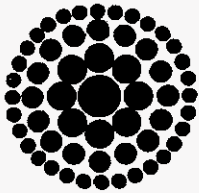


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ORIGINAL  
FILE COPY

**Florida  
Power**  
CORPORATION

**JAMES A. MCGEE**  
SENIOR COUNSEL

December 27, 1995

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

Re: Docket No. 950110-EI

Dear Ms. Bayó:

Enclosed for filing in the subject docket are fifteen copies of the Response of Florida Power Corporation in Opposition to Panda-Kathleen's Motion for Reconsideration by the Full Commission and Request for Expedited Review.

Please acknowledge your receipt of the above filing 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 WordPerfect format. Thank you for your assistance in this matter.

Very truly yours,

James A. McGee

- ACK
- AFA
- APP
- CAF
- CMU
- CTR
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- LEC
- LIN
- OPC
- RCN
- SEC
- WAS
- OTH

JAM/jb  
Enclosures

cc: Parties of Record

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*Max*

GENERAL OFFICE

DOCUMENT NUMBER-DATE

13082 DEC 28 95

FPSC-RECORDS/REPORTING

3201 Thirty-fourth Street South • Post Office Box 14042 • St. Petersburg, Florida 33733-4042 • (813) 866-5184 • Fax: (813) 866-4931

A Florida Progress Company

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

---

In re: Petition for declaratory statement regarding eligibility for Standard Offer contract and payment thereunder by Florida Power Corporation.

---

Docket No. 950110-EI

Submitted for filing:  
December 28, 1995

**RESPONSE OF FLORIDA POWER CORPORATION IN OPPOSITION TO PANDA-KATHLEEN'S MOTION FOR RECONSIDERATION BY THE FULL COMMISSION AND REQUEST FOR EXPEDITED REVIEW**

Florida Power Corporation ("Florida Power" or "the Company") hereby responds in opposition to the Motion for Reconsideration by the Full Commission and Request for Expedited Review filed in this docket by Panda-Kathleen ("Panda") and as grounds states as follows:

1. On November 28, 1995, Panda filed a Motion to Continue the February 19, 1996, evidentiary hearing in the above-captioned proceeding, and to continue all pre-hearing controlling dates for a period of 90 days.

2. On December 15, 1995, Chairman Susan F. Clark, as Prehearing Officer, denied Panda's motion.

3. On December 22, 1995, Panda filed a Motion for Reconsideration by the Full Commission and Request for Expedited Review, requesting that the full Commission review Chairman Clark's decision to deny Panda's Motion to Continue. Panda further requested that the Commission grant expedited review of the Motion for Reconsideration and allow Panda to provide oral argument to the Commission on Wednesday, January 3, 1996. Panda cited no grounds to support the Motion for Reconsideration.

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4. Rule 25-22.0376(1), Florida Administrative Code, adopted on August 16, 1995, provides that any party who is adversely affected by an order of a prehearing officer may seek reconsideration by the Commission panel assigned to the proceeding, by filing a motion in support thereof. Any motion filed pursuant to the rule must contain a concise statement of the grounds therefore. Rule 25-22.0376(4), F.A.C.

5. In the Notice of Rulemaking for proposed rule 25-22.0376, the Commission stated that the purpose of the proposed rule is to give parties only one opportunity to seek reconsideration of a prehearing officer's order and to clarify that the review standard is reconsideration and not de novo. See In Re: Adoption of Proposed Rule 25-22.0376, F.A.C., Reconsideration of Prehearing Officer Orders; and 25-22.038, F.A.C., Prehearing Officer; Prehearing Statement; Prehearing Conferences; and Prehearing Order, Docket No. 950546-PU, Order No. PSC-95-0818-NOR-PU (July 6, 1995).

6. In In Re: Petition for expanded interconnection for alternate access vendors within local exchange company central offices by INTERMEDIA COMMUNICATIONS OF FLORIDA, INC., Docket No. 921074-TP (September 21, 1995), the Commission stated that

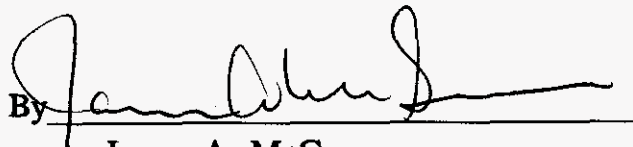
[t]he appropriate standard for review for a motion for reconsideration is that which is set forth in Diamond Cab Co. v. King, 146 So.2d 889 (Fla. 1962). The purpose of a motion for reconsideration is to bring to the attention of the Commission some material and relevant point of fact or law which was overlooked, or which it failed to consider when it rendered the order in the first instance. See Diamond Cab Co. v. King, 146 So.2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (Fla. 1st DCA 1981). It is not an appropriate venue for rearguing matters which were already considered, or for raising immaterial matters which even if adopted would not materially change the outcome of the case.

7. Panda has failed to include in its Motion for Reconsideration any statement of the grounds for the motion. Furthermore, Panda has failed to raise any material and relevant point of fact or law which was overlooked, or which Chairman Clark failed to consider when she rendered the order denying Panda's Motion to Continue in the first place. In fact, Panda has failed to state any reason whatsoever why the Commission should reconsider Chairman Clark's order denying the Motion to Continue. Therefore, Florida Power asserts that the Motion for Reconsideration should be denied.

8. Because Panda's Motion for Reconsideration is deficient, and fails to state any reason why the Commission should reconsider Chairman Clark's order denying Panda's Motion to Continue, Florida Power asserts that oral argument would only serve to reargue matters which have already been considered, and would therefore be unnecessary. Therefore, Florida Power objects to Panda's request that it be allowed to argue its Motion for Reconsideration before the full Commission on January 3, 1996.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL  
FLORIDA POWER CORPORATION

By 

James A. McGee  
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Telephone: (813) 866-5184  
Facsimile: (813) 866-4931

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Petition for declaratory statement regarding eligibility for Standard Offer contract and payment thereunder by Florida Power Corporation.

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Docket No. 950110-EI

Submitted for filing:  
December 28 1995

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of Florida Power Corporation's Response of Florida Power Corporation in Opposition to Panda-Kathleen's Motion For Reconsideration by the Full Commission and Request For Expedited Review has been furnished to Ronald C. LaFace, Esq., and Lorence Jon Bielby, Esq., Greenberg, Traurig, Hoffman, Lipoff, Rosen & Quentel, P.A., 101 East College Ave., Tallahassee, Florida 32301 and Martha Carter Brown, Division of Legal Services, Florida Public Service Commission, 2450 Shumard Oak Blvd., Tallahassee, Florida 32399-0892, this 27th day of December, 1995.

OFFICE OF THE GENERAL COUNSEL  
FLORIDA POWER CORPORATION

By 

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