

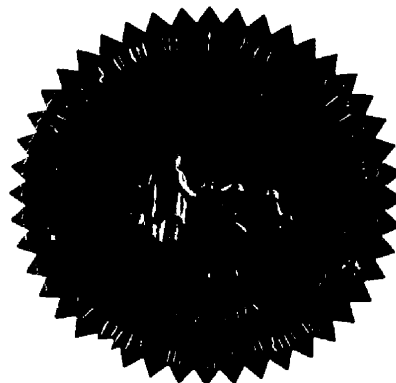
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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

1  
DOCKET NO. 010142-EM

In the Matter of:

JOINT PETITION FOR DETERMINATION  
OF NEED FOR PROPOSED STANTON  
ENERGY CENTER COMBINED CYCLE  
UNIT A BY ORLANDO UTILITIES  
COMMISSION, KISSIMMEE UTILITY  
AUTHORITY, FLORIDA MUNICIPAL  
POWER AGENCY, AND SOUTHERN  
COMPANY-FLORIDA, LLC.



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PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER BRAULIO L. BAEZ  
Prehearing Officer

DATE: Tuesday, April 10, 2001

TIME: Commenced at 9:30 a.m.  
Concluded at 9:45 a.m.

PLACE: Betty Easley Conference Center  
Room 152  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY JANE FAUROT, RPR  
FPSC Division of Records & Reporting  
Chief, Bureau of Reporting

DOCUMENT NUMBER-DATE

04568 APR 13 2001

FPSC-RECORDS/REPORTING

1 **APPEARANCES:**

2 ROY YOUNG, Young, van Assenderp  
3 **and Varnadoe, P. A., appearing on behalf of Orlando Utilities**  
4 **Commission and Kissimmee Utility Authority.**

5 THOMAS B. TART, 500 South Orange Avenue,  
6 Orlando, Florida 32802, appearing on behalf of  
7 Orlando Utilities Commission.

8 D. BRUCE MAY, and SUSAN COMENSKY, Holland  
9 & Knight, 315 South Calhoun Street, Suite 600,  
10 Tallahassee, Florida 32302, appearing on behalf of  
11 Southern Company-Florida LLC.

12 WILLIAM COCHRAN KEATING, Florida Public  
13 Service Commission, Division of Legal Services,  
14 2540 Shumard Oak Boulevard, Tallahassee, Florida  
15 32399-0870, appearing on behalf of the Commission  
16 Staff.

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**PROCEEDINGS**

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2 COMMISSIONER BAEZ: Call the prehearing to  
3 order.

4 Counsel, read the notice.

5 MR. KEATING: Pursuant to notice issued February  
6 21st, 2001, this time and place have been set for a  
7 prehearing conference in Docket Number 010142-EM, joint  
8 petition for determination of need for proposed Stanton  
9 Energy Center Combined Cycle Unit A by Orlando Utilities  
10 Commission, Kissimmee Utility Authority, Florida Municipal  
11 Power Agency, and Southern Company of Florida LLC.

12 COMMISSIONER BAEZ: Appearances.

13 MR. MAY: Commissioner, I'm Bruce May with the  
14 law firm of Holland and Knight, P.O. Drawer 810,  
15 Tallahassee, Florida 32302, appearing on behalf of  
16 Southern Company-Florida LLC. With me today is Susan  
17 Comensky, a representative of Southern Company.

18 MR. YOUNG: Yes, sir. My name is Roy Young, I'm  
19 with the law firm of Young, van Assenderp, Varnadoe and  
20 Anderson. I'm here in Tallahassee. I'm appearing today  
21 on behalf of Orlando Utilities Commission, the Kissimmee  
22 Utility Authority, and Florida Municipal Power Agency.  
23 And with me today is Tom Tart, who is general counsel for  
24 Orlando Utilities.

25 MR. KEATING: And Cochran Keating appearing on

1 behalf of Commission staff.

2 COMMISSIONER BAEZ: Okay. I'm going to move to  
3 the prehearing order. Do you all have a copy?

4 MR. YOUNG: Yes, sir.

5 COMMISSIONER BAEZ: We are taking corrections.  
6 Sections I through -- I think the first one I have is --  
7 say I through V, any corrections?

8 MR. MAY: Commissioner Baez, we just have one  
9 small technical correction. On Page 2, the second  
10 paragraph under Section II, there should not be a comma  
11 after Southern Company-Florida. Remove the comma, LLC.

12 COMMISSIONER BAEZ: Okay.

13 MR. KEATING: Commissioner, I would just point  
14 out in Section VI, the last sentence on Page 4, it is  
15 something that is -- that I added to this draft that is  
16 additional to what is in our usual form.

17 COMMISSIONER BAEZ: Right.

18 MR. KEATING: Simply indicating that in the  
19 possibility of a bench decision that no post-hearing  
20 filings would be required.

21 COMMISSIONER BAEZ: And it is everyone's  
22 understanding that we are going to work towards a bench  
23 recommendation, a bench decision. Is that acceptable to  
24 the parties?

25 MR. YOUNG: Yes, sir.

1 COMMISSIONER BAEZ: All right.

2 MR. MAY: Commissioner Baez, I guess I would ask  
3 Cochran, do you intend to put any other notice of the  
4 possibility of a bench decision?

5 MR. KEATING: Yes, that is something that I did  
6 want to bring up in the prehearing to go ahead and ask the  
7 prehearing officer, I guess, for authority to go ahead and  
8 include some language in the prehearing order that would  
9 indicate that the possibility of a bench decision exists,  
10 so that the other Commissioners are aware, as well as the  
11 parties, and anyone else who is interested in the case, in  
12 following it.

13 COMMISSIONER BAEZ: That's fine with me.

14 MR. KEATING: Again, and that is, you know,  
15 another thing that I wanted to bring up. At this point  
16 there is no intervenors and there appear to be no disputed  
17 issues. Staff conducted some depositions last Friday.  
18 And based on those we are finalizing positions and we are  
19 working towards -- we will be working towards agreement  
20 with the parties on the positions in the event that --  
21 what appears to be the likely event that we will get an  
22 agreement on all of those positions, then clearly the  
23 possibility of a bench decision is that much greater.

24 COMMISSIONER BAEZ: Sounds good. Those  
25 positions that you are talking about are, I guess, going

1 to come in before we sign this prehearing order?

2 MR. KEATING: That would be my goal.

3 COMMISSIONER BAEZ: Is that the goal we're  
4 shooting for?

5 MR. KEATING: I think we are shooting for having  
6 those positions drafted and to the parties sometime later  
7 this week. So I would hope to have everything final in a  
8 prehearing order for your signature.

9 COMMISSIONER BAEZ: Great. Any other changes  
10 through Section V?

11 MR. YOUNG: No, sir. Section VI, we need --

12 COMMISSIONER BAEZ: Right. I don't know if  
13 staff has completed that, but we needed to kind of match  
14 up the issues to the witnesses.

15 MR. KEATING: I have gone through and have issue  
16 numbers to put beside the witnesses names. I think the  
17 petitioners may be interested in having the witnesses  
18 shown in a different order.

19 COMMISSIONER BAEZ: Mr. Young.

20 MR. YOUNG: We would propose that if we got to a  
21 hearing and had to call these witnesses that they  
22 respectfully would be put in the order that we suggested  
23 in our filing. And I can give you that list if you like,  
24 or we can do it afterwards.

25 COMMISSIONER BAEZ: Mr. Young, you are talking

1 about witness order?

2 MR. YOUNG: Yes, just order of appearance.

3 COMMISSIONER BAEZ: It has no impact on the  
4 issues that --

5 MR. KEATING: Staff would have no objection to  
6 putting the witnesses in the order that appear in the  
7 prehearing statement of the petitioners.

8 COMMISSIONER BAEZ: All right. In the event  
9 that we do go to a hearing, we will accede to Mr. Young's  
10 suggestion of witness order. And you will settle that at  
11 the time we make those changes.

12 As far as issues, counsel.

13 MR. KEATING: The issues that each witness will  
14 address?

15 COMMISSIONER BAEZ: Right.

16 MR. KEATING: I will go in the order that they  
17 are listed in the draft prehearing order.

18 COMMISSIONER BAEZ: Okay.

19 MR. KEATING: And I believe I've got this right.  
20 The petitioners included the witnesses names after their  
21 position on each issue, so I have simply matched the two  
22 up.

23 For Witness Haddad it would be Issues 3, 4, 5,  
24 and 15.

25 And I'm not sure if I'm going to pronounce this

1 right, but Witness Arsuaga, Issues 5, 9, 13, and 15.

2 Witness Herrington, 5, 9, 13, and 15.

3 I know I won't pronounce that right, so I will  
4 just say Jill, Issues 6, 10, 14, and 15.

5 Witness Rollins, Issues 3 through 15.

6 Witness Fox, Issues 3, 4, and 15.

7 Witness Hearn, Issues 4, 5, 6, and 15.

8 Witness Sharma, Issues 7, 8, 9, and 15.

9 Witness Schaefer, Issues 7, 8, 10, and 15.

10 For Witness Casey, Issues 11, 12, 13, and 15.

11 For Witness Jones, Issue 15.

12 For Witness Anderson, Issue 15.

13 MR. MAY: Cochran, could I add one thing here?

14 MR. KEATING: Certainly.

15 MR. MAY: With Witness Anderson, and this is an  
16 oversight on my part, Witness Anderson testifies as to the  
17 reliability of the generating technology which covers  
18 Issues 4, 8, and 12. And we would respectfully ask that  
19 he be listed as a witness that would address that issue,  
20 as well as Issue 15.

21 COMMISSIONER BAEZ: Counsel, are you comfortable  
22 with that?

23 MR. KEATING: Yes.

24 COMMISSIONER BAEZ: 4, 8, 12, and 15?

25 MR. MAY: Yes, sir.



1 MR. KEATING: For Witness Anderson I have only  
2 Issue 15.

3 COMMISSIONER BAEZ: I'm sorry, was it Witness  
4 Anderson that has the additional issues?

5 MR. YOUNG: You want Jones as just 15.

6 MR. KEATING: I'm sorry, I --

7 MR. MAY: Witness Jones is just Issue 15.

8 Witness Anderson would be Issues 4, 8, 12, and  
9 15.

10 MR. KEATING: Thank you. I've got it straight  
11 now.

12 Finally, Witness Thumb, Issues 5, 9, 13, and 15.

13 COMMISSIONER BAEZ: Did everybody get that?

14 MR. YOUNG: Yes, sir.

15 COMMISSIONER BAEZ: Any changes that need to be  
16 made?

17 MR. KEATING: Perhaps in this section of the  
18 order it would be appropriate to indicate that if we do  
19 have agreement on the issues and none of the other  
20 Commissioners on the panel have questions, or wish to have  
21 any of these witnesses present, that they may be excused  
22 from attending the hearing. I would recommend that we set  
23 a time certain by which to notify the parties as to  
24 whether those witnesses' presence is requested.

25 COMMISSIONER BAEZ: Okay. Do you have a date

1 that you would like to suggest?

2 MR. KEATING: My suggestion would be a week from  
3 today, April 17th, by the close of business. And that  
4 would hopefully allow the other Commissioners on the panel  
5 the time they need to decide whether witnesses, any of the  
6 witnesses should be present and give the parties adequate  
7 time to rearrange their travel plans.

8 COMMISSIONER BAEZ: Okay. Anything else?

9 MR. KEATING: That's it for this section.

10 COMMISSIONER BAEZ: Section VII, positions. Any  
11 corrections, Mr. Young? And we can go issue-by-issue, if  
12 you want. If you don't have any --

13 MR. YOUNG: I don't think so. We were going to  
14 add Anderson in the parens on joint petitioners' position  
15 on Issue 4, 8, and 12. Other than that, I don't think we  
16 have any corrections to the positions.

17 MR. KEATING: Staff has no corrections. As I  
18 stated earlier, we will be formalizing the positions on  
19 these issues to try to reach agreement in the next few  
20 days.

21 COMMISSIONER BAEZ: Okay. Section IX. Anything  
22 with the exhibits, any changes or corrections?

23 MR. YOUNG: It's real tough to go through that,  
24 but I think that double-checking they did a great job.

25 MR. MAY: We have no corrections, either. We

1 would just note that we would request that you arrange the  
2 order to correspond with the rearranged witness order that  
3 we previously discussed.

4 COMMISSIONER BAEZ: That will be done by the  
5 final.

6 MR. KEATING: Before we leave that section,  
7 staff would like to add an exhibit just for the record to  
8 indicate that we intend to have the deposition transcripts  
9 from Mr. Haddad and Mr. Rollins depositions entered as --  
10 or seek to have entered as a composite exhibit. So it  
11 would show under the witness column at the end of the  
12 exhibit list, various proffered by staff, ID number, Staff  
13 1, and just the description of deposition transcripts for  
14 Haddad and Rollins.

15 MR. YOUNG: We have no objection.

16 COMMISSIONER BAEZ: Very well. No stipulations?

17 MR. YOUNG: It would seem to me that 1, 2, 6,  
18 10, 14, and 16 have been stipulated to this point. But  
19 hopefully you will expand on that later?

20 MR. KEATING: Yes. Those are the issues that  
21 staff has taken a position on up to this point, and they  
22 are consistent with the petitioners' position.

23 COMMISSIONER BAEZ: Did the reporter get those  
24 numbers? Well, the prehearing officer didn't. What were  
25 those 1, 2, 6 --

1 MR. YOUNG: 1, 2, 6, 10, 14, and 16.

2 COMMISSIONER BAEZ: You all have language  
3 reflecting --

4 MR. KEATING: Yes. Between now and the time the  
5 prehearing order is prepared, we will work towards getting  
6 some uniform language on those.

7 COMMISSIONER BAEZ: All right. No pending  
8 motions?

9 MR. KEATING: No.

10 COMMISSIONER BAEZ: And the confidentiality  
11 matters?

12 MR. KEATING: Yes. We are preparing a draft  
13 order on one of those at this time, and the other two we  
14 are going to seek some additional clarification.

15 COMMISSIONER BAEZ: Okay. Anything else at this  
16 time? All right. I guess we can adjourn then. Thank you  
17 very much.

18 MR. YOUNG: Thank you.

19 MR. MAY: Thank you.

20 (The prehearing concluded at 9:45 a.m.)

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STATE OF FLORIDA )

: **CERTIFICATE OF REPORTER**

COUNTY OF LEON )

I, JANE FAUROT, RPR, Chief, FPSC Bureau of Reporting  
FPSC Commission Reporter, do hereby certify that the  
Prehearing Conference in Docket No. 010142-EM was heard by the  
Florida Public Service Commission at the time and place herein  
stated.

IT IS FURTHER CERTIFIED that I stenographically  
reported the said proceedings; that the same has been transcribed  
under my direct supervision; and that this transcript, consisting  
of 12 pages, constitutes a true transcription of my notes of said  
proceedings.

I FURTHER CERTIFY that I am not a relative, employee,  
attorney or counsel of any of the parties, nor am I a relative or  
employee of any of the parties' attorney or counsel connected with  
the action, nor am I financially interested in the action.

DATED THIS 13TH DAY OF APRIL, 2001.



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JANE FAUROT, RPR  
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