

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine
need for an electrical power
plant in Martin County by
Florida Power & Light Company.

DOCKET NO. 020262-EI

In re: Petition to determine
need for an electrical power
plant in Manatee County by
Florida Power & Light Company.

DOCKET NO. 020263-EI
ORDER NO. PSC-02-0934-PCO-EI
ISSUED: July 11, 2002

ORDER GRANTING AMENDED PETITION TO INTERVENE

The Florida Action Coalition Team (FACT) filed a Petition to Intervene in these need determination dockets on May 20, 2002. Florida Power & Light Company (FPL) responded to the petition on May 30, 2002, suggesting that FACT's petition should be denied, or at least deferred, pending completion of FPL's supplemental Request for Proposals (RFP) and resumption of the need determination proceedings.¹ FPL also asserted that FACT must affirmatively show that it has standing to intervene in these cases. FACT filed a reply to FPL's response on June 10, 2002, which FPL moved to strike as an unauthorized pleading under Florida's Uniform Rules of Administrative Procedure. To address FPL's criticisms of its petition, FACT then filed a Request for Leave to File Amended

¹ Order No. PSC-02-0571-PCO-EI, issued April 26, 2002, placed the hearing schedule in these cases in abeyance while FPL pursued its supplemental RFP process. Order No. PSC-02-0703-PCO-EI, issued May 23, 2002, granted FPL's emergency petition for waiver of the time deadlines for need determination hearings in Rule 25-22.080, Florida Administrative Code. FPL has now concluded its supplemental RFP and stated that it intends to resume its petition for certification to construct its Martin and Manatee projects. FPL expects to file supplemental testimony to that effect on July 16, 2002.

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

Petition to Intervene and an Amended Petition to Intervene on June 26, 2002.²

FPL responded in opposition to FACT's Amended Petition to Intervene on July 8, 2002, contending again that FACT had failed to provide sufficient information to demonstrate its standing to intervene as a party in this case. FPL claims that FACT's listing of 6 FACT members who are FPL ratepayers does not demonstrate that a "substantial number" of FACT's members will be affected by the Commission's decision in this need determination proceeding. FPL also contends that FACT has not shown that its members may be directly and substantially injured by the Commission's decision in these need determination cases.

In its amended Petition, FACT states that it is a statewide, non-partisan, grassroots public interest organization, ". . . representing the interests of its members in taxpayer, consumer, healthcare, environmental and public utility issues, among others." FACT alleges that a number of its members are retail residential customers of FPL, whose substantial interests will be affected by the outcome of these need determination dockets. FACT provided the names and addresses of 6 FACT members who are retail electric customers of FPL, but asserted that other FACT members are also retail customers of FPL. FACT asserts that the Commission's decision in these dockets will affect the rates its members' pay to FPL for electricity, and therefore they have an interest in the Commission's determination whether FPL has proposed the most-cost effective means to acquire additional generating capacity. FACT also points out that the Commission must consider whether FPL has taken all reasonably available conservation measures to avoid or defer the need for new generating capacity. FACT states that; "[f]ailure to implement cost-effective conservation measures in lieu of building new power plants will, by definition, increase customer rates more than is otherwise necessary."

² Since FACT has filed an amended petition to intervene, there is no need to address the appropriateness of FACT's June 10, 2002 reply, and FPL's motion to strike that reply is now moot.

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In its Amended Petition to Intervene, FACT has adequately alleged that the substantial interests of a substantial number of its members may be affected by the Commission's decision in these dockets, and that those interests are both the type of interest the Commission's need determination proceedings are designed to protect and the type of interest FACT is entitled to represent on behalf of its members. For these reasons, FACT's Amended Petition to Intervene is granted.

It is therefore

ORDERED by Commissioner J. Terry Deason as the Prehearing Officer that the Request for Leave to File Amended Petition to Intervene and the Amended Petition to Intervene filed by the Florida Action Coalition Team are granted. It is further

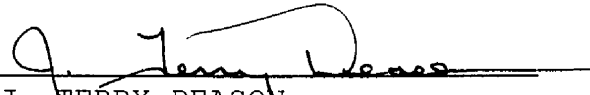
ORDERED that all parties to this proceeding shall furnish copies of all testimony, exhibits, pleadings and other documents which may hereinafter be filed in this proceeding, to:

Michael B. Twomey
P. O. Box 5256
Tallahassee, FL 32314-5256

Ernie Bach, Executive Director
Florida Action Coalition Team
P. O. Box 100
Largo, FL 33779-0100

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By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 11th day of July, 2002.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in

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the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.