525
FAX (904) 222-5606
OF COUNSEL
CHRISTINE E. EARLE

March 1, 1995

Under...
FILE COPY

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.

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and 15 copies of Orlando CoGen Limited's Motion to Extend Time for Filing of Prefiled Testimony, in the above docket. Also enclosed is a diskette containing the pleading, entitled MOTEXTEN.

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

ACK

AFA

APP

Yours truly,

Joseph A. McGlothlin

Joseph A. McGlothlin

JAM/jfg

Enclosures

RECEIVED
FLORIDA BUREAU OF RECORDS

Entriff
1 -
6 -
1 -
WAS
OTH

DOCUMENT NUMBER-DATE
02359 MAR-1 95
SC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
FILE

In re: 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.

DOCKET NO. 941101-EQ
FILED: March 1, 1995

ORLANDO COGEN LIMITED'S MOTION TO
EXTEND TIME FOR FILING OF PREFILED TESTIMONY

Orlando CoGen Limited (OCL), through its undersigned attorney, moves for an order extending the deadline for the filing of OCL's prefiled direct testimony in this docket from March 20, 1995 to April 3, 1995. In support of its motion, OCL states:

1. This case involves a proposal by Florida Power Corporation to implement a curtailment plan, pursuant to which FPC would, if authorized, refuse to purchase energy produced by QFs during "minimum load" events announced by Florida Power Corporation.

2. All of the information bearing on the justification of the proposed plan -- or lack thereof -- is within FPC's custody and control. To protect its interests, OCL must have an adequate opportunity to conduct discovery, review the information gained from discovery, and prepare its case.

3. OCL has been attempting diligently to obtain the information it needs through discovery. Despite its efforts,

DOCUMENT NUMBER-DATE

02359 MAR-1 8

FPSC-RECORDS/REPORTING

several factors have impeded its ability to prepare its case within the existing case schedule:

a. FPC has refused to provide certain computer production costing programs (UNIT COMMIT, EVALUATOR, PROMOD) that are proprietary to owners/vendors of production costing software until OCL obtains their consent to utilize the programs in this docket. OCL has expended time and effort in putting in place the requisite authorizations from vendors.¹

b. FPC has objected to providing critical information regarding system data and system conditions associated with the modeling of its system and its analysis of low load situations and specific curtailment events until the parties agree to specific terms and conditions regarding the confidentiality that would be afforded the information. Negotiations and discussions on this subject have been ongoing throughout the discovery process. Based on recent developments, OCL is encouraged to believe that the parties may soon enter a confidentiality agreement without having to involve the Commission in the matter. However, as of this date no confidentiality agreement acceptable to both parties is in place, and OCL has not received the FPC-specific information that is critical to an evaluation of the proposed plan.

c. In Interrogatory Nos. 1 and 2, served by OCL on December 15, 1994, OCL asked FPC to provide any and all analyses

¹ Recently OCL received such authorization from vendors. One, the vendor of UNIT COMMIT, directed OCL to obtain the software directly from FPC. That directive was recently communicated to FPC. OCL has not received the UNIT COMMIT software at this point.

concerning whether FPC would have incurred negative avoided costs on October 19 (the date of the only curtailment event at the time the interrogatory was promulgated) absent its curtailment of QF purchases. On January 26, 1995, FPC answered that no such analysis had been completed. However, in prefiled testimony filed on February 20, FPC witness Southwick testifies to the results of such analyses for the October 19 event and for the six additional curtailment events that followed. The prefiled testimony does not contain information sufficient to enable OCL to evaluate the witness' underlying assumptions, data, and methodology. In his calculations of avoided costs, Mr. Southwick incorporates the testimony of a consultant, Steven Lefton. Mr. Lefton testifies regarding the "unit impacts" of the cycling of fossil fueled power plants. While he purports to quantify certain life cycle costs, his prefiled testimony does not contain supporting information sufficient to enable OCL to evaluate the propriety and applicability of his premise to this case, the sufficiency and quality of any data he employs, or the adequacy of his methodology.

4. The existing schedule provides only 30 days between the filing of FPC's testimony and the deadline for the testimony of intervenors such as OCL. In light of the above, FPC's filing is necessarily the initiation of the most significant discovery period in the proceeding. OCL embarked on that process as quickly as it could. In its Fourth and Fifth Requests to Produce, dated February 23 and 24, respectively, OCL asked for documents comprising or underlying the analyses which form the basis for the prefiled

testimony of FPC witnesses Southwick and Lefton. OCL asked FPC to expedite its responses. FPC has informally indicated that it expects to provide the requested documents and things on or before March 10, 1995. OCL has also scheduled depositions of FPC's witnesses during the period between March 8 and March 17, 1995.

5. The hearing in this docket is scheduled for May 8 and 9, 1995. OCL is endeavoring to prepare its case without affecting the existing hearing date.² However, OCL requires an extension of time to file its direct testimony. OCL will be severely and unfairly prejudiced if the case schedule is not modified to enable OCL to receive and evaluate documents related to the testimony of FPC's witnesses, as well as materials that were sought earlier, and respond fully to those matters.

6. OCL has contacted counsel for FPC, and is authorized to represent that FPC does not object to an extension to and including April 3, 1995 if FPC receives a corresponding extension for the filing of rebuttal and the existing hearing date is not affected. OCL has also contacted counsel for Pasco Cogen, Auburndale Power Partners, Lake Cogen, Tiger Bay Limited Partnership, and Dade/Montenay. All state that they have no objection to the extension if the extension is also applicable to their opportunity to submit testimony. OCL has been unable to contact other parties as of the filing of this motion, but observes that no party will be

² OCL reserves the right to seek a continuance if for any reason either the issue of confidentiality is not resolved or requested materials are not received in time for OCL to proceed on the existing schedule without prejudicing its interests.

prejudiced if the extension applies to all intervenors and FPC's deadline for rebuttal is extended similarly.

WHEREFORE, OCL requests the Commission to issue an order extending the deadline for OCL's prefiled direct testimony to and including April 3, 1995.

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

and

Gregory A. Presnell
Akerman, Senterfitt &
Eidson, P.A.
Firststate Tower
255 S. Orange Avenue, 17th Floor
P.O. Box 231
Orlando, Florida 32802

Attorneys for Orlando CoGen
Limited, L.P.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Orlando CoGen Limited's Motion to Extend Time for Filing of Prefiled Testimony has been furnished by hand delivery* or by U.S. Mail to the following parties of record, this 1st day of March, 1995.

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

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
County Attorney's Office
Aviation Division
P. O. Box 592075 AMF
Miami, FL 33159

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

Kelly A. Tomblin
Energy Initiatives, Inc.
One Upper Pond Road
Parsippany, NJ 07054

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

Michael O'Friel
Wheelabrator Environmental
Systems, Inc.
Liberty Lane
Hampton, NH 03842

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

Barry Huddleston
Destec Energy Company, Inc.
2500 CityWest Boulevard
Suite 150
Houston, TX 77210-4411

Karla Stetter
Acting County Attorney
7530 Little Road
New Port Richey, FL 34654

R. Stuart Broom
Verner, Lipfert, Bernhard,
McPherson & Hand, Chartered
901 15th St., N.W., Suite 700
Washington, D.C. 20005

M. Julianne Yard
Assistant County Attorney
Pinellas County
315 Court Street
Clearwater, FL 34616

Patrick K. Wiggins
Marsha E. Rule
Wiggins & Villacorta, P.A.
Post Office Drawer 1657
Tallahassee, FL 32302

Nancy Jones
Polk Power Partners, L.P.
1125 U.S. 98 South
Suite 100
Lakeland, FL 33801

Bruce May
Holland and Knight
Post Office Drawer 810
Tallahassee, FL 32302

Robert F. Riley
Auburndale Power Partners,
Limited Partnership
12500 Fair Lakes Circle
Suite 420
Fairfax, VA 22033



Joseph A. McGlothlin