

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Petition for Determination of Need for an Electrical Power Plant in Okeechobee County by Okeechobee Generating Company, L.L.C.

DOCKET NO. 991462-EU

Submitted for filing: November 15, 1999

FLORIDA POWER CORPORATION'S OBJECTIONS TO OKEECHOBEE GENERATING COMPANY'S FIRST REQUEST FOR ADMISSIONS (NOS. 1-44)

RECORDS AND REPORTING

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Florida Power Corporation ("FPC") objects to Okeechobee Generating Company's

("OGC") First Request for Admissions (Nos. 1-44), as follows:

General Objections

OGC as petitioner carries the affirmative burden in this proceeding of demonstrating that its project will satisfy the statutory need criteria. OGC did not join FPC as a party to this proceeding, thereby admitting that OGC did not intend to rely upon discovery from FPC in order to meet its burden. And, FPC is not offering the testimony of any FPC witness in opposition to OGC's petition. Nonetheless, OGC has now served extensive discovery upon FPC, including 44 Requests for Admission. FPC objects to responding to this discovery as irrelevant, immaterial, argumentative, and/or not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving this position, FPC also makes, inter alia, both general and specific objections to OGC's requests for admission, as follows.

FPC objects to these requests and any definitions or instructions that purport to expand

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FPC's obligations under applicable law.

FPC objects to any request for admission that calls for information protected by the

attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade

secret privilege, or any other applicable privilege or protection afforded by law, whether such

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privilege or protection appears at the time response is first made to these interrogatories or is later determined to be applicable based on the discovery of documents, investigation, or analysis. FPC in no way intends to waive any such privilege or protection.

FPC objects to any request for admission that calls for confidential proprietary business information and/or the compilation of information that is considered confidential proprietary business information.

FPC incorporates by reference all of the foregoing general objections into each of its specific objections set forth below as though pleaded therein.

Specific Objections

1. This is irrelevant, argumentative, and not reasonably calculated to lead to the discovery of admissible evidence. How FPC's sales may be characterized or regulated is not relevant to whether petitioner may properly establish that its proposed project satisfies the statutory need criteria. If petitioner wishes to argue these issues, petitioner may do so based on the letter and regulatory context of applicable laws and regulations.
2. Same objection
3. Same objection.
4. Same objection.
5. Same objection.
6. Same objection.
7. Same objection.
8. Same objection.
9. Same objection.
10. Same objection.

11. Same objection.
12. Same objection.
13. Same objection.
14. Same objection.
15. Same objection.
16. Same objection.
17. Same objection.
18. Same objection.
19. Subject to its general objections and without waiving same, FPC will respond to this request.
20. Subject to its general objections and without waiving same, FPC will respond to this request.
21. Subject to its general objections and without waiving same, FPC will respond to this request.
22. Subject to its general objections and without waiving same, FPC will respond to this request.
23. This is irrelevant, argumentative, and not reasonably calculated to lead to the discovery of admissible evidence. Whether other merchant plants are currently operating in the State (outside the Power Plant Siting Act) has no relevance to whether petitioner may satisfy the statutory need criteria.
24. Same objection. Additionally, this request does not contain sufficient information or conditions to enable FPC to admit or deny the request.
25. Subject to its general objections and without waiving same, FPC will respond to this request.
26. This is irrelevant, argumentative, and not reasonably calculated to lead to the discovery of admissible evidence. How FPC treats earnings has nothing to do with whether petitioner may establish the existence of a need for its Project under the applicable statutory criteria.
27. Subject to its general objections and without waiving same, FPC will respond to this request.

28. Subject to its general objections and without waiving same, FPC will respond to this request.
29. This is irrelevant, argumentative, and not reasonably calculated to lead to the discovery of admissible evidence. Whether and on what terms other merchant plants may be operating in Florida (outside the Power Plant Siting Act) has no relevance to whether petitioner may satisfy the statutory need criteria.
30. Subject to its general objections and without waiving same, FPC will respond to this request.
31. Subject to its general objections and without waiving same, FPC will respond to this request.
32. This is irrelevant, argumentative, and not reasonably calculated to lead to the discovery of admissible evidence. Petitioner cannot show that its proposed project will meet the statutory need criteria by relying on the terms of sale of FPC's wholesale sales.
33. This request does not contain sufficient information to enable FPC to admit or deny this particular request.
34. Subject to its general objections and without waiving same, FPC will respond to this request.
35. This is irrelevant, argumentative, and not reasonably calculated to lead to the discovery of admissible evidence. If they are at all pertinent to this proceeding, FPC's legal and policy positions will be articulated by counsel in argument or in appropriate written submissions at the appropriate time in the course of this proceeding.
36. Same objection.
37. Subject to its general objections and without waiving same, FPC will respond to this request.
38. Subject to its general objections and without waiving same, FPC will respond to this request.
39. This is irrelevant, argumentative, and not reasonably calculated to lead to the discovery of admissible evidence. Whether or not FPC bought power previously from other merchant plants has nothing to do with whether petitioner can satisfy the statutory need criteria.

40. Subject to its general objections and without waiving same, FPC will respond to this request.
41. This is irrelevant, argumentative, and not reasonably calculated to lead to the discovery of admissible evidence. Where FPC may have sold wholesale power has no bearing on whether petitioner may satisfy the statutory need criteria.
42. Subject to its general objections and without waiving same, FPC will respond to this request.
43. Subject to its general objections and without waiving same, FPC will respond to this request.
44. Subject to its general objections and without waiving same, FPC will respond to this request.

Notwithstanding the foregoing objections, and without waiving same, FPC will attempt to provide responses to all requests (apart from those that FPC is unable to admit or deny), given the relatively minimal burden associating with this effort. FPC will object, however, and will decline to provide further responses, to any additional discovery propounded on the matters to which objection is taken hereinabove.

Respectfully submitted,

FLORIDA POWER CORPORATION


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing FLORIDA POWER CORPORATION'S OBJECTIONS TO OKEECHOBEE GENERATING COMPANY'S FIRST REQUEST FOR ADMISSIONS (NOS. 1-44) has been furnished by fax to Robert Scheffel Wright and John Moyle as counsel for Okeechobee Generating Company, L.L.C. and by U.S. Mail to all counsel of record this 15th day of November, 1999.



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