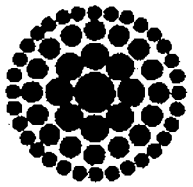


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FILE COPY

**Florida
Power**
CORPORATION

JAMES P. FAMA
ASSISTANT GENERAL COUNSEL

March 30, 1995

Ms. Blanca S. Bayó, Director
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0870

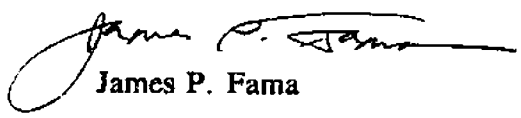
Re: Docket No. **941101-EQ**

Dear Ms. Bayó:

Enclosed for filing in the subject docket are fifteen copies of Florida Power Corporation's Motion to Compel.

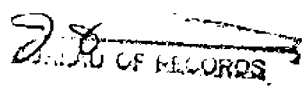
Please acknowledge your receipt of the above filings on the enclosed copy of this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette containing the above-referenced document in Word Perfect format. Thank you for your assistance in this matter.

Very truly yours,


James P. Fama

- ACK
- AFA
- APP
- CAF
- CMJ
- CTE JPF/jb
- EAG Enclosures
- LEG cc: Parties of Record
- LIN
- CPC
- RLR
- SEC
- WAS
- OTH

ILLD


DIRECTOR OF RECORDS

DOCUMENT NUMBER - DATE

03356 MAR 31 8

ORIGINAL FILE COPY

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

Submitted for filing: March 31, 1995

**FLORIDA POWER CORPORATION'S
MOTION TO COMPEL**

Pursuant to Rule 1.380, Florida Rules of Civil Procedure, and Commission Rule 25-22.034, Florida Administrative Code, Florida Power Corporation ("FPC"), by and through its undersigned attorneys, hereby files this Motion to Compel answers to certain interrogatories from, and certain requests for production of documents from, Pasco County, Florida ("Pasco County"). Specifically, FPC moves to compel answers to the interrogatories numbered 7-10, 13-15, 18-19, 22-28, and 30 in FPC's First Set of Interrogatories to Pasco County. In addition, FPC moves to compel inspection of documents that were requested by paragraphs numbered 4-16 of FPC's First Request for Production of Documents to Pasco County. In support of its motion, FPC submits the following:

1. On October 14, 1994, FPC filed its Petition seeking a determination by the Commission that its plan for curtailing purchases from Qualifying Facilities in minimum load conditions (the "Curtailment Plan") is consistent with and permitted under Commission Rule 25-17.086, F.A.C.

DOCUMENT NUMBER-DATE
03356 MAR 31 95
FPC-RECORDS/REPORTING

2. FPC developed its Curtailment Plan because it had begun to experience a condition where the total energy on its system exceeded the demand of its customers during minimum load periods of certain days (sometimes referred to as minimum load conditions), usually during (but not limited to) the mild-weather period from mid-October through May. As set forth in its Petition, FPC is taking a number of actions to alleviate the problem of excess generation at times of minimum load, including the reduction of capacity payments from other utilities, increasing off-system sales, and reducing FPC's own generation. Despite these actions, however, FPC is still faced with the necessity of curtailing more QF generation when load falls to minimum levels.

3. As one of the QFs affected by the Curtailment Plan, Pasco County filed its Petition to Intervene in this docket on November 29, 1994. The Commission issued its Order granting Intervention on December 6, 1994.

4. A number of the QFs have repeatedly asserted to FPC that they have been injured because they are discriminated against and treated unfairly by the Curtailment Plan. Pasco County may raise these claims before the Commission. In addition, the Commission Staff recognized the importance of this issue of fairness and injury in the instant docket, and has identified the following as two of its five preliminary issues:

Has Florida Power Corporation adequately demonstrated that the procedures for curtailment outlined in its plan are reasonable and appropriate with respect to QF's or any group of QF's? (Staff preliminary Issue No. 2)

Has Florida Power Corporation adequately demonstrated that the procedures for curtailment outlined in its plan are not unduly discriminatory against QF's or any group of QF's? (Staff preliminary Issue No. 3)

5. In light of the complaints by QFs and in light of the above issues that likely will become part of the Commission's inquiry in this docket, FPC needs to know whether and, if so, how and to what extent, its Curtailment Plan injures QFs. Thus, FPC propounded interrogatories and document requests to Pasco County and the other QFs seeking that information.

6. In propounding interrogatories, FPC has requested that Pasco County specify whether it contends that it has been harmed in any manner by the Curtailment Plan or any incidents of curtailment under it and, if so, how. In connection with this probing of alleged harmful effects, FPC also seeks information as to consultants retained by Pasco County and whether Pasco County has communicated with other entities regarding the Curtailment Plan.

7. Florida Rules of Civil Procedure provide that "parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter . . . whether it relates to the claim or defense of the party seeking discovery" Fla.R.Civ.P. Rule 1.280(b)(1) [Emphasis added]. Unless FPC can acquire information relating to alleged injuries or harmful effects caused by the Curtailment Plan, FPC will be unable to defend itself against such claims and will risk being "sandbagged" at the hearing by QF claims of injury or unfair treatment.


8. Similarly, FPC has requested documents from Pasco County pertaining to the Curtailment Plan and curtailment events, including financial records, analyses of impacts on equipment and energy sales, documents dealing with communications with the Commission and others relating to the Curtailment Plan, contingency plans relating to curtailment, and documents relating to alleged damages from curtailment. As with the interrogatory information sought by FPC, these documents are needed by FPC to defend itself and to determine whether its Curtailment Plan avoids undue discrimination and provides for fair treatment of the affected QFs.

9. Pasco County has filed no objections to the discovery requests and, as of yet, has failed to file timely responses.

WHEREFORE, FPC respectfully requests the Commission to order Pasco County to serve complete answers to interrogatories 7-10, 13-15, 18-19, 22-28, and 30 in FPC's First Set of Interrogatories to Pasco County and to produce for inspection all documents responsive to requests numbered 4-16 in FPC's First Request for Production of Documents to Pasco County.

Respectfully submitted,

FLORIDA POWER CORPORATION
OFFICE OF THE GENERAL COUNSEL

By: 
James P. Fama
Post Office, Box 14042
St. Petersburg, FL 33733-4042
(813) 866-5786

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power Corporation's Motion to Compel has been furnished by regular U.S. Mail on the 31st day of March, 1995 to the following:

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