

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for Determination of Need for Electric Power Plant in Lake County by Panda Leesburg Power Partners, L.P.

Docket No. 000288-EU

Filed: May 8, 2000

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: May 8, 2000

FLORIDA POWER CORPORATION'S NOTICE OF INTENT TO DEFER FILING INTERVENOR TESTIMONY IN LIGHT OF THE IMMINENT ABATEMENT OF THESE PROCEEDINGS

Florida Power Corporation ("FPC") hereby gives notice of its intent to defer filing intervenor testimony presently scheduled in these dockets to be filed on May 8, 2000. On May 5, 2000 the Florida Public Service Commission Staff ("Staff") issued a recommendation to be considered by the Commission at its May 16, 2000 Agenda Conference that these proceedings be held in abeyance until a final decision has been issued by the Florida Supreme Court in the Duke¹ case. FPC also understands from Staff that Prehearing Officer Deason will issue an Order on May 8, 2000 (or soon thereafter), suspending all intermediate filing deadlines contained in these dockets up through the May 16th Agenda Conference, when Staff's recommendation can be heard. In light of Duke, Staff's recommendation, the anticipated Order suspending intermediate

deadlines, and the deferral of consideration of FPC's intervenor status, FPC believes that it would be imprudent and wasteful to file testimony at this time.

On April 26, 2000 FPC filed its Notice of Supplemental Authority, Suggestion of Lack of Jurisdiction, Supplement to Motion to Dismiss, and Motion for Immediate Stay Pending

Tampa Electric Co. v. Joe Garcia, et al., Supreme Court Case Number SC95444-9546 (April 20, 2000) ("Duke").

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

Handwritten initials and numbers: O'Don, 5, I, each, Jkt

RECEIVED & FILED
EPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

05730 MAY-88

FPSC-RECORDS/REPORTING

Dismissal in these dockets seeking immediate relief from the May 8, 2000 deadline for filing intervenor testimony and seeking dismissal of the respective Petitions for Determination of Need For An Electrical Power Plant filed by Panda Leesburg Power Partners, L.P. (Docket No. 000288-EU) and Panda Midway Power Partners, L.P. (Docket No. 000289-EU) based on the Commission's lack of statutory authority to grant these petitions as determined in Duke.

At that time, the Commission was scheduled to address the question of FPC's intervention in these dockets at the May 5, 2000 Special Agenda Conference – prior to the presently scheduled May 8th deadline for filing intervenor testimony. On April 26, 2000, however, Commission Staff asked to withdraw the question of FPC's (and FP&L's) intervention in these dockets from the May 5th Special Agenda items, stating in pertinent part:

Both dockets are applications for need determinations for merchant plants. On April 20, 2000, the Florida Supreme Court determined that merchant plants were not proper applicants for need determinations under the Siting Act. In light of this decision, Staff will prepare a recommendation addressing these dockets and the other merchant plant dockets for a later Agenda. Staff would therefore like to withdraw the items on Dockets 000288-EU and 000289-EU from the Special Agenda.

Staff's withdrawal request was authorized by Chairman Garcia on April 28, 2000.

On May 5, 2000 the PSC Staff issued the above referenced recommendation suggesting that in view of Duke the Commission should hold all pending merchant plant need determination requests, including these proceedings, in abeyance. This recommendation is scheduled for consideration by the Commission at its May 16, 2000 Agenda Conference. Likewise, on May 5th Staff advised counsel for FPC that Prehearing Officer Deason would be issuing an Order on May 8, 2000 (or soon thereafter), suspending all intermediate filing deadlines in these proceedings up through the Commission's consideration of Staff's recommendation on May 16th. Thus, without waiving its right to participate in these proceedings to the extent necessary to protect its interests

and continue to seek summary dismissal of these dockets, FPC believes that filing intervenor testimony on May 8th in accordance with the present schedule would be imprudent and wasteful.

WHEREFORE, FPC hereby gives notice of its intent to defer filing intervenor testimony given the eminent abatement of these proceedings and the anticipated Order of Prehearing Officer Deason suspending this filing requirement.

Respectfully Submitted,



JAMES A. MCGEE
Senior Counsel
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33711
Telephone: (727) 820-5184
Facsimile: (727) 820-5519

GARY L. SASSO
Florida Bar No. 622575
JILL H. BOWMAN
Florida Bar No. 057304
CARLTON, FIELDS, WARD, EMMANUEL,
SMITH & CUTLER
Post Office Box 2861
St. Petersburg, FL 33731-2861
Telephone: (727) 821-7000
Facsimile: (727) 822-3768

- and -

ROBERT PASS
Florida Bar No. 183169
CARLTON, FIELDS, WARD, EMMANUEL,
SMITH & CUTLER
Post Office Drawer 190
Tallahassee, FL 32302-0190
Telephone: (850) 224-1585
Facsimile: (850) 222-0398

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing FLORIDA POWER CORPORATION'S NOTICE OF INTENT TO DEFER FILING INTERVENOR TESTIMONY IN LIGHT OF THE IMMINENT ABATEMENT OF THESE PROCEEDINGS has been furnished by facsimile and U.S. Mail to all counsel of record as indicated by ** and by U.S. Mail to all other parties of record this 8 day of May, 2000.



PARTIES OF RECORD:

Suzanne Brownless, Esq. **
Suzanne F. Summerlin, Esq.
1311-B Paul Russell Road, #201
Tallahassee, FL 32301-4860
Phone: (850) 877-5200
Fax: (850) 878-0090
Attorneys representing
Panda Leesburg Power Partners, L.P.

Charles A. Guyton, Esq. **
Matthew M. Childs, Esq.
Steel Hector
215 S. Monroe St., # 601
Tallahassee, FL 32301
Phone: (850) 222-2300
Fax: (850) 222-8410
Attorneys representing
Florida Power & Light Company

Steven W. Crain, P.E.
Panda Leesburg Power Partners, L.P.
4100 Spring Valley, Ste. 1001
Dallas, TX 75244
Phone:
Fax:

Bill Feaster / Bill Walker
Florida Power & Light Company
215 S. Monroe Street, Ste. 810
Tallahassee, FL 32301-1888
Phone: (850) 224-7595
Fax: (850) 224-7197

Paul Darst
Department of Community Affairs
Strategic Planning
2740 Centerview Drive
Tallahassee, FL 32399-2100
Phone: (850) 488-8466
Fax: (850) 921-0781

Scott Goorland
Department of Environmental Regulation
2600 Blairstone Road
Tallahassee, FL 32399-2400
Phone: (850) 487-0472
Fax: (850) 921-3000

Jon Moyle, Jr.
Moyle Law Firm (Tall)
118 North Gadsden Street
Tallahassee, FL 32301
Phone: (850) 681-3828
Fax: (850) 681-8788

Myron Rollins
Black & Veatch
P.O. Box 8405
Kansas City, MO 64114
Phone: (913) 458-7432
Fax: (913) 339-2934

Michael Busha
Regional Planning Council #10
301 E. Ocean Blvd., Ste. 300
Stuart, FL 34994
Phone: (561) 221-4060
Fax: (561) 221-4067

Sandra Glenn
Regional Planning Council #06
631 N. Wymore Road, Ste. 100
Maitland, FL 32751
Phone: (407) 623-1075
Fax: (407) 623-1084