

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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
)	FILED: June 15, 1995
)	
)	
)	
)	

ORLANDO COGEN LIMITED'S POST-HEARING STATEMENT OF ISSUES AND POSITIONS

Pursuant to rule 25-22.056(3), Florida Administrative Code, and Order No. PSC-94-1523-PCO-EQ, Orlando CoGen Limited (OCL) files its Post-Hearing Statement of Issues and Positions. OCL is simultaneously filing its post-hearing brief in which OCL's positions are explained in more detail.

OCL'S BASIC POSITION

FPC's plan violates the strictures of the federal standards implemented by Rule 25-17.086. The record establishes -- not legitimate "operational circumstances" -- but FPC's design to misuse the curtailment regulation. Moreover, the plan seeks blanket authorization to curtail without requiring proper mitigation efforts or an appropriate empirical demonstration of negative avoided costs.

Statement of Issues and Positions

Issue 1: Has Florida Power Corporation adequately demonstrated that the minimum load conditions for curtailment outlined in its plan comply with Commission Rule 25-17.086, Florida Administrative Code?

DOCUMENT NUMBER-DATE

05641 JUN 15 88

FPSC-RECORDS/REPORTING

*OCL's Position: No. FPC's plan is based -- not on extraordinary, unforeseen operational circumstances -- but on results of deliberate long-term planning tradeoffs that do not satisfy regulations governing curtailment. Nor has FPC demonstrated the existence of a system emergency which would permit curtailment.

Issue 2: Has Florida Power Corporation adequately demonstrated that its plan incorporates all appropriate measures to mitigate the need for curtailment during minimum load conditions?

*OCL's Position: No. FPC's mitigation efforts are deficient. FPC's plan fails (to the detriment of the state's ratepayers) to require FPC to properly price excess energy for sale; fails to reflect PURPA's priority of QF contracts over inter-utility agreements; and fails to require FPC to intercept foreseeable imbalances through feasible commitment schedules.

Issue 2a: Has Florida Power Corporation 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?

*OCL's Position: No. FPC must commit the feasible least cost combination of units for the circumstances. In all of the curtailment episodes, FPC failed to use forward planning to manage foreseeable low load situations. It overcommitted base load units, thereby creating the imbalances it points to as justification for curtailments.

Issue 2b: Does the proposed curtailment plan properly require Florida Power Corporation to take all appropriate measures to decrease other sources of generation to mitigate any imbalance between generation and load?

*OCL's Position: No. The plan subordinates firm QF purchases to FPC's minimum obligations under its contract with Southern. As clearly required by the Preamble at 12,219 and 12,227, a utility must interrupt all purchases from other utilities prior to curtailing firm purchases from QFs.

Issue 2c: Does the proposed curtailment plan properly require Florida Power Corporation to take all appropriate measures to increase sales to mitigate any imbalance between generation and load?

*OCL's Position: No. When QF purchases and must-run FPC units exceed system load, the plan should require FPC to use the zero incremental cost of the excess to become the low bidder. Any resulting sale would enable FPC to eliminate the generation imbalance while accepting QF deliveries and increasing Broker-based ratepayer savings.

Issue 3: Has Florida Power Corporation adequately demonstrated that the procedures for curtailment outlined in its plan are reasonable and appropriate?

*OCL's Position: No. FPC's plan does not require quantification of negative avoided costs based on empirical circumstances prior to curtailment. Post-event, in comparing empirical costs with and without QFs, FPC includes inappropriate categories of costs and uses inappropriate time frames.

Issue 4: Has Florida Power Corporation adequately demonstrated that its proposed plan allocates justifiable curtailments among QF's in a fair and not unduly discriminatory manner?

*OCL's Position: OCL has settled its differences with FPC with respect to this issue. FPC has submitted that agreement to the Commission.

Issue 5: If the procedures set forth in Florida Power Corporation's curtailment plan are consistent with rule 25-17.086, did Florida Power Corporation properly implement the procedures during the curtailments that occurred from October, 1994 through January, 1995?

*OCL's Position: No. FPC curtailed QF deliveries under circumstances in which it would not have incurred negative avoided costs if it had pursued technically and operationally acceptable alternatives that were readily available to the operator. See Issue 6.

Issue 6: Has Florida Power Corporation adequately demonstrated that the curtailments that have occurred from October 1, 1994, through January 31, 1995, were necessary to avoid negative avoided costs?

*OCL's Position: No. FPC's analysis uses a truncated time frame and flawed comparisons. Mr. Slater's testimony and exhibits demonstrate that FPC would not have incurred any negative avoided costs by accepting delivery of firm QF energy during any of the curtailment episodes.

Issue 6a: In determining whether purchases of firm QFs' generation during an operational circumstance that satisfies rule 25-17.086 would cause FPC to incur costs greater than the costs FPC would incur if FPC supplied the energy, what costs are appropriate to consider?

*OCL's Position: FPC should include here only the same out-of-pocket variable production costs that it assesses for its other operational decisions. "Unit impact costs" are speculative. They occur -- if at all -- over the life of the unit, and are more properly associated with long-term planning decisions. They are irrelevant to this comparison.

Issue 6b: In determining whether purchases of firm QFs' generation during an operational circumstance that satisfies rule 25-17.086 would cause FPC to incur costs greater than FPC would incur if FPC supplied the energy, what is the appropriate time frame to measure?

*OCL's Position: FPC should evaluate QFs in a manner consistent with the way it evaluates its own units prior to commitment decisions. It should consider the costs and benefits for the deliveries in question for all hours during a representative commitment period. Approximately four days to one week is the time between normal commitment decisions.


Issue 7: What is the permissible scope of Rule 25-17.086, Florida Administrative Code, in view of the federal standards implementing Section 210 of PURPA?

*OCL's Position: Rule 25-17.086, F.A.C., implements those federal standards. As a matter of law, the rule must be read to be no broader than

the narrow scope of FERC's limited exceptions to PURPA's mandatory purchase obligation.

Issue 8: Should the Commission approve Florida Power Corporation's curtailment plan as being in compliance with Rule 25-17.086?

*OCL's Position: No. FPC failed its burden to prove that its proposed plan fits FERC's narrow exceptions to PURPA's mandatory purchase obligation. FPC's plan shows no "operational circumstance;" requires inadequate mitigation measures; and requires no proper demonstration of negative avoided costs before or after curtailment. Evidence proves FPC's actual curtailments were unjustified.


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 Post-Hearing Statement of Issues and Positions has been furnished by hand delivery* or by U.S. Mail to the following parties of record, this 15th day of June, 1995.

Martha Brown*
Division of Legal Services
Florida Public Service
Commission
2540 Shumard Oak Boulevard
Gerald L. Gunter Bldg., Rm. 370
Tallahassee, FL 32399

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

Ansley Watson
MacParlane, 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, Liipfert, 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

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

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

Barrett G. Johnson*
Johnson & Associates
315 S. Calhoun Street
Suite 350
Tallahassee, FL 32301


Joseph A. McGlothlin