

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of

Petition by City of Lakeland
for determination of need for
McIntosh Unit 5 and proposed
conversion from simple to
combined cycle.

DOCKET NO. 990023-EM



PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER J. TERRY DEASON
Prehearing Officer

DATE: Wednesday, March 17, 1999

TIME: Commenced at 1:30 p.m.
Concluded at 1:40 p.m.

PLACE: Betty Easley Conference Center
Room 152
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JOY KELLY, CSR, RPR
FPSC Chief, Bureau of Reporting

1 **APPEARANCES:**

2 **ROY C. YOUNG**, Young, van Assenderp and
3 Varnadoe, P. A., P. O. Box 1833, Tallahassee, Florida
4 32302-1833, appearing on behalf of the **City of**
5 **Lakeland**.

6 **WILLIAM COCHRAN KEATING**, Florida Public
7 Service Commission, Division of Legal Services, 2540
8 Shumard Oak Boulevard, Tallahassee, Florida
9 32399-0870, appearing on behalf of the **Commission**
10 **Staff**.

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1 **P R O C E E D I N G S**

2 **(Hearing convened at 1:30 p.m.)**

3 **COMMISSIONER DEASON:** Call the prehearing
4 conference to order. Could I have the Notice read,
5 please.

6 **MR. KEATING:** Pursuant to notice issued
7 February 3rd, 1999, this time and place have been set
8 for a prehearing conference, in Docket 990023-EM,
9 petition by City of Lakeland for determination of need
10 for McIntosh Unit 5 and proposed conversion from
11 simple to combined cycle.

12 **COMMISSIONER DEASON:** Take appearances.

13 **MR. YOUNG:** I'm Roy Young, with Young van
14 Assenderp, Varnadoe, 225 South Adams Street, Suite
15 200, Tallahassee, Florida, representing the City of
16 Lakeland.

17 **COMMISSIONER DEASON:** Mr. Young, I think
18 your microphone was off. We got it. Now it's on.

19 **MR. YOUNG:** Do you need it again?

20 **THE REPORTER:** No. Thank you.

21 **COMMISSIONER DEASON:** She got it okay.

22 **MR. KEATING:** Cochran Keating on behalf of
23 Commission Staff.

24 **COMMISSIONER DEASON:** There are no
25 intervenors in this docket, correct?

1 **MR. KEATING:** That's correct.

2 **COMMISSIONER DEASON:** Okay. Are there any
3 preliminary matters we need to address before we
4 proceed through the Draft Prehearing Order?

5 **MR. KEATING:** Preliminarily, I mention that
6 Staff and Lakeland are currently working on language
7 for positions on all of the issues so that we can have
8 these issues stipulated.

9 We would like to have some additional time
10 to continue to work with Lakeland so that we can get
11 some language that is agreeable to everyone. We would
12 like to be able to reflect this stipulated language in
13 the Prehearing Order.

14 **COMMISSIONER DEASON:** I appreciate those
15 efforts. I think that's a worthwhile thing to do. I
16 assume, Mr. Young, you have no objection to that.

17 **MR. YOUNG:** No, sir. In fact, I think
18 verbally we're pretty much in agreement. And we're
19 now trying to put down on paper what we've agreed to.
20 And I think it's just a matter of getting Cochran and
21 Tom and Judy a little bit more time and I think we'll
22 have it.

23 **COMMISSIONER DEASON:** Very well.

24 What I plan to do, then, is we'll go ahead
25 and proceed through the Draft Prehearing Order with

1 the understanding that positions contained therein,
2 that there could be stipulations as a result of
3 discussions that are ongoing. I understand there
4 still may be some outstanding discovery that Staff may
5 be reviewing.

6 **MR. KEATING:** There are a few late-filed
7 deposition exhibits that we'll be waiting on. And it
8 may be that some of the information we get will be
9 made a part of the position that's stipulated.

10 **COMMISSIONER DEASON:** Okay. Very well.
11 With that understanding, we'll proceed through the
12 Draft Prehearing Order. I've reviewed the Prehearing
13 Order and it appears fairly standard, so I think we
14 can proceed through here rather quickly.

15 Section I addresses the conduct of the
16 proceedings, and Section II, the case background. Any
17 changes or corrections? Section III is the standard
18 section addressing confidential information. I assume
19 there are no questions or clarifications there.
20 Section IV addresses posthearing procedures that,
21 likewise, is standard, as is Section V addressing
22 prefiled testimony and exhibits. Are there any
23 questions or changes?

24 **MR. YOUNG:** No, sir.

25 **COMMISSIONER DEASON:** Very well. Section VI

1 addresses the order of witnesses. Are there any
2 questions or concerns with the order as contained in
3 the Prehearing Order?

4 **MR. KEATING:** Commissioner Deason, I
5 discussed this with Mr. Young before we started the
6 prehearing conference.

7 If we have stipulated positions, I believe
8 they would like to have the possibility to have their
9 witnesses excused. And I think the way we've done
10 this a few times in the past is to set a date by which
11 we'll let the parties know if the witnesses can be
12 excused after we have had a chance to talk with the
13 other Commissioners on the panel to see if they would
14 like to cross examine.

15 **COMMISSIONER DEASON:** That was the processed
16 we followed not too many months ago in a similar case.
17 I think it worked fine. Mr. Young, you have no
18 problem with that?

19 **MR. YOUNG:** No, sir.

20 **COMMISSIONER DEASON:** Obviously, if there's
21 no need for witnesses to appear, there's no need to
22 incur the time and travel expense to do that. And so
23 we certainly want to be accommodating in that regard.
24 But obviously if there are Commissioners with
25 questions, it's important those questions get

1 answered.

2 Section VII, basic positions. Any changes
3 there? I understand that Staff, you may be making
4 changes to your position. Is that correct?

5 **MR. KEATING:** I believe that's one of the
6 positions that we're still working on. Basically,
7 that -- Staff's basic position, as well as the
8 position on all of the issues listed after that in
9 Section VIII.

10 **COMMISSIONER DEASON:** Mr. Young, are there
11 any changes to your basic position?

12 **MR. YOUNG:** Not at this time.

13 **COMMISSIONER DEASON:** Section VIII addresses
14 the specific issues and positions, and I understand
15 that there are most likely to be some changes in
16 positions. The Issues 1 through 5, are all correctly
17 stated; is that correct?

18 **MR. YOUNG:** Yes, sir.

19 **COMMISSIONER DEASON:** And there are no
20 errors in the positions as contained in the Draft
21 Prehearing Order as it now exists; is that correct?

22 **MR. YOUNG:** That's correct.

23 **MR. KEATING:** That's correct.

24 **COMMISSIONER DEASON:** Okay.

25 I appreciate Staff working with the City,

1 and to the extent there can be stipulations, obviously
2 that is something that would be helpful to the
3 Commission. And if there are stipulations, Staff just
4 bring those -- the language for the issues so that we
5 can get it included in the final order that goes out.

6 Section IX addresses the exhibit list. I
7 have one question concerning that list. The exhibit
8 that is entitled "LAK-1" is being sponsored by
9 numerous witnesses. I suppose this is the application
10 itself.

11 **MR. YOUNG:** The total application.

12 **COMMISSIONER DEASON:** Okay. Very well.

13 Any changes or corrections to the exhibit
14 list?

15 **MR. YOUNG:** No, sir.

16 **COMMISSIONER DEASON:** And there are no
17 proposed stipulations at this time in Section X, and
18 there are no pending motions; is that correct?

19 **MR. YOUNG:** Yes, sir.

20 **COMMISSIONER DEASON:** Okay.

21 Is there anything else that needs to come
22 before the Prehearing Officer at this time?

23 **MR. KEATING:** There's one other thing I
24 wanted to mention and it's something we did in the
25 Cane Island need determination case.

1 STATE OF FLORIDA)
2 COUNTY OF LEON)

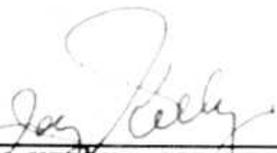
CERTIFICATE OF REPORTER

3 I, JOY KELLY, CSR, RPR, Chief, Bureau of
4 Reporting, Official Commission Reporter,

5 DO HEREBY CERTIFY that the Prehearing
6 Conference in Docket No. 990023-EM was heard by the
7 Prehearing Officer at the time and place herein
8 stated; it is further

9 CERTIFIED that I stenographically reported
10 the said proceedings; that the same has been
11 transcribed by me; and that this transcript,
12 consisting of 9 pages, constitutes a true
13 transcription of my notes of said proceedings.

14 DATED this 17th day of March, 1999.

15 
16 _____
17 JOY KELLY, CSR, RPR
18 Chief, Bureau of Reporting
19 Official Commission Reporter
20 (850) 413-6732

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ROY 2/2, 3/13
RPR 1/19, 10/3

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