

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for determination of need for an electrical power plant in Volusia County by the Utilities Commission, City of New Smyrna Beach, Florida, and Duke Energy New Smyrna Beach Power Company Ltd., L.L.P.

DOCKET NO. 981042-EM  
ORDER NO. PSC-98-1597-PCO-EM  
ISSUED: December 1, 1998

ORDER DENYING PETITION FOR INTERVENTION

BY THE COMMISSION:

Pursuant to Rule 25-22.039, Florida Administrative Code, on November 16, 1998, Save the Manatee Club Inc. (SMC) petitioned to intervene in this proceeding. As a basis for intervention, SMC asserts that:

Save the Manatee Club Inc. (SMC) is a non-profit Florida corporation with approximately 40,000 members and whose main purpose is to protect and preserve Florida's remaining endangered West Indian manatee population, for the benefit of the manatees, SMC and its members. Numerous members of the organization observe, study and photograph manatees for educational and recreational purposes throughout the state. Any action by a regulatory agency that could cause a reduction in manatee populations as alleged hereinbelow will have a substantial effect on SMC and its members to their detriment.

No party has filed a response in opposition to this petition. Petitioners have stated verbally that they do not intend to file a response to this motion.

Upon review of the petition, the Prehearing Officer finds that SMC is not entitled to participate in the proceeding because its substantial interests are not subject to determination, neither will they be affected by this proceeding pursuant to Rule 25-22.039, Florida Administrative Code. Thus the petition should be denied.

DOCUMENT NUMBER-DATE

13437 DEC-18

FPSC-RECORDS/REPORTING

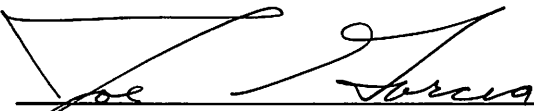
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Based upon the foregoing, it is therefore

ORDERED by Commissioner Joe Garcia, as Prehearing Officer, that the Petition to Intervene filed by Save the Manatee Club Inc. is hereby denied.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 1st day of December, 1998.

  
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JOE GARCIA  
Commissioner and Prehearing Officer

( S E A L )

GAJ/LJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2)

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reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

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