

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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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

) Filed: September 11, 2002

FLORIDA ACTION COALITION TEAM PREHEARING STATEMENT

Pursuant to Order No. PSC-02-0992-PCO-EI, issued July 23, 2002, the Florida Action Coalition Team ("FACT") files its Prehearing Statement below.

(a) The name of all known witnesses that may be called by the party, and the subject matter of their testimony;

FACT: No witnesses will be called by FACT.

(b) A description of all known exhibits that may be used by the party, whether they may be identified on a composite basis, and the witness sponsoring each;

FACT: No exhibits identified at this time.

(c) A statement of basic position in the proceeding;

FACT: It appears that Florida Power & Light Company's ("FPL") process for determining the most cost-effective generation for its purported future capacity needs was biased in a manner so as to ensure that the FPL self-build options necessarily "won" the competition. The use of the so-called "equity penalty" is the most flagrant of the self-serving biases in the bid review process, but not the only one. It appears, based on the evidence to date, that other project submissions to FPL, or combinations of projects, would have been less expensive than the self-build options now before the Commission and, thus, more "cost-effective" within the meaning of Section 403.519, F.S.

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The Commission should deny one or both of the self-build generating projects now before it for approval and order FPL to immediately reanalyze the last bids submitted to it, but without use of the equity penalty adjustment or any other adjustments or techniques the Commission finds inappropriately and unfairly biased the bid review process to the FPL self-build options.

- (d) A statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;

Preliminary Statement on Issues: FACT is listing all the issues preidentified by the Commission Staff, as well as a number of issues jointly identified by the non-FPL parties. FACT will await a review of the pending depositions and other outstanding discovery responses before either taking a position on a number of the listed issues or withdrawing the issues as being of concern to FACT. Furthermore, FACT will reiterate that it is not offering the testimony of any witness, thus, there will be no "party's witnesses [who] will address the issue" identified for any of the issues below.

ISSUE 1: Is the output of Florida Power & Light Company's Martin Unit 8 fully committed for use by Florida retail electric customers?

FACT: No position at this time.

ISSUE 2: Is the output of Florida Power & Light Company's Manatee Unit 3 fully committed for use by Florida retail electric customers?

FACT: No position at this time.

ISSUE 3: Does Florida Power & Light Company have a need for Martin Unit 8, taking into account the need for electric system reliability and integrity?

FACT: No position at this time.

ISSUE 4: Does Florida Power & Light Company have a need for Manatee Unit 3, taking into account the need for electric system reliability and integrity?

FACT: No position at this time.

ISSUE 5: Does Florida Power & Light Company have a need for Martin Unit 8, taking into account the need for adequate electricity at a reasonable cost?

FACT: It appears that FPL's use of the "equity penalty" adjustment biased FPL's determination that Martin Unit 8 was the least cost or most cost-effective generating alternative available to it with the result that there may not be a need for Martin Unit 8 on the basis of its costs being the most reasonable.

ISSUE 6: Does Florida Power & Light Company have a need for Manatee Unit 3, taking into account the need for adequate electricity at a reasonable cost?

FACT: It appears that FPL's use of the "equity penalty" adjustment biased FPL's determination that Manatee Unit 3 was the least cost or most cost-effective generating alternative available to it with the result that there may not be a need for Manatee Unit 3 on the basis of its costs being the most reasonable.

ISSUE 7: Are there any conservation measures taken by or reasonably available to Florida Power & Light Company that might mitigate the need for Martin Unit 8?

FACT: No position at this time.

ISSUE 8: Are there any conservation measures taken by or reasonably available to Florida Power & Light Company that might mitigate the need for Manatee Unit 3?

FACT: No position at this time.

ISSUE 9: Has Florida Power & Light Company adequately ensured the availability of fuel commodity and transportation to serve Martin Unit 8?

FACT: No position at this time.

ISSUE 10: Has Florida Power & Light Company adequately ensured the availability of fuel commodity and transportation to serve Manatee Unit 3?

FACT: No position at this time.

ISSUE 11: Did Florida Power & Light Company properly and accurately value the use of existing infrastructure at the Martin plant site in determining the construction cost of Martin Unit 8?

FACT: No position at this time.

ISSUE 12: Did Florida Power & Light Company properly and accurately value the use of existing infrastructure at the Manatee plant site in determining the construction cost of Manatee Unit 3?

FACT: No position at this time.

ISSUE 13: Did Florida Power & Light Company's Supplemental Request for Proposals, issued on April 26, 2002, satisfy the requirements of Rule 25-22.082, Florida Administrative Code?

FACT: No position at this time.

ISSUE 14: Was Florida Power & Light Company's decision not to consider proposals to construct generating capacity on property owned by Florida Power & Light Company appropriate?

FACT: No. FPL should have considered allowing competing generating proposals to be constructed on FPL property as doing so would have resulted in utilization of existing "brown field" sites and could possibly resulted in lower cost generation for its customers.

ISSUE 15: Was the process used by Florida Power & Light Company to evaluate Martin Unit 8, Manatee Unit 3, and projects submitted in response to its Supplemental Request for Proposals, issued on April 26, 2002, fair, reasonable, and appropriate?

FACT: No. It appears that FPL's use of an equity penalty, as well as other adjustments, biased the competition results to the advantage of its own self-build options in a manner that was unfair, unreasonable, and inappropriate.

ISSUE 15 (a): Did FPL administer the evaluation process so as to provide to non-FPL participants a fair opportunity to win the RFP?

FACT: No.

ISSUE 15 (B): Did FPL apply to its self-build options the standards and criteria that it applied to respondents?

FACT: No.

ISSUE 15 (c): Were the evaluation criteria used by FPL in evaluating the bids disclosed to the bidders prior to the submission of bids?

FACT: No position at this time.

ISSUE 16: In its evaluation of Martin Unit 8, Manatee Unit 3, and projects filed in response to its Supplemental Request for Proposals, issued on April 26, 2002, did Florida Power & Light Company employ fair and reasonable assumptions and methodologies?

FACT: No. Amongst other unfair and unreasonable assumptions and methodologies is the use of the equity penalty.

ISSUE 16 (a) Were the assumptions regarding operating parameters that FPL assigned to its own proposed units reasonable and appropriate?

FACT: No position at this time.

ISSUE 16 (b) When modeling and quantifying the costs of all options, did FPL appropriately and consistently quantify and take into account the impact of variable O&M costs associated with bidders' proposals and variable O&M costs associated with its own self-built options, so as to result in a fair comparison of purchased and self-built alternatives?

FACT: No position at this time.

ISSUE 16 (c) When modeling and quantifying the costs of all options, did FPL fairly and appropriately compare the costs of projects having different durations?

FACT: No position at this time.

ISSUE 16 (d) When modeling and quantifying the costs of all options, did FPL employ assumptions regarding the gas transportation costs for the proposals that were fair, reasonable, and appropriate?

FACT: No position at this time.

ISSUE 16 (e) When modeling and quantifying the costs of all options, including its own, did FPL appropriately and adequately take cycling and start-up costs into account?

FACT: No position at this time.

ISSUE 16 (f) When modeling and quantifying the costs of all options, did FPL appropriately and adequately take into account the impact of seasonal variations on heat rate and unit output?

FACT: No position at this time.

ISSUE 16 (g) Did FPL act in a fair, reasonable and appropriate manner in not considering further a proposal from TECO on the basis that TECO's reserve margin requirements might be impaired?

FACT: No position at this time.

ISSUE 17: Was Florida Power & Light Company's decision to apply an equity penalty cost to projects filed in response to its Supplemental Request for Proposals appropriate? If so, was the amount properly calculated?

FACT: The use of the equity penalty was inappropriate and unfair.

ISSUE 18: Did FPL negotiate with the short-listed bidders in good faith?

FACT: No position at this time.

ISSUE 19: If the Commission grants FPL's petition for a determination of need authorizing it to construct its proposed Manatee 3 and Martin 8 units, should FPL be required to limit any requested rate base increase to the amount bid?

FACT: Yes, it is essential that FPL's subsequent requests to put these units in its rate base for recovery through its customers' rates be limited to the amount of its "winning" bids so as to preclude any ability of FPL's part to "game" the bid rule process by intentionally underbidding so as to win.

ISSUE 20: If the answer to the above issue is no, is each of FPL's proposals based on sound and reasonable assumptions and estimates, such that the Commission may conclude that the Commission and FPL's ratepayers may realistically expect FPL to implement the non-binding proposal at the stated cost?

FACT: No.

ISSUE 21: If the Commission grants FPL's proposal to construct Manatee 3 and/or Martin 8, are consumers estopped from challenging the prudence of the investment in any subsequent rate case?

FACT: No.

ISSUE 22: Has FPL met its burden of proof to demonstrate that it has fairly chosen the most cost-effective alternatives available?

FACT: No.

ISSUE 23: What would be the impact on ratepayers if the Commission were to deny either or both of FPL's petitions?

FACT: No position at this time.

ISSUE 24: Is Florida Power & Light Company's Martin Unit 8 the most cost-effective alternative available?

FACT: It appears that the use of the equity penalty, plus other unfair evaluation methodologies results in Martin Unit 8 not being the most cost-effective alternative available.

ISSUE 25: Is Florida Power & Light Company's Manatee Unit 3 the most cost-effective alternative available?

FACT: It appears that the use of the equity penalty, plus other unfair evaluation methodologies results in Martin Unit 8 not being the most cost-effective alternative available.

ISSUE 26: Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition for determination of need for Martin Unit 8?

FACT: No.

ISSUE 27: Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition for determination of need for Manatee Unit 3?

FACT: No.

(e) A statement of each question of law the party considers at issue and the party's position on each such issue;

FACT: No questions of law identified at this time.

(f) A statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;

FACT: No policy questions identified at this time.

(g) A statement of issues that have been stipulated to by the parties;

FACT: None at this time.

(h) A statement of all pending motions or other matters the party seeks action upon;

FACT: FACT's Motion for Protective Order.

(I) A statement identifying the parties' pending requests or claims for confidentiality;

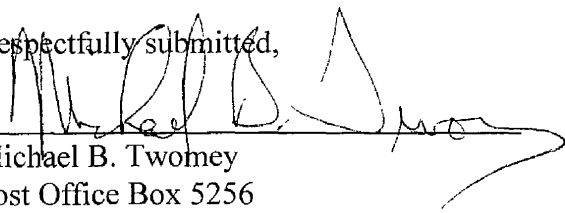
FACT: None.

and

(j) A statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.

FACT: None.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this petition has been served by U.S. Mail, hand delivery and/or email this 11th day of September, 2002 on the following:

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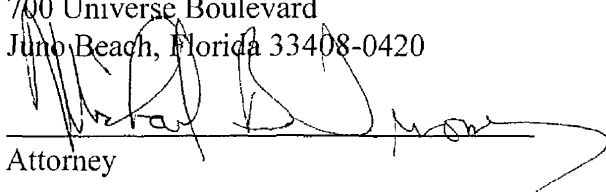
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