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**ORIGINAL FILE COPY**

IN REPLY REFER TO

Ansley Watson, Jr.  
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April 17, 1995

**BY HAND DELIVERY**

Ms. Blanca S. Bayo  
Director, Division of Records and Reporting  
Florida Public Service Commission  
Fletcher Building  
101 E. Gaines Street  
Tallahassee, Florida 32301

Re: Docket No. ~~941101~~ 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:

ACK        Enclosed for filing in the above docket on behalf of Pasco  
AFA        Cogen, Ltd., please find the original and 15 copies of Pasco's  
APP        Prehearing Statement. A computer diskette containing the  
Prehearing Statement is also enclosed.

CAF        Please acknowledge your receipt of the enclosures on the  
CMA        duplicate copy of this letter enclosed for that purpose, and return  
CTR        the same to me in the enclosed preaddressed envelope.

EAG        *Esatrel* Thank you for your usual assistance.

LES   1   Sincerely,

LIN   5    
GPC         
RPT         
S   1    
AWjr/a  
Enclosures

*Ansley Watson, Jr. (sr)*  
ANSLEY WATSON, JR.

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FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE  
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FPSC-RECORDS/REPORTING

Ms. Blanca S. Bayo  
April 17, 1995  
Page 2

cc: Parties of Record  
Mr. Jack E. Uhl  
Mr. E. Elliott White  
Mr. Bruce L. Levy  
Charles W. Pittman, Esquire

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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: )  
4-17-95 )

PREHEARING STATEMENT OF PASCO COGEN, LTD.

Pasco Cogen, Ltd. ("Pasco"), by its undersigned attorneys, files the following Prehearing Statement as required by the Order Establishing Procedure in this docket:

A. APPEARANCES:

ANSLEY WATSON, JR., Esquire, Macfarlane Ausley Ferguson & McMullen, P. O. Box 1531, Tampa, Florida 33601  
On behalf of Pasco Cogen, Ltd.

B. WITNESSES:

<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
Roy J. Shanker, Ph.D.	Ways in which FPC's proposed curtailment plan fails to comply with regulations implementing PURPA	1, 3-5, 9-10
Kenneth J. Slater	Operations-based deficiencies in FPC's curtailment plan; absence of negative avoided costs that would be required to support curtailment	1-6, 8

C. EXHIBITS:

See list of exhibits in Prehearing Statement of Orlando CoGen Limited, L.P. ("OCL"), except last exhibit listed (sponsored by OCL Witness Yott).

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D. STATEMENT OF BASIC POSITION:

Pasco's Statement of Basic Position:

Florida Power Corporation's ("FPC's") petition filed herein should be denied because its Generation Curtailment Plan for Minimum Load Conditions (the "Plan") is inconsistent with PURPA and the Federal Energy Regulatory Commission's ("FERC's") regulations implemented thereunder. The Plan is therefore inconsistent with Rule 25-17.086, F.A.C.

E. STATEMENT OF ISSUES AND POSITIONS:

1. ISSUE: Has FPC adequately demonstrated that the conditions for curtailment outlined in its Plan comply with Rule 25-17.086?

Pasco: No. Among other things, FPC's "minimum load" conditions result from a conscious planning decision not to pursue or to pay the costs associated with dispatchable contracts with QFs, and are not "operational circumstances" of the type envisioned by the FERC's regulations implementing PURPA.

2. ISSUE: If the Commission determines that the minimum load situation on which FPC bases its Plan may serve as the basis for curtailments, has FPC adequately demonstrated that it has attempted to mitigate any foreseeable imbalance between generation and load during minimum load conditions by committing the most appropriate combination of generation resources for the circumstances?

Pasco: No. FPC's unit commitment practices fail to consider the minimum load conditions FPC has acknowledged it will experience, and do not recognize the firm purchase obligations it has entered into with Pasco and other QFs.

3. ISSUE: If the Commission determines that the minimum load situation on which FPC bases its Plan may serve as the basis for curtailments, does the Plan properly require FPC to take all appropriate measures to decrease other sources of generation to mitigate any imbalance between generation and load?

Pasco: No. The intent of the FERC rule which Rule 25-17.086 implements is that firm purchases from other utilities (such as the Southern Companies) be interrupted before curtailment of firm purchases from QFs. FPC's Plan

subordinates firm purchases required from QFs to its purchases from other utilities, contrary to the intent of PURPA and the FERC's implementing regulations.

4. ISSUE: If the Commission determines that the minimum load situation on which FPC bases its Plan may serve as the basis for curtailments, does FPC's Plan properly require FPC to take all appropriate measures to increase sales to mitigate any imbalance between generation and load?

Pasco: No. FPC has overpriced the energy it attempts to sell during low load periods. When the sum of QF purchases and the output of must-run FPC units exceeds system load, there is no incremental cost to generate the excess. A sale of the excess generation at any price above zero would enable FPC to purchase QF production without experiencing negative avoided costs.

5. ISSUE: Has FPC adequately demonstrated that the procedures for curtailment outlined in its Plan are reasonable and appropriate?

Pasco: No. FPC has failed to demonstrate that curtailments of QF purchases are necessary to avoid negative avoided costs. Further, in determining whether QF purchases during an operational circumstance contemplated by Rule 25-17.086 would cause FPC to incur costs greater than it would incur if FPC supplied the energy, FPC includes inappropriate costs and uses inappropriate time frames.

6. ISSUE: Has FPC demonstrated that the curtailments that have occurred from October 1994 through January 31, 1995 were necessary to avoid negative avoided costs?

Pasco: No. FPC has failed to take available measures to mitigate the occurrence of excess generation and, even if it was assumed (for the sake of argument) that FPC had taken all available steps to avoid an imbalance between generation and load, FPC's analysis of avoided costs (a) is based on its system as it is actually operated, rather than on its system as it should, consistent with PURPA, be operated, and (b) uses an inappropriate time frame and incorporates costs that do not belong in its calculations.

7. ISSUE: Has FPC adequately demonstrated that the Plan would allocate justifiable curtailments among QFs in a fair and not unduly discriminatory manner?

Pasco: No.

8. ISSUE: Has FPC properly implemented the procedures set forth in its Plan during the curtailments that have occurred from October 1994 through January 31, 1995?

Pasco: No. On at least two occasions, FPC curtailed far more than necessary to respond to the minimum load situation. This led FPC to, among other things, later overstate the avoided cost associated with the scenario in which it would have purchased firm QF generation. [This issue may need to be restated, since whether FPC has properly implemented the procedures in the Plan during the period specified is irrelevant if the Plan (as Pasco contends) is inconsistent with Rule 25-17.086.]

9. ISSUE: What is the permissible scope of Rule 25-17.086 in view of the federal standards of 18 CFR § 292.304 implementing PURPA (e.g., may the Commission find that the Plan satisfies the requirements of Rule 25-17.086 if the Commission determines that curtailments under the Plan are not necessary to prevent FPC from incurring negative avoided costs)? (Legal Issue)

Pasco: Rule 25-17.086 was adopted to implement 18 CFR § 292.304(f) and must therefore give full effect to that FERC regulation. If the Commission finds that FPC (a) will not experience operational circumstances, and/or (b) will not experience negative avoided costs resulting from operational circumstances if it makes QF purchases, and/or (c) has not taken all available measures to mitigate the very circumstances giving rise to the alleged need to curtail QF purchases, then it must find that the Plan does not satisfy the requirements of Rule 25-17.086 because it does not satisfy the requirements of Section 292.304(f) of the FERC's regulations.

10. ISSUE: Has FPC demonstrated any basis for curtailment other than that permitted by Rule 25-17.086, as it implements the standard of 18 CFR § 292.304(f)(4)?

Pasco: No. The only other basis for curtailment countenanced by PURPA and the FERC's

implementing regulations is that of a system emergency. FPC has failed to support either its Plan or individual curtailments on the basis of a system emergency.

11. ISSUE: Should the Commission approve FPC's Plan as being in compliance with Rule 25-17.086?

Pasco: No. FPC's proposed Plan does not comply with Rule 25-17.086, and its petition in this docket should be denied.

F. STIPULATED ISSUES:

None as to Pasco at this time.

G. MOTIONS:

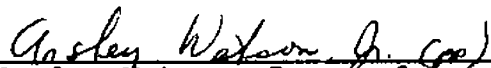
Pasco has no pending motions at this time.

H. OTHER MATTERS:

None as to Pasco at this time.

Dated this 17th day of April, 1995.

Respectfully submitted,

  
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Attorneys for Pasco Cogen, Ltd.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Prehearing Statement of Pasco Cogen, Ltd. has been furnished this 17th day of April, 1995, by regular U.S. mail, to the following parties of record:

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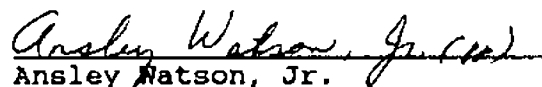
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