

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for  
Determination of Need for Hines  
Unit 2 Power Plant by Florida  
Power Corporation.

DOCKET NO. 001064-EI

FILED: OCTOBER 10, 2000

STAFF'S RESPONSE TO FPC'S MOTION TO STRIKE  
STAFF'S PRELIMINARY ISSUE NUMBER 6 AND  
THE DIRECT TESTIMONY OF BILLY R. DICKENS

Staff of the Florida Public Service Commission ("Staff"), by and through its undersigned counsel, files this Response to Florida Power Corporation's ("FPC") Motion to Strike Staff's Preliminary Issue Number 6 and the Direct Testimony of Billy R. Dickens, and states:

FPC's Motion asserts that the Commission is without jurisdiction or statutory authority to consider Issue 6, and that Issue 6 is outside the parameters of a need determination proceeding pursuant to Section 403.519, Florida Statutes.

At the outset, Staff notes that in its Motion, FPC fails to even state the language of Issue 6 that it seeks to strike. For purposes of further consideration of the Motion and this Response, we will provide the statement of the issue:

**Issue 6: Is it reasonable to obligate Florida Power Corporation's retail customers for the costs of the Hines 2 Unit for the expected life of the Unit?**

Section 403.519, Florida Statutes, sets forth the examination to be made by the Commission in a need determination proceeding.

The statute provides:

- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CHP \_\_\_\_\_
- COM 3 \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- LEG \_\_\_\_\_
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- REG \_\_\_\_\_
- SEC I \_\_\_\_\_
- SER \_\_\_\_\_
- OTH \_\_\_\_\_

In making its determination, the commission shall take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost,...whether the proposed plant is the most cost-effective alternative available...[and] the conservation measures taken by or reasonably available to the applicant....

Importantly, the statute goes on to state the Commission shall consider any "...other matters within its jurisdiction which it deems relevant."

Clearly, consideration of the impact to the ratepayers of the costs of a new power plant is squarely within the ambit of issues of "adequate electricity at reasonable cost," "most cost-effective alternative," and "other matters within its jurisdiction it deems relevant," specifically the obligation to set rates which are just, fair and reasonable. FPC characterizes the issue as one of policy, when in fact the issue goes to the heart of the need determination process. A conclusion of prudence and the recovery of associated costs is implicit in the process of determining whether a given proposal is cost-effective and reasonable.

While Staff does not agree that proposed Issue 6 is a "policy" issue, the consideration of issues of "policy" is not outside the parameters of a need determination proceeding. In fact, in its last request for a determination of need (Docket No. 910759-EI,

hereafter "Hines 1"), FPC addressed the consideration within that proceeding of issues relating to the effects of alternatives to construction on FPC's credit rating (see issues 16-18 of Hines 1 Order, Order No. 25805, February 25, 1992).

Staff does not propose a wholesale denial of cost recovery to FPC for the costs of building Hines 2. Staff merely attempts to bring to the Commission's attention the changing regulatory framework and considerations Staff feels appropriate in the context of this need determination proceeding. The Commission's finding of need puts the imprimatur of "prudence" on all costs incurred by FPC in planning and constructing Hines 2 (absent a showing of changed circumstances). FPC then gains the right to recover those prudent costs. Mr. Dickens' testimony suggests one possible alternative would be the periodic review of the continuing cost effectiveness. He goes on to state that the Commission is the proper authority to determine the actual preferred method of addressing these issues.

FPC asserts that hindsight review of decisions is improper, and that the review proposed by Staff testimony is therefore unfair. However, the objection to hindsight review is precisely why anticipated economic conditions should be considered at this initial point in the planning of the facility. The Commission's jurisdiction and obligation include determining just, fair and reasonable rates. Sections 366.03 and 366.04, Florida Statutes.

Staff further notes that it has been nearly nine (9) years since FPC's last need determination (the "Hines 1" proceeding). In the ensuing decade, there have been a number of statutory and regulatory events that foreshadow coming change in the industry. These events include but are not limited to the Energy Policy Act of 1992 and the Federal Energy Regulatory Commission Orders 888, 889, and Order 2000. It is appropriate to consider the impact that these actions, designed to foster a competitive wholesale market, should have on a utility's resource choices.

For the foregoing reasons, Staff requests that FPC's Motion to Strike Issue 6 be denied.

Respectfully submitted this 10th day of October, 2000.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Staff's Response to FPC's Motion to Strike has been furnished fax on October 10, 2000 and by hand delivery on October 11, 2000, to:

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