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April 5, 2000

VIA HAND DELIVERY

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RECORDS AND REPORTING

Blanca Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

RE: In re: Petition for determination of need for electric power plant in St. Lucie County by Panda Midway Power Partners, L.P., Docket No. 000289-EU

Dear Ms. Bayo:

Attached please find the originals and fifteen copies (15) each of Panda Midway Power Partners, L.P.'s Objection to Florida Corporation's Petition For Leave to Intervene and Request For Oral Argument to be filed in the above styled case. Also attached is a copy of each of these pleadings to be stamped as received by your office for our files.

Thank you for your attention to this matter.

Very truly yours,

Suzanne Brownless  
Attorney for Panda Midway Power Partners,  
L.P.

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- MAS \_\_\_\_\_
- OPC \_\_\_\_\_
- RRR \_\_\_\_\_
- SEC \_\_\_\_\_
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

c: 3103  
cc: Steve Crain, P.E.  
Bill Lamb, Esq.  
Jeff Schroeter, P.E.

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

*ms*

*Objection Request*

DOCUMENT NUMBER DOCUMENT NUMBER-DATE

04185 APR-04 04186 APR-58

FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for determination )  
of need for electric power plant )  
in St. Lucie County by Panda )  
Midway Power Partners, L.P )  
\_\_\_\_\_ )

DOCKET NO. 000289-EU

Filed: April 5, 2000

PANDA MIDWAY POWER PARTNERS, L.P.'S  
OBJECTION TO FLORIDA POWER CORPORATION'S  
PETITION FOR LEAVE TO INTERVENE

Panda Midway Power Partners, L.P. (Panda Midway), pursuant to Rule 28-106.204(1), Florida Administrative Code, files this Objection to Florida Power Corporation's (FPC) Petition For Leave To Intervene filed on March 27, 2000 (FPC Petition), requests that this Commission deny intervention and in support thereof states as follows:

Background

1. This docket is a determination of need petition filed under §403.519, Florida Statutes, and Florida Public Service Commission Rules 25-22.080 and 25-22.081, Florida Administrative Code. The purpose of this docket is to determine whether the 1,000 MW electric power plant which Panda Midway proposes to build is "needed" in the State of Florida. "Need" is established by demonstrating that the proposed plant contributes to electric system reliability and integrity; provides adequate electricity at a reasonable cost; and constitutes the most cost-effective alternative available. §403.519, Florida Statutes.

2. Panda Midway is an Exempt Wholesale Generator (EWG) as defined in 15 U.S.C.S. §§ 79z-5a as indicated in attached FERC order, 90 FERC 62,167, issued on March 7, 2000. [Attachment A].

DOCUMENT NUMBER-DATE

04185 APR-58

The Commission has ruled that "need" can be established by proving "economic", as opposed to "reliability" need, i.e., that the generating facility proposed will be more cost effective than existing generation.<sup>1</sup> The Commission has further ruled that a demonstrated statewide, as opposed to individual utility, need is sufficient to support an application for an EWG need determination.<sup>2</sup>

#### Legal Standard

3. In order to have standing to intervene in a formal administrative hearing under Chapter 120, Florida Statutes, a party must have a right to intervene based on the constitution, a statute or agency regulation or have its substantial interests determined in that proceeding. §120.569(1), Florida Statutes; Florida Society of Ophthalmology v. State Board of Optometry, 532 So.2d 1279, 1284 (Fla. 1st DCA 1988). FPC has not alleged any constitutional, statutory or regulatory right to intervention in this proceeding, and instead has alleged that the decision in this proceeding will affect its substantial interests.

4. Florida case law sets forth a two prong test for intervention by a third party in an administrative hearing. The petitioning party must show that it will suffer injury in fact of

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<sup>1</sup> 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. (Duke New Smyrna), 99 FPSC 3:401, 440-442 (1999).

<sup>2</sup> Duke New Smyrna, 99 FPSC 3 at 442-43.

such immediate sufficiency or sufficient immediacy to entitle the party to intervention and that the party's substantial injury is of the type and nature which the proceeding is designed to protect. AmeriSteel Corp. v. Clark, 691 So.2d 473, 477 (Fla. 1997); Friends of the Everglades, Inc. v. Board of Trustees of Internal Improvement Trust Fund, 595 So.2d 186, 188-89 (Fla. 1st DCA 1992); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478, 482 (Fla. 2d DCA 1981), rev. denied, 415 So.2d 1359 (Fla. 1982). The first part of this two part test deals with the degree of injury, while the second part of the test deals with the nature of the injury. Id.

5. The injury suffered by the petitioner must be immediate, not speculative or remote. AmeriSteel, 691 So.2d 477-78 (Claim that higher rates charged by FPL for electricity are one factor which could lead to the closure of its steel plant not injury in fact of sufficiency to entitle AmeriSteel to intervene in territorial dispute.); International Jai-Alai Players Association v. Florida Pari-Mutuel Comm., 561 So.2d 1224, 1225-26 (Fla. 3d DCA 1990) (Fact that change in playing dates might affect labor dispute, resulting in economic losses to players, was too remote to establish standing in hearing to set opening and closing dates for frontons.); Village Park Mobile Home Association, Inc. v. State, Department of Business Regulation, Division of Florida Land Sales, Condominiums and Mobile Homes, 506 So.2d 426, 430 (Fla. 1st DCA 1987) (Mobile home park owners association did not have standing to request an evidentiary hearing to contest the Department's approval

of a new park prospectus even though new prospectus significantly changed the terms of tenancy in the park, increasing the cost of park services and thereby potentially lowering the resale value of mobile homes located in the park.); Florida Society of Ophthalmology v. State Board of Optometry, 532 So.2d 1279, 1288 (Fla. 1st DCA 1988) (Assertion physicians' substantial interest were substantially affected in that patients could be adversely impacted by rule allowing optometrists to dispense prescription medicines was rejected by Court as too speculative and primarily one of economic loss from competition.)

6. In licensing or permitting proceedings, competitive economic interests alone are insufficient to satisfy the second, "zone of interest", prong of the test. Agrico, 406 So.2d at 482 ("Chapter 403 simply was not meant to redress or prevent injuries to a competitor's profit and loss statement."); Shared Services, Inc. v. State Department of Health and Rehabilitative Services, 426 So.2d 56, 58-9 (Fla. 1st DCA 1983) (The Court found that "clear statutory authority" was required in order to consider competitive economic and duplication of services issues in a licensing and certification proceeding.); City of Sunrise v. South Florida Water Management District, 615 So.2d 746, 747 (Fla. 4th DCA 1993), rev. dismissed, 626 So.2d 203 (Fla. 1993) ("While Sunrise may suffer losses and its customers incur expenses due to economic competition and under utilized capacity, this does not satisfy the 'immediacy' requirement.")

7. In this docket, FPC has alleged that its substantial

interests are affected in several ways:

a) the ability of FPC to continue to "preserve" its legal position that EWGs are not proper "applicants" under the Florida Electrical Power Plant Siting Act currently on appeal at the Florida Supreme Court in Tampa Electric Company, et al. v. Garcia, Case Nos. 95,444, 95,445 and 95,446 (FPC Petition at ¶¶ 4-7);

b) as the second largest electric utility in the state, FPC will be a principal market for the output of the proposed Project and therefore, is an "indispensable" party in this proceeding (FPC Petition at ¶¶ 8, 16);

c) construction of the Panda facility will displace high cost, inefficient oil and gas fired generation on FPC's system thereby affecting the operation and dispatch of these generating units. (FPC Petition at ¶ 9);

d) Panda Leesburg will "jeopardize" FPC's ability to add committed power resources to its own system (FPC Petition at ¶ 10);

e) Panda Leesburg will constitute uneconomic duplication of resources, i.e., redundant capacity in Florida (FPC Petition at ¶ 11);

f) Panda Leesburg will "detrimentally" affect FPC's long term planning (FPC Petition at ¶ 12);

g) Panda Leesburg facility will have an "adverse impact" on FPC's ratepayers (FPC Petition at ¶ 13); and

h) the FPSC's policy regarding the treatment of uncommitted capacity in the calculation of reserve margins could be "changed" (FPC Petition at ¶ 17).

8. FPC further draws the Commission's attention to the fact that competing suppliers, environmental groups, and industrial user groups were allowed to intervene in past need determinations. (FPC Petition at ¶ 18) Finally, FPC states that it, and other retail electric utilities, have been allowed to intervene in both the Duke New Smyrna Beach and Okeechobee Generating Company EWG need determination cases. (FPC Petition at ¶ 19).

9. None of these allegations are sufficient to establish standing to intervene in this proceeding under the two-prong standing test outlined in Florida case law as demonstrated below.

Preservation of a legal position is not a substantial interest under Chapter 120, Florida Statutes.

10. FPC argues that it should be allowed to intervene in this docket in order to "preserve" its position that EWGs do not meet the definition of "applicant" under the Siting Act currently on appeal in the Florida Supreme Court. FPC Petition at ¶¶ 4-7. This argument is completely without merit. As the Judge Zehmer stated in Florida Society of Ophthalmology v. State Board of Optometry, 532 So.2d 1279, 1284 (Fla. 1st DCA 1988):

[N]ot everyone having an interest in the outcome of a particular dispute over an agency's interpretation of the law submitted to its charge, or the agency's application of that law in determining the rights and interests of members of the government or the public, is entitled to participate as a party in an administrative proceeding to resolve that dispute.

[Emphasis added.]

11. Whether FPC is a party to this docket or not the

Commission will apply the decision of the Florida Supreme Court appropriately when issued. FPC does not have standing in every docket in which a decision may be made that may adversely affect its interests. Panda Leesburg is entitled to have its need determination tried before the Commission with only those parties whose interests are actually substantially affected participating. As the Commission is well aware, the cost of litigation escalates geometrically with every intervenor. FPC's interest in the "applicant" issue is no more or less than that of every other electric utility in the State. If the Commission allows FPC to intervene on this basis, it could not logically exclude any electric utility in the State of Florida from this docket.

12. FPC is not arguing, nor could it, that its intervention is necessary in every subsequent EWG docket until the Supreme Court rules on the TECO appeal in order to perfect its status in that appeal. The Florida Supreme Court has already heard oral argument in the TECO appeal, in which FPC participated, and is, one assumes, arriving at its decision.

13. An interest solely in the legal precedent created by any proceeding is simply not a substantial interest under Chapter 120, F.S., and fails to meet the first prong of the Agrico test.

FPC is not an "indispensable party" to this docket since its participation is not necessary to reach a complete and efficient determination of the rights, equities and liabilities at issue in this need determination docket.

14. In order for a party to be an "indispensable party" under



Florida law the party must be one whose interest in the subject matter of the action is such that if he is not joined, a complete and efficient determination of the equities, rights and liabilities of the other parties is not possible. Hallmark Builders, Inc. v. Hickory Lakes of Brandon, Inc., 458 So.2d 45, 46 (Fla. 2d DCA 1984) (Third party purchaser indispensable party to specific performance suit.); Bernstein v. Dwork, 320 So.2d 472, 474 (Fla. 3d DCA 1975) (Since Mr. Dwork, plaintiff's husband, was not a joint obligee, he was not an indispensable party to suit to recover on promissory notes.)

15. FPC has not argued that it must be a party to this suit in order for the Commission to render a complete and efficient determination of the equities, rights and liabilities of Panda Leesburg in regard to this need determination. Nor could it. FPC has not meet the requirements of Florida case law to be an indispensable party.

16. FPC instead argues that it is an indispensable party because it is a "principal market" for the energy and capacity of the Panda Leesburg Project. FPC Petition at ¶¶ 8, 16.

17. However, FPC will not have to purchase any energy or capacity from Panda Leesburg. In the cases in which the Commission has found retail electric utilities to be indispensable parties in need determinations, those involving winning bidders and cogenerators, both types of entities had, or would have, long term

firm contracts with the investor owned utility.<sup>3</sup> The mandatory purchase obligation by the investor owned utility in both of these types of need determinations was the key to the Commission's declaration of indispensability. Everyone agrees that there is no such contract between Panda Leesburg and FPC in this case.

18. FPC's argument is an economic one: FPC might have to purchase Panda Leesburg power and therefore, might be affected by the construction of the Panda Leesburg project. This argument fails because it is based purely on speculative economic impact, and does not meet the first prong of the Agrico test. Economic arguments fail for a more basic reason as well, this is not a proceeding in which FPC will be required to purchase Panda Leesburg capacity or energy nor one in which FPC will be granted or denied the right to recover the cost of whatever capacity or energy it does, in fact, purchase. In short, the economic impact on FPC of either purchasing or failing to purchase Panda Leesburg energy and capacity is not at issue in this proceeding. The second prong of the Agrico standard, is thus, not meet.

19. Under neither Florida law nor Commission precedent is FPC an indispensable party to this docket.

This need determination docket does not affect the ability of FPC to plan for, or operate, its own transmission or generation systems.

20. The purpose of need determination proceedings is to test

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<sup>3</sup> In re: Petition of Florida Power and Light Company to determine need for electrical power plant - Martin expansion project (Martin), 90 FPSC 6:268, 284 (1990).

whether the proposed power plant is "needed" and whether the proposed plant constitutes the most cost effective means of meeting that identified need. If a project is determined by the Commission to meet these criteria, the Commission grants it a determination of need which "creates a presumption of public need and necessity". §403.519, Florida Statutes. A need determination proceeding is not a planning proceeding, it is a licensing proceeding in which one element which must be proven is statewide need.

21. Each need determination docket determines the right of the applicant alone to build a power plant. That is, a positive showing that a third party's power plant could supply electricity more cost effectively than that of the applicant does not entitle that third party to a need determination order. In order to get a need determination order from the Commission, the third party has to file a separate need determination of its own. In re: Joint Petition to Determine Need for Electric Power Plant to be located in Okeechobee County by Florida Power & Light Company and Cypress Energy Partners, L.P., 92 FPSC 11:363, 365 (1992).

22. FPC is free to engage in its own planning activities for both transmission and generation. Nothing determined in this proceeding will inhibit FPC from freely doing so and modeling the Panda Leesburg project in its next Ten Year Site Plan however it sees fit. FPC is free to ignore all or any portion of Panda Leesburg's output in determining its own generating needs and reporting those needs to the Commission. FPC is also free to file its own need determination for any power plant that it deems

necessary to provide service to its ratepayers and to account for Panda Leesburg in its own need justification as it sees fit, i.e., make the argument that it posits here that the plant's capacity had to be completely ignored since it was not formally committed to FPC by contract.

23. This proceeding cannot result in FPC being required to purchase a single MW of capacity from the Panda Leesburg plant nor to make a single capital improvement of any type. Nor does an affirmative determination of need allow Panda Leesburg to interconnect with FPC's system or require FPC to transport a single kW over its transmission system.<sup>4</sup> Indeed, the Panda Midway Project is not directly interconnected with FPC's transmission system. The processes by which Panda Leesburg would acquire the rights to interconnect with, and transport power over, FPC's transmission system are controlled by the Federal Energy Regulatory Commission (FERC), not the Florida Public Service Commission.<sup>5</sup>

24. Since the Florida electric grid is by its very nature interconnected, any electric power plant located anywhere in the state can be said to affect the operation and planning of FPC's system. However, FPC has never sought to intervene in the need

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<sup>5</sup> Pursuant to FERC Order 888 FPC has adopted an Open Access Transmission Tariff which establishes the requirements for firm point-to-point transmission service, including applications, required deposits, determination of available transmission capacity, system impact studies, facilities studies, and imposition of costs (usually on the applicant) for these studies and for required facilities.

determinations of its brother investor-owned utilities, even those who were already interconnected with its transmission system. If FPC can adequately plan for FPL's and TECO's proposed units, it can adequately plan for Panda Leesburg's proposed unit without participation in this docket.

25. This proceeding is not a planning docket and cannot affect the ability of FPC to plan for, maintain or operate its own electric system. Neither is this a docket in which the right of FPC to permit and construct any additional generating capacity it decides is needed on its system is determined. On the basis of these allegations, FPC cannot meet the second part of the Agrico test: that the substantial interest asserted be the type that the proceeding is designed to protect.

Reserve margins are not the subject of a need determination proceeding and cannot constitute a substantial interest on which to base intervention.

26. FPC argues that under current Commission policy, only electric generating facilities with whom FPC has a firm capacity contract can be counted as satisfying FPC's reserve margin requirements. FPC Petition at ¶¶ 11, 12. That being the case, it is FPC's position that it will be forced to plan for and construct generating resources duplicative of the Panda Leesburg. Alternatively, FPC argues that to the extent that the Commission "counts" all or a portion of Panda Leesburg's output as satisfying

FPC's reserve margin<sup>6</sup>, FPC is entitled to intervene in order to argue against such a "policy" change. (FPC Petition at ¶¶ 12, 17)

27. Under Chapter 120, Florida Statutes, when the Commission makes a statement of general applicability, i.e., a "policy", it is required to do so by the promulgation of a rule. §§120.52(15) and 120.54, Florida Statutes. As noted by FPC, the Commission has such a "reserve margin" rule, Rule 25-6.035, Florida Administrative Code, and has just completed a docket to address reserve margins in Florida, Docket 981890-EU. However, contrary to FPC's allegation, Rule 25-6.035(2), Florida Administrative Code, does not mandate that only firm purchase power agreements can be included as a reserve margin resource. The complete rule states as follows:

(2) Treatment of Purchased Power. Only firm purchase power agreements may be included as a resource for purposes of calculating a planned or operating reserve margin. A utility may petition for waiver of this requirement based on the very high availability of specific non-firm purchases.

[Emphasis added.]

28. If the Commission, as it did in Duke New Smyrna, determines that the Panda Leesburg Project has a very high availability and "counts" all or a portion of the Panda Leesburg Project as enhancing the electric grid's overall reliability, i.e., margin of reserve, its decision will be consistent with the existing rule, not a "change".

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<sup>6</sup> To the extent that the Duke Energy case can be read as "counting" all or a portion of the Duke New Smyrna plant as available to satisfy statewide reserve margin requirements, the Commission has already made this decision.

29. Most importantly, however, is the fact that the purpose of this proceeding is not to set policy for the calculation of reserve margins by retail electric utilities. The purpose of this proceeding is to establish the "need" for Panda Leesburg's Project. This docket cannot change a single syllable of Rule 25-6.035, Florida Administrative Code. FPC is free to give its own interpretation to the meaning of Rule 25-6.035, Florida Administrative Code, and incorporate that meaning into its own planning documents as it sees fit. If FPC believes that "uncommitted" EWG capacity and energy should never be included in reserve margin calculations or "count" as enhancing statewide system reliability, the procedure available to address that is to initiate a rule amendment proceeding. Intervention in this case does not modify the rule.

30. It should also be noted that every Commission decision in every electric docket makes, modifies or affects "policies" on issues common to all electric utilities. "Incipient" policy, as so thoroughly discussed by Judge Smith in the McDonald<sup>7</sup> case, is made in virtually every Commission case. The fact that a rule may be interpreted contrary to FPC's wishes in this case does not constitute a substantial interest under Chapter 120, Florida Statutes.

31. FPC's interest in advocating a particular interpretation

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<sup>7</sup> McDonald v. Department of Banking and Finance, 346 So.2d 569 (Fla. 1st DCA 1977), appeal after remand on other grounds, 361 So.2d 199 (Fla. 1st DCA 1978), cert. den., 368 So.2d 1370 (Fla. 1979).

of Rule 25-6.035(2), Florida Administrative Code, cannot meet either prong of the Agrico test. FPC's request to intervene on this basis must be denied.

Potential adverse economic impact on FPC's ratepayers does not constitute substantial interest in a need determination case.

32. FPC alleges that it has a substantial interest in this proceeding because the purchase of power from Panda Leesburg for the life of the Panda Leesburg Project is a more expensive alternative than FPC's construction of a similar plant and the recovery of its cost through rate base regulation. FPC's Petition at ¶ 13. Even if Panda Leesburg were to accept this statement as true, the potential revenue and ratepayer impacts of the Project are pure economic interests far removed from the scope of this proceeding. Revenue and rate concerns are addressed in rate cases and the fuel adjustment clause docket, not in need determinations.

33. Not only is any revenue or rate impact so highly speculative as to fail the first prong of the Agrico test, it is totally unrelated to the purpose of a need proceeding, failing the second prong of the Agrico test as well. Adverse ratepayer impact cannot meet the requirements for intervention.

The allowance of intervention by FPC in the Duke New Smyrna and Okeechobee cases is not controlling in this docket.

34. FPC states that it has been allowed to intervene in the Duke New Smyrna and Okeechobee need determination cases. FPC Petition at ¶ 19. It is Panda Leesburg's position that the



Commission erred in allowing FPC to intervene in those dockets for the reasons presented above. When statutes and case law have been incorrectly interpreted, the Commission is free to reconsider and follow the proper course of action in subsequent proceedings. Such is the case here. The orders granting FPC intervention in those cases are not controlling precedent here.

35. FPC also cites the fact that competing suppliers, environmental groups and an industrial cogenerator association have been granted intervention in past dockets as precedent for its intervention here. Ark Energy Inc./CSW Development-I, Inc., LS Power LLC, Nassau Power Corporation and Panda Energy Corporation, are all independent power producers who offered specific projects as a competitive alternative to that being evaluated in the need determination proceeding in which they were allowed to intervene. Likewise, FPL, through Cypress Energy, was offering a competing power plant in Ark Energy's need determination case. The Florida Industrial Cogeneration Association (FICA) also offered the capacity of some of its members as a competitive alternative to that of the applicant. FPC has tendered no such specific competing project here.

36. With regard to the Floridians for Responsible Utility Growth, the predecessor to the Legal Environmental Assistance Foundation, Inc. (LEAF), it is Panda's position that renewable energy resources are not at issue in this proceeding. That is, that this need determination, unlike the conservation goals docket, does not allocate, subsidize or set renewable energy goals or


utilization. The availability of renewable energy is merely part of the data used as input into the computer models utilized to establish the need for the Panda Leesburg Project. Since that is the case, LEAF's interests do not meet the second prong of the Agrico test and cannot constitute a substantial interest.

Conclusion

37. For the reasons discussed above, FPC has not alleged any facts which meet the two pronged Agrico test for substantial interest and should be denied intervenor status in this proceeding.

WHEREFORE, Panda Leesburg Power Partners, L.P., request that the Commission deny Florida Power Corporation's Petition for Leave to Intervene in this proceeding.

Respectfully submitted this 5th day of April, 2000 by:

  
Suzanne Brownless, Esq.  
Fla. Bar No. 309591  
Suzanne Summerlin, Esq.  
Fla. Bar No. 398586

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ATTORNEYS FOR PANDA LEESBURG  
POWER PARTNERS, L.P.

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D. C. 20426

OFFICE OF THE GENERAL COUNSEL

March 7, 2000

Mr. William M. Lamb  
Assistant General Counsel  
Panda Energy International, Inc.  
4100 Spring Valley Road, Ste. 1001  
Dallas, Texas 75244

Re: Docket No. EG00-88-000

Dear Mr. Lamb:

On January 28, 2000, you filed an application for determination of exempt wholesale generator status on behalf of Panda Midway Power Partners, L.P., pursuant to section 32 of the Public Utility Holding Company Act of 1935 (PUHCA). Notice of the application was published in the Federal Register, 65 Fed. Reg. 6,597 (2000), with interventions or comments due on or before February 24, 2000. None was filed.

Authority to act on this matter is delegated to the General Counsel. 18 C.F.R. 375.309(g). The General Counsel has further delegated that authority to the Assistant General Counsel for Electric Rates and Corporate Regulation. Based on the information set forth in the application, I find that Panda Midway Power Partners, L.P. is an exempt wholesale generator as defined in section 32 of PUHCA.

A copy of this letter will be sent to the Securities and Exchange Commission.

Sincerely,



Michael A. Bardee  
Acting Assistant General Counsel  
Electric Rates and Corporate Regulation

ATTACHMENT A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for determination )  
of need for electric power plant )  
in St. Lucie County by Panda )  
Midway Power Partners, L.P. )  
\_\_\_\_\_ )

DOCKET NO. 000289-EU

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Panda Midway Power Partners, L.P.'s Objection to Florida Power Corporation's Petition For Leave to Intervene has been provided by U.S. Mail or (\*) Hand Delivery to the following on April 5, 2000:

Gary L. Sasso, Esq.  
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\_\_\_\_\_  
Suzanne Brownless, Esq.

c: 3100