

State of Florida



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FPSC - Records/Reporting

-M-E-M-O-R-A-N-D-U-M-

DATE: January 9, 1998

TO: Blanca Bayo, Division of Records and Reporting

FROM: Bill Berg, Assistant to Commissioner Deason *w68*

RE: Communications Received in Docket No: 971337-EU and 971446-EU

This office has received the attached correspondence from Mr. James A. Scott, Chairman, Committee on Regulated Industries. Because it is not deemed to be an ex parte communication, it does not require dissemination to parties pursuant to the provisions of Section 350.042, Florida Statutes. However; in such cases Commissioner Deason has requested that a copy of the correspondence and this memo be, as a matter of routine, placed in the correspondence side of the file in this docket.

WBB/mm



THE FLORIDA SENATE
COMMITTEE ON REGULATED INDUSTRIES
418 Senate Office Building
Tallahassee, Florida 32399-1100
(904) 487-5957
James A. Scott, Chairman
Alberto "A" Gutman, Vice Chairman
John Guthrie, Staff Director

Currently
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DEC 12 1997
Florida Public Service Comm.
Commissioner Deason

December 12, 1997

The Honorable J. Terry Deason
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Dear Commissioner Deason:

My staff has advised me that the Public Service Commission's agenda conference scheduled for December 16, 1997, includes consideration of two petitions for declaratory statements concerning the eligibility of electric companies to seek determinations of need to build large power plants in Florida, even though they would not be regulated by the Public Service Commission pursuant to Chapter 366, F.S.

The complex issues raised by these petitions extend far beyond the interests of the parties involved. In addition to regulatory issues, they raise important statewide policy questions that may affect consumers of electric power throughout the state.

When the Florida Electrical Power Plant Siting Act was enacted during the 1970s, no one contemplated the possibility that it might someday apply to electric companies that do not directly serve retail customers in Florida. Yet that is the interpretation recommended by PSC staff. Without judging the merits of the specific petitions before the Commission, I believe that a policy decision of this magnitude should not be made without a full and complete hearing by the Legislature.

Sincerely,

James A. Scott, Chairman
Regulated Industries Committee

TONI JENNINGS
President

ROBERTO CASAS
President Pro Tempore



THE FLORIDA SENATE

COMMITTEE ON REGULATED INDUSTRIES

418 Senate Office Building
Tallahassee, Florida 32399-1100
(904) 487-5857

James A. Scott, *Chairman*
Alberto "A" Gutman, *Vice Chairman*
John Guthrie, *Staff Director*

December 12, 1997

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket Nos. 971337-EU and 971446-EU

Dear Ms. Bayó:

Please include the enclosed in the record of the above-referenced dockets. The letter was addressed individually to each Public Service Commissioner.

Sincerely,

A handwritten signature in cursive script that reads "James A. Scott".

James A. Scott, Chairman
Regulated Industries Committee

enclosure

cc: Public Service Commissioners
Mr. Rob Vandiver, General Counsel
Parties of Record

AUSLEY & McMULLEN

ORIGINAL

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET
P.O. BOX 391 (ZIP 32302)
TALLAHASSEE, FLORIDA 32301
(850) 224-9115 FAX (850) 222-7560

December 10, 1997

HAND DELIVERED

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DEC 10 1997

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

FPSC - Records/Reporting

Re: Petition of Duke Mulberry Energy, L.P., and IMC-Agrico Company for a Declaratory Statement Concerning Eligibility to Obtain Determination of Need Pursuant to Section 403.519, Florida Statutes; FPSC Docket No. 971337-EI

Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of each of the following:

1. Tampa Electric Company's Memorandum in Opposition to IMC-Agrico Company's Motion to Strike Tampa Electric Company's Response. *12653-97*
2. Tampa Electric Company's Memorandum in Opposition to Duke Mulberry Energy L.P.'s Motion to Dismiss Petition for Leave to Intervene. *12654-97*
3. Tampa Electric Company's Memorandum in Opposition to Duke Mulberry Energy L.P.'s Motion to Strike Tampa Electric Company's Response. *12655-97*

ACK ✓

AFA _____

APP Ball

DAF _____

CMU _____

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

CTR _____

EAG 5

LEG _____

LIN 5

WFC _____

RCH _____

*C JDB/pp

WAS _____

OTH _____



Sincerely,

James D. Beasley
James D. Beasley

Enclosures

cc: All Parties of Record (w/encls.)



State of Florida

Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE:

TO: Blanca Bayó, Director, Records and Reporting

FROM: Joy Kelly, Chief, Bureau of Reporting

RE: DOCKET NO. 971337-EU 971446-EU

RE: Agenda Items 5+6 - Imc-Ayrico

DOCUMENT NO: 1318497 TRN

The transcript for the above transcribed hearing has been completed and is forwarded for placement in the docket file, including attachments.

Please note that Staff distribution of this transcript was made to:

Legal
AFAD
E+6

Acknowledged by:

mas

JK/pc

PSC/RAR 28 (Rev7/94)

KATZ, KUBER, HAIGLER, ALDERMAN, BRYANT & YON

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

SILVIA MORCELL ALDERMAN
JOHN M. ARIALE
ALAN HARRISON BRENTS
DANIEL C. BROWN
BILL L. BRYANT, JR.
NANCY M. BURKE
JONATHAN B. BUTLER
RICHARD E. COATES
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JOSE A. DIEZ-ARGUELLES
MARTIN R. DIX
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MARK E. KAPLAN
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600 SOUTH ORANGE AVENUE
ORLANDO, FLORIDA 32801

TELEPHONE (407) 420-8480
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REPLY TO: TALLAHASSEE
December 12, 1997

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DAVID A. YON
PAUL A. ZEIDLER
OF COUNSEL
GORDON D. CHERR
MICHAEL E. INGRAM
EDWARD S. JAFFRY
PATRICK F. MARONEY
GOVERNMENTAL CONSULTANTS
LESLIE F. OUGHN
PAT. GRIFFITH O'CONNELL
E. CLINT SHAWLEY
GERALD C. WOSTER
*NOT A MEMBER OF FLORIDA BARI
EXECUTIVE DIRECTOR
J. ANDREW KELLER III, C.P.A.

Blanca S. Bayo
Director
Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, FL 32399-0850

Dear Ms. Bayo:

Enclosed is a diskette of the following documents which were hand delivered to your office on December 11, 1997:

Docket No. 971337-EU (Diskette Title: a:\mot37.eu)
Petition of Duke Mulberry Energy, L.P. and IMC-Agrico
Company for a Declaratory Statement Concerning Eligibility to Obtain
Determination of Need Pursuant to Section 403.519, Florida Statutes

Docket No. 971337-EU (Diskette Title: a:\amicus2.mem)
Amicus Curiae Memorandum of Law

Docket No. 971446-EU (Diskette Title: a:\mot46.eu)
Petition of Duke Energy New Smyrna Beach Power Company,
L.L.P. for Declaratory Statement Concerning Eligibility to
Obtain Determination of Need Pursuant to Section 403.519, Florida Statutes

Sincerely,



Jose A. Diez-Arguelles

AD/sb

BEGGS & LANE

ATTORNEYS AND COUNSELLORS AT LAW

POST OFFICE BOX 12860

PENSACOLA, FLORIDA 32576-2860

RUSSELL A. BADDERS

SEVENTH FLOOR BLOUNT BUILDING
3 WEST GARDEN STREET
PENSACOLA, FLORIDA 32501
TELEPHONE (904) 432-8481
TELECOMMER (904) 489-2220E. DAVID BEGG
Retired
BERT H. LANE
1917-1981

December 10, 1996

Ms. Blanca Bayo
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

RE: Docket Nos. 971497-EG, 971446-EU,
971313-EU and 971337-EU

Dear Ms. Bayo:

Please include Gulf Power Company as an interested party in the following dockets:

971313-EU Petition by IMC-Agrico Company for declaratory statement confirming non-jurisdictional nature of planned self-generation.

971337-EU Petition of Duke Mulberry Energy, L.P. and IMC-Agrico Company for a declaratory statement concerning eligibility to obtain determination of need pursuant to Section 403.519, F.S.

971446-EU Petition for declaratory statement by Duke Energy New Smyrna Beach Power Company, L.L.P. concerning eligibility to obtain determination of need pursuant to Section 403.519, F.S., Rules 25-22.080 and .081, F.A.C., and pertinent provisions of the Florida Electrical Power Plant Siting Act.

971497-EG Petition for declaratory statement by Holiday Villas II Condominium Association, Inc., pursuant to Section 120.565, F.S., as to application of Rule 25-6 049(5)(a)(3), F.A.C.



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FPSC Records Reporting
November 17, 1997

Blanca Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket Nos. 971313; 971337; 971446 (IMC/Agrico;
Duke Energy/IMC; Duke Energy/New Smyrna)

Dear Ms. Bayó:

LEAF requests that it be added to the list of interested parties and receive mailings related to the above-referenced dockets. Thank you.

Sincerely,

Gail Kamaras

Gail Kamaras, Director
Energy Advocacy Program

KATZ, KUTTER, HAIGLER, ALDERMAN, BRYANT & YONPROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

SILVIA MORELL ALDERMAN
JOHN H. ARIALE
ALAN HARRISON BRENTS
DANIEL C. BROWN
BILL L. BRYANT, JR.
NANCY H. BURKE
JONATHAN B. BUTLER
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TELEPHONE (407) 459-8400
TELECOPIER (407) 843-8333

REPLY TO: TALLAHASSEE

ELIZABETH W. HARTMAN
THOMAS L. MILLER
BRUCE D. PLATT
JOHN RADEY
GARY P. TWIN
LARRY WILLIAMS
DAVID A. YON
PAUL A. ZIEGLER

BY ORDER
GORDON S. CHERR
MICHAEL E. INGRAM
EDWARD S. JAFFRY
PATRICK F. MARGREY

PROFESSIONAL CONSULTANTS
LESLIE T. DUGHI
PAT GRIFFITH O'CONNELL
CLINT SHARLEY
GERALD F. WESTER
MEMBER OF FLORIDA BAR

EXECUTIVE DIRECTOR
J. ANDREW KELLER, III, C.F.P.

November 14, 1997

VIA FACSIMILE

Ms. Blanca Bayo
Director of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Dear Ms. Bayo:

Please add the following persons as interested persons in Docket 971313, Docket 971337, and Docket 971446.

Richard Blandford, Director
Enron Capital & Trade Resources Corporation
1400 Smith Street
Houston, Texas 77002-7361
Phone: (713) 853-5814
Fax: (713) 646-3483

Bill Bryant
Jose Diez-Arguelles
Katz, Kutter, Haigler, Alderman, Bryant & Yon
106 E. College Avenue, 12th Floor
Tallahassee, FL 32301
Phone: (850) 224-9634
Fax: (850) 224-2336

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BLACK & VEATCH

8400 Ward Parkway, P.O. Box No. 8405, Kansas City, Missouri 64114 (913) 458-2000

October 27, 1997

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FPSC - Records/Reports

Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Attention: Ms. Blanca S. Bayo, Director

Dear Ms. Bayo:

I would like to be placed on the mailing list for Docket 971337-EV Petition of Duke Mulberry Energy, L.P. and IMC-Agrico Company for a declaratory statement concerning eligibility to obtain determination of need pursuant to section 403.519, F.S. since I am doing need for power work for another Florida utility

My mailing address is:

Myron Rollins
BLACK & VEATCH
P.O. Box 8405
Kansas City, MO 64114
913-458-7432

Very truly yours,

Myron R. Rollins

The Law Offices of
**MOYLE
FLANIGAN
KATZ
KOLINS
RAYMOND
& SHEEHAN
P.A.**

210 S. MONROE
TALLAHASSEE, FLORIDA 32301

TELEPHONE (850) 681-3828
FACSIMILE (850) 681-8788

RESIDENT ATTORNEY
JON C. MOYLE, JR.

OTHER OFFICES:

WEST PALM BEACH
(561) 659-7500

STUART
(561) 288-1144

PALM BEACH GARDENS
(561) 625-6480

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October 23, 1997 *FPSC - Records/Reporting*

BY U.S. MAIL

Blanca S. Bayo, Director
Records and Reporting
Public Service Commission
2540 Shumard Oaks Drive
Tallahassee, FL 32399-0850

Dear Ms. Bayo:

I would appreciate it if you would include the law firm of Moyle, Flanigan, Katz, Kolins, Raymond & Sheehan as an interested party in the following dockets:

Docket No. 971313-EU
Petition by IMC-Agrico Company for declaratory statement
confirming non-jurisdictional nature of planned self-generation

Docket No. 971327-EU
Petition of Duke Mulberry Energy, L.P., and IMC-Agrico Company
For a Declaratory Statement Concerning Eligibility to Obtain
Determination of Need Pursuant to Section 403.519, Florida Statutes.

Sincerely,


Jon C. Moyle, Jr.

JCM/jd



FECA

Florida Electric Cooperatives Association, Inc.

2916 Apalachee Parkway
P.O. Box 590
Tallahassee, Florida 32302
(904) 877-6166
FAX: (904) 656-5485

REC'D

OCT 24 1997

FPSC - Records Reporting

October 22, 1997

Ms. Blanca S. Bayo, Director
Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

Dear Ms. Bayo:

Please accept this letter as our official request to be put on the mailing list for the following docket(s):

Docket No. 971357-EU

Thank you for your assistance in this matter.

Sincerely,

Michelle Hershel
Director of Regulatory
Services

MH/hd

RUTLEDGE, ECENIA, UNDERWOOD, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
KENNETH A. HOFFMAN
THOMAS W. KONRAD
MICHAEL G. MAIDA
J. STEPHEN MENTON
R. DAVID PRESCOTT
HAROLD F. X. PURNELL
GARY R. RUTLEDGE
R. MICHAEL UNDERWOOD
WILLIAM B. WILLINGHAM

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215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788
TELECOPIER (850) 681-6515

October 17, 1997

GOVERNMENTAL CONSULTANTS
PATRICK R. MALOY
AMY J. YOUNG

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REG. FILE # 1000019

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

RE: Florida PSC Docket Nos. 971313-EU and 971337-EU

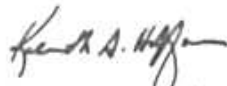
Dear Ms. Bayo:

The undersigned represents the City of Tallahassee ("Tallahassee"). Tallahassee is interested in the above-referenced dockets. Please provide copies of all notices, CASRs, orders, staff recommendations, pleadings and other documents filed, served or issued in the above-referenced dockets to the following:

Kenneth A. Hoffman, Esq.
William B. Willingham, Esq.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, FL 32302-0551
(850) 681-6788 (phone)
(850) 681-6515 (fax)

Thank you for your assistance in this matter.

Sincerely,



Kenneth A. Hoffman

KAH/rl

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA



DIVISION OF RECORDS & REPORTING
BLANCA S. BAYO
DIRECTOR
(850) 413-6770

Public Service Commission

October 16, 1997

Robert Scheffel Wright, Esquire
Landers & Parsons, P.A.
Post Office Box 271
Tallahassee, Florida 32302

Re: Docket No. 971337-EU

Dear Mr. Wright:

This will acknowledge receipt of a petition of Duke Mulberry Energy, L.P. and IMC-Agrico Company for a declaratory statement concerning eligibility to obtain determination of need pursuant to Section 403.519, F.S., which was filed in this office on October 15, 1997 and assigned the above-referenced docket number. Appropriate staff members will be advised.

Mediation may be available to resolve any dispute in this docket. If mediation is conducted, it does not affect a substantially interested person's right to an administrative hearing. For more information, contact the Office of General Counsel at (850) 413-6078 or FAX (850) 413-6079.

Division of Records and Reporting
Florida Public Service Commission

cc: Joseph A. McGlothlin, Esq.
John W. McWhirter, Jr., Esq.