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ORIGINAL
FILE COPY

February 28, 1997

KAREN D. WALKER
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Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, FL 32399-0850

Via Hand Delivery

Re: In re: Petition for Expedited approval of an agreement to purchase the Tiger Bay cogeneration facility and terminate related purchased power contracts by Florida Power Corporation, Docket No. 970096-EQ

Dear Ms. Bayo:

Enclosed for filing in the docket referenced above are the original and 15 copies of Vastar Gas Marketing, Inc.'s Response to Florida Power Corporation's Motion for Preliminary Prehearing Conference To Establish Issues to be Determined In This Docket. Also enclosed is a diskette containing this document. For our records, please acknowledge your receipt of this filing on the enclosed copy of this letter.

Thank you for your consideration in this matter.

Sincerely,

HOLLAND & KNIGHT LLP

Karen D. Walker
Karen D. Walker

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Enclosure
DBM/sms
cc: Norma Rosner, Esq.
Chuck King, Esq.

TAL-102739

DOCUMENT NUMBER DATE

02226 FEB 28 97

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL
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In Re: Petition for expedited)
approval of an agreement to)
purchase the Tiger Bay)
cogeneration facility and)
terminate related purchased)
power contracts by Florida)
Power Corporation.)
/

Docket No. 970096-EQ
Filed: February 28, 1997

**VASTAR GAS MARKETING, INC.'S RESPONSE TO
FLORIDA POWER CORPORATION'S MOTION FOR PRELIMINARY
PREHEARING CONFERENCE TO ESTABLISH ISSUES
TO BE DETERMINED IN THIS DOCKET**

Vastar Gas Marketing, Inc., ("VGM") by and through undersigned counsel, pursuant to Rule 25-22.037, Florida Administrative Code, hereby responds to Florida Power Corporation's ("FPC"'s) Motion for Preliminary Prehearing Conference to Establish Issues to be Determined In This Docket (the "Motion").

1. On February 17, 1997, Florida Public Service Commission (the "Commission") staff conducted a meeting in effort to develop a consensus on the issues to be considered by the Commission in this proceeding. At that meeting, there were several issues upon which the parties could not reach agreement. On February 19, 1997, FPC filed its Motion with the Commission requesting a preliminary prehearing conference for the purpose of expediting the delineation of the issues to be addressed and determined by the Commission in this docket. Should the Prehearing Officer determine that a preliminary prehearing conference would be helpful, VGM has no objection to the Prehearing Officer conducting such conference. However, VGM believes it is necessary to clarify its position in light of comments made at the February 17 meeting and statements made in FPC's Motion.

DOCUMENT NUMBER: DATE

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FPSC-RECORDS/REPORTING

2. At the February 17 meeting, representatives of FPC and Tiger Bay Limited Partnership ("TBLP") suggested that VGM's Petition for Leave to Intervene could be interpreted as a request for the Commission to stay this proceeding until FPC and TBLP have obtained all required third party consents to the transactions contemplated by the Purchase Agreement, including VGM's consents. That is not now, and has never been, VGM's intent.

3. What VGM seeks is to participate as a party in this docket in order to protect and preserve its rights under its September 22, 1993 Gas Sales and Purchase Contract with TBLP (the "Gas Sales Contract") which will be assigned to FPC as part of the Purchase Agreement, provided that VGM consents to the assignment. VGM's position is simply that the Commission should refrain from voting on whether to approve the Purchase Agreement and termination of the power purchase agreements until all required third party consents, including the consents of VGM, have been obtained. VGM has not requested, and is not now requesting, that the Commission stay discovery or any other aspect of this proceeding. Rather, VGM has merely requested that the Commission consider whether it is appropriate for FPC to ask the Commission to vote on the approval of the Purchase Agreement if all necessary consents have not been obtained, particularly in light of the fact that the closing of the Purchase Agreement is expressly conditioned upon the receipt of all required third party consents.

4. In its Motion, FPC suggests that VGM is asking the Commission to interpret the terms of the Gas Sales Contract. This also is not VGM's intention or

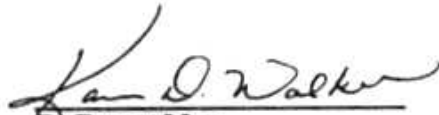
inclination. VGM's Petition for Leave to Intervene clearly states that VGM is not asking the Commission to interpret the Gas Sales Contract. Indeed, VGM recognizes that the Commission is without jurisdiction to do so. VGM agrees that issues involving the interpretation of the terms of Gas Sales Contract are within the jurisdiction of the civil court system.

5. It is undisputed, however, that TBLP must obtain VGM's consent before the Gas Sales Contract can be assigned to FPC. VGM has only raised the issue of its consent rights under the Gas Sales Contract in this proceeding in order to advise the Commission that it is premature for the Commission to vote on the Purchase Agreement if all required third party consents to the transactions contemplated in the Purchase Agreement have not been obtained.

6. VGM would also point out that the July 15, 1997 deadline for Commission approval of the Purchase Agreement is a self-imposed "drop dead" date. It is not a deadline imposed by the Commission or by Commission staff. Although FPC and TBLP may have valid reasons for conditioning the closing of the Purchase Agreement on Commission approval by July 15, 1997, this self-imposed deadline should not jeopardize VGM's established contract rights or force the Commission to rush to judgment on the Purchase Agreement before the Commission has all relevant information necessary for

it to evaluate the prudence of FPC's involvement in the transactions contemplated by the Purchase Agreement.

Respectfully submitted,



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**Attorneys for Vastar
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CERTIFICATE OF SERVICE

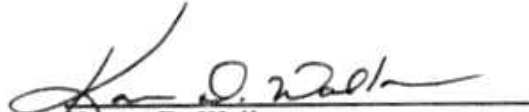
I HEREBY CERTIFY that a copy of the foregoing Response to Florida Power Corporation's Motion for Preliminary Prehearing Conference to Establish Issues to Be Determined in this Docket was furnished by *hand delivery or U.S. mail to the following this 28th day of February, 1997:

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