



ORIGINAL

Electric Power Supply Association

1401 H Street, NW  
Suite 760  
Washington, DC 20005  
202/789-7200  
202/789-7201 fax  
epsa@mindspring.com  
www.epsa.org

November 30, 1998

VIA FEDERAL EXPRESS

The Honorable Bayo Blanca  
Clerk  
Office of the Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Gerald Gunter Building  
Tallahassee, FL 32399-0850

Re: Docket No. 981360

Dear Clerk Blanca:

Enclosed please find one original and fifteen (15) copies for filing in the above referenced proceeding.

ACK \_\_\_\_\_ Respectfully submitted,  
AFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMU \_\_\_\_\_ Samantha M. Slater  
CTR \_\_\_\_\_ Coordinator of State & Regional Programs

*Samantha M. Slater*

EAG Dredley  
LEG 1  
LIN \_\_\_\_\_  
OPC \_\_\_\_\_  
RCH \_\_\_\_\_  
SEC 1  
WAS \_\_\_\_\_

OTH By Hon'y Done 12/04/98

MAIL ROOM  
65 6 W 02 ACH 86

RECEIVED BOARD  
NOV 30 1998

DOCUMENT NUMBER-DATE  
**13395 NOV 30 98**  
FPSC-RECORDS/REPORTING

**STATE OF FLORIDA  
BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

Petition of Florida Power )  
Corporation for waiver of Rule )  
25-22.082, F.A.C., Selection )  
of Generation Capacity )

**Docket No. 981360**

**COMMENTS OF THE ELECTRIC POWER SUPPLY ASSOCIATION**

The Electric Power Supply Association (EPSA)<sup>1</sup> appreciates the opportunity to respond to Florida Power Corporation's (Florida Power) October 20, 1998 filing with the Florida Public Service Commission (Commission) asking for permission to forgo competitive bidding requirements so it can accelerate the construction of a second 500 MW combined cycle, natural gas-fired power plant at its Hines Energy Complex in Polk County, Florida. As the trade association representing developers of independent power plants and marketers of competitive power, EPSA urges the Commission to reject the proposal made by Florida Power for authorization to waive bidding requirements.

As the electric power industry moves from the traditional paradigm of regulatory control toward an increasingly competitive marketplace, it is alarming that a utility would make a proposal to build new generation facilities without any type of competitive solicitation or even a consideration of the competitive alternatives. When all the facts are clearly spelled out, the Florida Power proposal is very troubling, particularly since competitive power markets are, in most regions of the country, maturing every day. Taking into account the significant changes occurring in the electric power industry, Florida Power's request should be denied, since it represents both bad economics and poor public policy. Florida Power should be required to solicit competitive bids before building any new generation for several significant reasons:

- there is no assurance that Florida Power's construction will provide the best price for existing Florida ratepayers, who will, after Florida Power's proposed five year rate freeze, be asked to foot the bill for this project, or for future energy customers;
- what should matter most to Florida ratepayers and to the Commission is that ratepayers receive a reliable supply of energy at the lowest available cost. It

<sup>1</sup> The comments contained in this filing represent the position of EPSA as an organization, but not necessarily the view of any particular member with respect to any specific issue.

13395 NOV 30 88

FPSC-RECORDS/REPORTING

the great majority of cases, those plants were built because the competitive generator was the successful bidder in a competitive solicitation.

In addition, unlike traditional utility built projects which pass on market risk to local ratepayers, competitive power suppliers are willing to assume virtually all market risk and they are developing new generating facilities without having to first secure long-term power commitments. More than 50,000 megawatts of this new, "merchant" capacity is planned or under development in the United States today. Florida law does not clearly address the building and operation of merchant plants -- or of a wholesale market in general. Florida legislators and regulators previously did not expect to have to address the statutory and regulatory requirements of wholesale power sales or merchant plants. However, recent reports by Commission staff indicate that the state is in need of additional generation capacity. If so, merchant plants should have no problem finding buyers for their power. Many EPSA members are fully prepared to build merchant power plants to help meet the future needs of electricity consumers in Florida.

Second, EPSA members and other competitive suppliers can obtain power supplies from a host of resources to meet the needs of Florida Power and its customers. Power marketers can supply the power needs of customers in Florida from a variety of sources, including short and long term commitments from existing resources which have excess capacity for a variety of reasons.

Absent a competitive bidding process, there is no reason to believe that consumers will receive the optimal benefits from utility construction of additional rate-based facilities. A competitive marketplace routinely leads to an efficient allocation of resources and the highest possible level of economic well being for society as a whole. Open, transparent competitive bidding ensures customers, regulators and market participants that electricity is being provided at the lowest possible price. There is no reason not to see what the competition has to offer. Surely Florida Power has not suggested any legitimate reason.

#### **Risk Should be Borne by Competitors, Not Ratepayers**

One of the most important aspects of independent power development is that competitive power developers, not utility ratepayers, bear the majority of the risks and costs associated with providing electricity. Given the availability and willingness of competitive power suppliers to meet the electricity needs of consumers in Florida, there is simply no rational reason to require utility ratepayers to bear the risks associated with utility investment in power generation when other market participants can insulate consumers from those risks. This point is even more compelling in light of the potential for stranded costs by Florida Power. The construction of an efficient new plant by Florida Power may reduce the market value of some of Florida Power's older, less efficient plants, thereby creating additional stranded costs.

## **Utilities Should Not be Permitted to Increase Their Market Power**

Allowing utilities to build rate-base facilities as the electric power industry moves toward full retail competition creates very significant market power problems. Clearly, using ratepayer funds to build new power plants that will soon participate in a competitive marketplace will only increase the generation (horizontal) market power already held by Florida Power and further deprive customers of the benefits of lower-cost power. New market entrants, such as EPSC members, will also be placed at a serious disadvantage if they must compete against "super competitors" whose capital costs are recovered from captive ratepayers and who also can sell some of the power off-system in competitive markets. Market power is a significant concern in a competitive market, since the dominant company may be able to control prices and exclude market entrants, thereby severely limiting new entry and reducing the likelihood that there will ever be the sufficient number of sellers necessary for workable competitive markets. In addition, Florida Power's ability to control the transmission and distribution system (vertical market power) is also troubling. With additional generating resources, Florida Power will have even greater incentives to manage the transmission system in a manner which favors its own assets over those of other competitors and hence frustrate competition.

To address this problem, many state commissions and legislatures are requiring utility divestiture of generation assets as part of the transition to competition. Five of the 18 states with retail competition deadlines to date have required utilities to divest all or part of their non-nuclear generating capacity. Some utilities are looking at voluntary divestiture to avoid market power scrutiny in a restructured environment or as a strategic business move. The decision by some utilities to voluntarily sell their generation assets has significantly reduced the potential for affiliate abuse, not to mention mitigated and quantified their stranded costs.

### **System Reliability**

In Florida Power's October 20<sup>th</sup> filing, the company cites concern for system reliability as a reason for building its own capacity without going through the bidding process. In a marketplace supplied by multiple competitors, there is no more basis for concerns about reliability than there was prior to restructuring because the rules in place will be comparable, if not identical, to those that the single franchise utility itself had to follow, i.e., those rules will apply to all suppliers both old and new. It is particularly troubling that Florida Power be permitted to build this facility without competitive bidding because such bidding cannot satisfy their need for a quick timetable. Further, there is no reason why competitive power suppliers cannot meet Florida Power's aggressive timetable.

Experience has already shown that the market will assure adequate supply. When truly competitive markets are established, competitive power suppliers compete aggressively on price and performance. In fact, as competitive markets have begun to emerge in New England, nearly 30,000 MW of new generation capacity have been proposed in

the region, more than doubling the 25,000 MW of installed capacity now in the New England Power Pool system. The record on reliability has been strong for competitive power developers, the first wave of competitors. They built the first power plants that had to ensure reliability in the form of availability guarantees. If the availability guarantee is not met, the competitive power developers are paid less or not at all.

**Conclusion: Use Competition to Benefit Consumers Now**

Competition has come to the electric power industry, now in the wholesale markets and soon in the retail markets. Now is the time to look forward with a vision of the myriad of benefits competition can bring. The petition pending before you from Florida Power represents, at best, a throw-back to the old ways of doing business and, at worst, a transparent attempt to gain advantage in the new competitive world by using ratepayer funds and by forcing ratepayers to take unnecessary and inappropriate risks.

EPSA thanks the Commission for this opportunity to express its views and concerns. EPSA urges the Commission to reject the petition to waive bidding requirements and for Florida Power to look to the competitive market for power supplies and services to meet the needs of their customers and requests that it be permitted to intervene in this docket and receive copies of all notices, orders, filings and pleadings in this proceeding.

November 30, 1998

Respectfully submitted,



---

Lynne H. Church, Executive Director  
Julie Simon, Director of Policy  
ELECTRIC POWER SUPPLY ASSOCIATION  
1401 H Street, N.W., Suite 760  
Washington, D.C. 20005  
Telephone: 202-789-7200  
Fax: 202-789-7201