

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition for)
Determination of Need for the) DOCKET NO. 001748-EC
Osprey Energy Center in)
Polk County by Seminole) FILED: JANUARY 16, 2001
Electric Cooperative, Inc.,)
and Calpine Construction)
Finance Company, L.P.)
_____)

JOINT PREHEARING STATEMENT OF ISSUES AND POSITIONS
OF SEMINOLE ELECTRIC COOPERATIVE, INC. AND
CALPINE CONSTRUCTION FINANCE COMPANY, L.P.

Joint Petitioners Seminole Electric Cooperative, Inc.
("Seminole"), and Calpine Construction Finance Company, L.P.
("Calpine"), collectively referred to herein as "Joint
Petitioners" or as "SEMINOLE/CALPINE," pursuant to Commission
Order No. 00-2413-PCO-EC, the Order Establishing Procedure for
this docket, hereby file this their Prehearing Statement of
Issues and Positions.

A. WITNESSES

1. Timothy S. Woodbury
2. Garl Zimmerman
3. William Lawton
4. Robert Woodall
5. Timothy R. Eves
6. Ted S. Baldwin

7. Kenneth J. Slater
8. Michel P. Armand, P.E.
9. Michael Petit
10. Richard A. Zwolak, AICP

B. EXHIBITS

- | | |
|-----------------------|---|
| Composite Exhibit 1: | Volume I of the Amended Exhibits to the Amended Joint Petition for Determination of Need |
| Composite Exhibit 2: | Volume II of the Amended Exhibits to the Amended Joint Petition for Determination of Need |
| Composite Exhibit 3: | Exhibits TSW-1 and TSW-2 to the Revised Direct Testimony of Timothy S. Woodbury |
| Composite Exhibit 4: | Exhibits GSZ-1 through GSZ-5 to the Direct Testimony of Garl S. Zimmerman |
| Composite Exhibit 5: | Exhibits WTL-1 through WTL-4 to the Direct Testimony of William T. Lawton |
| Composite Exhibit 6: | Exhibits RLW-1 through RLW-3 to the Direct Testimony of Robert L. Woodall |
| Composite Exhibit 7: | Exhibits TRE-1 through TRE-5 to the Amended Direct Testimony of Timothy R. Eves |
| Composite Exhibit 8: | Exhibits KJS-1 through KJS-22 to the Amended Direct Testimony of Kenneth J. Slater |
| Composite Exhibit 9: | Exhibits TSB-1 through TSB-12 to the Direct Testimony of Ted S. Baldwin |
| Composite Exhibit 10: | Exhibits MPA-1 through MPA-5 to the Direct Testimony of Michel P. Armand, P.E. |

Composite Exhibit 11: Exhibits MDP-1 through MDP-4 to the Direct Testimony of Michael D. Petit

Composite Exhibit 12: Exhibit RAZ-1 to the Direct Testimony of Richard A. Zwolak, AICP

Other exhibits as such may be identified in discovery.

C. STATEMENT OF BASIC POSITION

The Commission should grant Seminole's and Calpine's Amended Joint Petition for Determination of Need for the Osprey Energy Center (the "Osprey Project" or the "Project") because the Amended Joint Petition and the Project satisfy all criteria under Section 403.519, Florida Statutes. The Osprey Project is a highly efficient, state-of-the-art, natural gas fired electrical power plant the output of which is committed by Calpine to Seminole pursuant to a definitive, executed Power Purchase Agreement ("the PPA"). The Project is needed to enable Seminole to meet its need for system reliability and integrity and for adequate electricity at a reasonable cost. The Project, as committed to Seminole pursuant to the PPA, was selected by Seminole pursuant to an appropriate Request for Proposals ("RFP") in which Seminole evaluated various alternatives, including a self-build option; the Osprey Project, through the PPA, was determined to be the most cost-effective alternative available to meet Seminole's needs. In the RFP process, Seminole also solicited proposals for cost-effective demand-side management measures to meet its reliability needs, but received no such proposals. Additionally, through its high efficiency, the Project is expected to provide significant primary fuel savings benefits and environmental emissions reductions associated with those fuel savings. Accordingly, the Commission should grant Seminole's and Calpine's Amended Joint Petition for Determination of Need.

D, E, and F. ISSUES OF FACT, LAW, AND POLICY

Issue 1: Are Seminole Electric Cooperative, Inc. and Calpine Construction Finance Company, L.P., "applicants" within the meaning of Section 403.519, Florida Statutes?

SEMINOLE/CALPINE POSITION

Yes. Seminole Electric Cooperative, Inc. ("Seminole"), as an electric cooperative organized pursuant to Chapter 425,

Florida Statutes, and as an entity with load-serving responsibility for distribution Member cooperatives that provide service to their member/owners at retail in Florida, is an "electric cooperative" within the meaning of Section 403.504(13), Florida Statutes, and therefore is a proper applicant for a determination of need. Calpine Construction Finance Company, L.P., as the entity that will own and operate the Osprey Energy Center, the output of which is committed to Seminole pursuant to the PPA, is an appropriate joint applicant pursuant to the Commission's decisions and the Florida Supreme Court's opinion in Nassau Power Corp. v. Deason, 641 So. 2d 396 (Fla. 1994). (Woodbury, Eves)

Issue 2: Is the output of the proposed Osprey Energy Center fully committed for use by Florida retail electric customers in compliance with the Florida Supreme Court's decision in Tampa Electric Co. et al. v. Garcia, 767 So. 2d 428 (Fla. 2000)?

SEMINOLE/CALPINE POSITION

Yes. First, 350 MW of the Project's capacity is committed on a firm purchase-and-sale basis to Seminole pursuant to the PPA from June 1, 2004 through May 22, 2020. Second, the remaining amount of the Project's full output, i.e., the full output of the Project prior to June 1, 2004 and the remaining output of the Project over and above the 350 MW after June 1, 2004, is committed to Seminole and its Members at specified capacity and energy prices pursuant to the PPA on a "reserved firm capacity" purchase option basis from the Project's commercial in-service date through May 22, 2020, subject only to the possibility of a firm sale of the optional capacity and energy to another entity prior to the exercise by Seminole of its purchase option. (Woodbury, Zimmerman, Eves)

Issue 3: Is the Osprey Energy Center needed, taking into account Seminole Electric Cooperative's need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

SEMINOLE/CALPINE POSITION

Yes. The Osprey Energy Center is needed, taking into account Seminole's need for electric system reliability and integrity, because Seminole needs additional power supply resources beginning in the 2004 time frame, without which

Seminole's primary reliability criterion would be violated. The Osprey Project through the PPA also provides valuable flexibility for meeting the future power supply needs of Seminole, Seminole's Member systems, and those system's retail member-consumers in the event that Seminole's and its Members' needs prove to be greater than currently forecasted. (Woodbury, Zimmerman.)

Issue 4: Is the Osprey Energy Center needed, taking into account Seminole's need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

Issue 5: Is the proposed Osprey Energy Center the most cost-effective alternative available to meet the needs of Seminole Electric Cooperative, Inc., as this criterion is used in Section 403.519, Florida Statutes?

SEMINOLE/CALPINE CONSOLIDATED POSITION ON ISSUES 4 AND 5

Yes. The Osprey Energy Center is needed, taking into account Seminole's need for electric adequate electricity at a reasonable cost. Using an appropriate process based upon an RFP, Seminole evaluated various power purchase alternatives and a self-build option developed by the international engineering firm Black & Veatch. Seminole's evaluations demonstrate that the Osprey Energy Center, committed to Seminole pursuant to the PPA, represents the most cost-effective alternative available to Seminole to meet its needs and those of its Member systems for additional power supply resources. (Zimmerman)

Issue 6: Are there any conservation measures taken by or reasonably available to Calpine Construction Finance Company, Seminole Electric Cooperative, or Seminole's members that might mitigate the need for the proposed power plant, as this criterion is used in Section 403.519, Florida Statutes?

SEMINOLE/CALPINE POSITION

No. There are no conservation measures taken by or reasonably available to Seminole, its Member cooperative utility systems, or Calpine Construction Finance Company that might mitigate the need for the Osprey Energy Center. Seminole's rate structure is properly designed to provide incentives to lower on-peak demand. Further, Seminole requested cost-effective demand-side proposals in its RFP, but received none. Moreover, based

upon reasonable assumptions, projections of the Osprey Project's operations indicate that the Project can be expected to increase the overall efficiency of electricity production and natural gas use in Florida, thereby furthering the express purposes of the Florida Energy Efficiency and Conservation Act, Sections 366.80-.82 and 403.519, Florida Statutes. (Zimmerman, Lawton, Slater)

Issue 7: Has Calpine Construction Finance Company, L.P. provided adequate assurances regarding fuel supply and delivery for the proposed Osprey Energy Center?

SEMINOLE/CALPINE POSITION

Yes. (Eves, Petit)

Issue 8: Are there likely to be any adverse consequences on Seminole Electric Cooperative and those it serves if the Osprey Energy Center is not constructed and brought into commercial operation as scheduled and on budget?

SEMINOLE/CALPINE POSITION

Yes. If the Osprey Project is not constructed and brought into commercial operation as proposed by Seminole and Calpine, there will be lost reliability and cost reduction benefits to Seminole and potentially to other Peninsular Florida load-serving and retail-serving utilities that might purchase the Project's output. These lost cost reduction benefits would translate into higher rates for the member-consumers of Seminole's Member cooperatives and for the customers of other Peninsular Florida load-serving utilities that might elect to purchase the Project's output, and are estimated to be on the order of \$100 million to \$200 million per year. Additional adverse consequences of delay include lost improvements in the overall efficiency of electricity generation in Florida and lost environmental emissions reductions associated with and resulting from the efficiency gains expected from the Project's operations. (Zimmerman, Slater)

Issue 9: Based on the resolution of the foregoing issues, should the Commission grant Seminole Electric Cooperative, Inc.'s and Calpine Construction Finance Company, L.P.'s joint petition for determination of need for the Osprey Center?

SEMINOLE/CALPINE POSITION

Yes. Because the Osprey Energy Center is needed, in accordance with Section 403.519, Florida Statutes, for system reliability and integrity and for adequate electricity at a reasonable cost, and because the Osprey Energy Center, pursuant to the Power Purchase Agreement between Seminole and Calpine, is the most cost-effective alternative available to meet Seminole's need for additional power supply resources, and because there are no conservation measures available to mitigate the need for the Osprey Energy Center, the Commission should grant Seminole's and Calpine's Amended Joint Petition for Determination of Need for the Osprey Energy Center. (All witnesses)

G. STIPULATED ISSUES

None at this time.

H. PENDING MOTIONS

At this time, the Joint Petitioners are aware of two pending motions for confidential protective orders, Seminole's Request for Confidential Classification and Motion for Permanent Protective Order with respect to the Seminole-Calpine PPA, filed on January 10, 2001, and Seminole's Request for Confidential Classification and Motion for Permanent Protective Order with respect to certain tabular exhibits to the Amended Joint Petition, also filed on January 10, 2001. As indicated, these two motions also include requests for confidential treatment.

I. PENDING REQUESTS FOR CONFIDENTIAL TREATMENT

At this time, the Joint Petitioners are aware of the two pending requests for confidential treatment identified above.

J. REQUIREMENTS OF THE PROCEDURAL ORDER

Joint Petitioners Seminole and Calpine are not aware of any requirements of the Order Establishing Procedure with which they cannot comply.

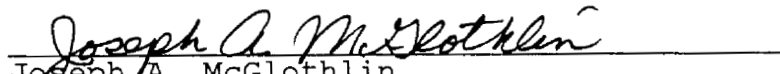
Respectfully submitted this 16th day of January, 2001.



Robert Scheffel Wright
Florida Bar No. 966721
John T. LaVia, III
Florida Bar No. 853666
Diane K. Kiesling
Florida Bar No. 233285
Landers & Parsons, P.A.
310 West College Avenue (ZIP 32301)
Post Office Box 271
Tallahassee, Florida 32302
Telephone (850)681-0311
Telecopier (850)224-5595

Attorneys for Calpine Construction
Finance Company, L.P.

and



Joseph A. McGlothlin
Florida Bar No. 163771
McWhirter Reeves McGlothlin
117 South Gadsden Street
Tallahassee, Florida 32301
Telephone (850) 222-2525
Telecopier (850) 222-5606

Attorneys for Seminole Electric
Cooperative, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery (*), or U.S. Mail, on this 16th day of January, 2001, to the following:

Robert V. Elias, Esq.*
Rachel N. Isaac, Esq.
Division of Legal Services
Florida Public Service Comm.
2540 Shumard Oak Boulevard
Gunter Building
Tallahassee, FL 32399-0850

Debra Swim, Esq.
LEAF
1114 Thomasville Road
Suite E
Tallahassee, FL 32303

Scott A. Goorland, Esq.
Dept. of Environmental
Protection
3900 Commonwealth Blvd, MS 35
Tallahassee, FL 32399-2400

Mr. Paul Darst
Dept. of Community Affairs
Division of Local
Resource Planning
2740 Centerview Drive
Tallahassee, FL 32399-2100


Attorney