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RECORDS AND REPORTING

MEMORANDUM

August 14, 2000

TO: DIVISION OF RECORDS AND REPORTING *RUE RNI*

FROM: DIVISION OF LEGAL SERVICES (ELIAS, ISAAC)

RE: DOCKET NO. 000442 - PETITION FOR DETERMINATION OF NEED FOR THE OSPREY ENERGY CENTER BY CALPINE CONSTRUCTION FINANCE COMPANY, L.P.

Please file the attached letter, received on August 11, 2000, in the above-referenced docket.

RNI
 Attachment
 cc: Division of Safety and Electric Reliability (Harlow)
 I: 000442.mem

APP _____
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FPSC-RECORDS/REPORTING



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August 11, 2000

**Mr. Joseph D. Jenkins, Director
FPSC Division of Reliability and Safety
225 Gunter Building
2540 Shumard Oak Boulevard
Tallahassee FL 32399**

BY HAND DELIVERY

**Re: FPSC Docket No. 000442 - EI / Osprey Energy Center
Need Determination**

Dear Joe:

I am disturbed by your staff's recommendation in the above-referenced docket concerning the need determination filing for the Osprey Energy Center. I am well aware of the Supreme Court ruling in the case of Tampa Electric v. Garcia, dealing with the Duke - New Smyrna Beach need application, and I am disappointed with the Court's ruling. Nevertheless, I appreciate the fact that the Commission must deal with this Supreme Court ruling when reviewing a petition for determination of need dealing with a merchant power plant such as the proposed Osprey Energy Center to be built by Calpine.

However, I believe there are alternatives available to the Commission other than holding the need determination docket in abeyance. Florida Municipal Power Agency ("FMPA") has had several discussions with Calpine relating to purchasing power from the proposed facility. As you are aware, there is a scarcity of new power supply resources in the State of Florida, and FMPA is heavily dependent on a robust wholesale power supply market in order to serve its customers' power supply needs. We believe that the Commission should do everything it can to encourage a robust wholesale power supply market. I fear that the staff's recommendation in this docket may be a step backwards.

I would propose the Commission staff consider recommending that the need determination proceed forward for the Osprey Energy Center and, after the need hearing, if the Commission finds that all other need determination factors have been met by Calpine, the Commission could simply condition the issuance of the need certificate on Calpine finalizing sufficient wholesale power supply contracts for the output of the proposed Osprey Energy Center. One of the factors FMPA evaluates in a wholesale power supply proposal is the PSC need determination status; thus, the greater the uncertainty, the less attractive the proposal.

**Mr. Joseph D. Jenkins, Director
FPSC Division of Reliability
and Safety
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I apologize for sticking my nose into this controversy, but I believe that there are procedural alternatives the Commission can utilize and still meet the holding of the Tampa Electric v. Garcia Supreme Court case.

Sincerely,



Frederick M. Bryant

FMB / eL

**cc: Robert V. Elias, Esquire
Chief, Bureau of Electric and Gas
FPSC Division of Legal Services**

**Robert Scheffel Wright, Esquire
LANDERS & PARSONS, P.A.**

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