

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition for Determination ) Docket No. 981042-EM  
of Need for an Electrical Power Plant )  
in Volusia County by the Utilities )  
Commission, City of New Smyrna Beach, ) Filed: November 2, 1998  
Florida, and Duke Energy New Smyrna )  
Beach Power Company, Ltd., L.L.P. )  
\_\_\_\_\_ )

LEAF PRE-HEARING STATEMENT

The Legal Environmental Assistance Foundation, Inc. (LEAF) files its Pre-Hearing Statement pursuant to Order No. PSC-98-1183-PCO-EM and Order No. PSC-98-1221-PCO-EM.

**Appearances:**

Gail Kamaras/Debra Swim, 1114 Thomasville Road, Suite E, Tallahassee, FL 32303

On behalf of LEAF

**a. Witnesses:**

none

**b. Exhibits:**

none anticipated

ACK \_\_\_\_\_

AFA \_\_\_\_\_ **c. Statement of Basic Position**

APP \_\_\_\_\_  
CAF \_\_\_\_\_ LEAF has no position statement at this time and reserves the right to make one after  
CMU \_\_\_\_\_ hearing.

CTR \_\_\_\_\_ **d-f. Issues**

EAG Butrell

LEG 3 **Issue 1:** Is there a need for the proposed power plant, taking into account the need  
LIN 5 for electric system reliability and integrity, as this criterion is used in  
OPC \_\_\_\_\_ Section 403.519, Florida Statutes?

RCH \_\_\_\_\_ **LEAF:** No position.

SEC 1

WAS \_\_\_\_\_

OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE

12168 NOV-2 000748

FPSC-RECORDS/REPORTING

**Issue 2:** Does Duke New Smyrna have an agreement in place with the Utilities Commission, New Smyrna Beach ("UCNSB") and, if so, do its terms meet the UCNSB's needs in accordance with the statute?

**LEAF:** No position.

**Issue 3:** Does the Commission have sufficient information to assess the need for the proposed power plant under the criteria set forth in Section 403.519, Fla. Statutes?

**LEAF:** No position at this time.

**Issue 4:** Does Duke New Smyrna have a need by 2001 for the 484 MW of capacity (476 MW summer and 548 MW winter less 30 MW) represented by the proposed facility?

**LEAF:** No position on inclusion of this issue or on its merits.

**Issue 5:** Can or should the capacity of the proposed project be properly included when calculating the reserve margin of an individual Florida utility or the state as a whole?

**LEAF:** No position.

**Issue 6:** What impact will the proposed project have on the reliability of generation and transmission systems within Florida?

**LEAF:** No position.

**Issue 7:** What transmission improvements and other facilities are required in conjunction with the construction of the proposed facility, and were their costs adequately considered?

**LEAF:** No position.

**Issue 8:** Is there a need for the proposed power plant, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

**LEAF:** No position at this time.

**Issue 9:** Is the proposed power plant the most cost-effective alternative available, as this criterion is used in Section 403.519?

**LEAF:** No position at this time.

**Issue 10:** Has Duke New Smyrna provided adequate assurances regarding available primary and secondary fuel to serve the proposed power plant on a long and short-term basis?

**LEAF:** No position.

**Issue 11:** What impact, if any, will the proposed power plant have on natural gas supply or transportation resources on State regulated power producers?

**LEAF:** No position on inclusion of this issue or on its merits.

**Issue 12:** Will the proposed project result in the uneconomic duplication of transmission and generation facilities?

**LEAF:** No position.

**Issue 13:** Have the UCNSB and Duke New Smyrna provided sufficient information on the site, design, and engineering characteristics of the New Smyrna Beach Power Project to evaluate the proposed project?

**LEAF:** No position.

**Issue 14:** Have the costs of environmental compliance associated with the New Smyrna Beach Power Project been adequately considered by the UCNSB and Duke New Smyrna?

**LEAF:** No position at this time.

**Issue 15:** What are the terms and conditions pursuant to which the electric utilities having the need will purchase the capacity the capacity and energy of the proposed power plant?

**LEAF:** This issue is inappropriate for Commission consideration.

**Issue 16:** Is the identified need for power of the Utilities Commission, New Smyrna Beach ("UCNSB") which is set forth in the Joint Petition met by the power plant proposed by Florida Municipal Power Association in Docket No. 980802-EM?

**LEAF:** No position.

**Issue 17:** Are there any conservation measures taken by or reasonably available to the petitioners which might mitigate the need for the proposed power plant?

**LEAF:** No position at this time.

**Issue 18:** Does the Florida Public Service Commission have the statutory authority to render a determination of need under Section 403.519, Florida Statutes, for a project that consists in whole or in part of a merchant plant (i.e., a plant that does not have as to the merchant component of the project an agreement in place for the sale of firm capacity and energy to a utility for resale to retail customers in Florida)?

**LEAF:** No position at this time.

**Issue 19:** Does the Public Service Commission have jurisdiction under the Power Plant Siting Act, Sections 403.501-403.518, and Section 403.519, Florida Statutes, to determine "applicant" status?

**LEAF:** No position at this time.

**Issues 20-36**

**LEAF:** No position on inclusion of these issues or on their merits.

**Issue 37:** What effect, if any, would granting a determination of need as herein requested have on the level of reasonably achievable cost-effective conservation measures in Florida?

**LEAF:** No position at this time.

**Issues 39-40**

**LEAF:** No position on inclusion of these issues or on their merits.

**Issue 41:** Based on the resolution of the foregoing issues, should the petition of UCNSB and Duke New Smyrna for determination of need for the New Smyrna Beach Power Project be granted?

**LEAF:** No position at this time.

**Issue 42:** Should this docket be closed?

**LEAF:** Yes, once all issues are resolved.

**g. Stipulations**

LEAF has not entered into any stipulations.

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**h. Pending motions**

LEAF has no motions pending.

**i. Other matters**

None at this time.

*Gail Kamaras*

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**CERTIFICATE OF SERVICE**  
**Docket No. 981042-EM**

I hereby certify that a true and correct copy of the Legal Environmental Assistance Foundation, Inc. (LEAF) Pre-Hearing Statement has been served by hand delivery (\*) or by US Mail on November 2, 1998 to the following:

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