

ORIGINAL

SUZANNE BROWNLESS, P.A.
ATTORNEY AT LAW
1975 Buford Boulevard
Tallahassee, Florida 32308

RECEIVED-FPSC

07 JAN -8 PM 1:20

COMMISSION
CLERK

TELEPHONE (850) 877-5200

TELECOPIER (850) 878-0090

January 8, 2007

VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Commission Clerk and
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0800

Re: Docket No. 060635-EU

Dear Ms. Bayo:

Attached please find the original and fifteen copies of the NRDC'S Request for Reconsideration by Full Commission, Request for Oral Argument, and an Affidavit from Dale Bryke to be filed in the above styled docket.

Should you have questions or need any additional information, please contact me.

Very truly yours,



Suzanne Brownless
Attorney for NRDC

CMP _____
COM 5
CTR _____
ECR _____
GCL _____
OPC _____
RCA _____
SCR _____
SGA _____
SEC 1
OTH Kim
Wang

RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

00170 JAN-8 8

FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for Determination of Need for
electrical power plant in Taylor County by
Florida Municipal Power Agency, JEA,
Reedy Creek Improvement District, and the
City of Tallahassee.

DOCKET NO. 060635-EU
FILED: January 8, 2007

NRDC'S REQUEST FOR RECONSIDERATION BY FULL COMMISSION

Pursuant to Rule 25-22.0376, Florida Administrative Code, the National Resources Defense Council (NRDC) files this Request for Reconsideration by Full Commission and in support thereof states as follows:

1. On December 26, 2006 the Applicants filed timely Objections to the NRDC's First Set of Interrogatories Nos. 1-26 and Second Set of Interrogatories Nos. 1-8 in which it objected to Interrogatories Nos 14, 20, 21, 22, 23, 24, 25, and 26 of NRDC's First Set of Interrogatories and 2, 3, 4, 5, 6, 7, and 8 of NRDC's Second Set of Interrogatories.

2. After discussion between the parties, NRDC agreed to waive responses to NRDC's First Set of Interrogatories Nos. 14, 20 and 21 and the Applicants agreed to provide responses to NRDC's First Set of Interrogatories Nos. 22 and 23. Further, NRDC agreed to waive responses to its Second Set of Interrogatories Nos. 4, 7 and 8. The Applicants agreed to provide the inputs and outputs of the FIRE model at updated Taylor Energy Center (TEC) costs in response to NRDC's Second Set of Interrogatories No.1 which should be sufficient to allow NRDC to develop the information requested in its Second Set of Interrogatories No. 2. With regard to its Second Set of Interrogatories No. 3, the Applicants agreed to provide the requested information for the City of Tallahassee for which this type of analysis already exists.

3. The remaining interrogatories on which the parties were unable to reach agreement were NRDC's First Set of Interrogatories Nos. 24 and 25 and Second Set of Interrogatories Nos. 5 and 6.

4. NRDC filed a Motion to Compel the production of this discovery and Request for

DOCUMENT NUMBER-DATE

00170 JAN-8 5

FPSC-COMMISSION CLERK

Emergency Oral Argument on January 2, 2007. The Applicants filed their Motion for Protective Order and Response in Opposition to NRDC's Motion to Compel Responses to NRDC's 1st Set (Nos. 24 and 25) and 2nd Set (Nos. 5 and 6) of Interrogatories on January 2, 2007. By agreement of the parties, the Motion to Compel was limited to the production of First Set of Interrogatories Nos. 24 and 25.

5. NRDC filed a Reply to the Applicants' Response on January 3, 2007.

6. NRDC's First Set of Interrogatories Nos. 24 and 25 state as follows:

Interrogatory 24: Please provide a CO2 sensitivity analysis similar to Ex. (MP-5) which uses the same parameters for electricity demand growth, same amount of nuclear capacity and same amount of energy produced by renewables or other non-emitting sources as that used in Ex. (MP-2).

Interrogatory 25: Please provide a low fuel sensitivity study similar to Ex. (MP-4) which also includes CO2 emissions allowances as stated on Ex. (MP-5).

7. On January 3, 2007, Prehearing Officer Tew notified all parties to this docket by electronic mail that she had "denied the Motion [NRDC's Motion to Compel] as well as the accompanying Emergency Request for Oral Argument." The electronic message further stated that "[a]n order will be forthcoming" and the "denial of the NRDC's Motion to Compel is based on examination of the case law, the Commission precedent, and the procedural rules referenced by the parties in their pleadings."

8. Because the Applicants raised numerous arguments in support of their motion for protective order, and no written order has yet been issued, NRDC is unable to state with specificity the grounds for its request for reconsideration. However, NRDC has been advised by Staff that every effort will be made to issue a written order by the scheduled hearing date in this docket, January 10, 2007. However, Staff made no representation that it would be able to do so. This is quite understandable given the extremely short time frame given all parties to conduct normal discovery business in this docket. NRDC is filing this response now in order to put the Commission on notice that it wishes to be heard on reconsideration of this issue before the full Commission at the beginning of the evidentiary hearing.

And, assuming that a written order is issued before that time, will be prepared to state with specificity the grounds on which it is requesting reconsideration.

9. On December 20, 2006, the Applicants filed Motions to Strike Portions of the Testimony and Exhibits Filed by the NRDC. NRDC filed its Response in Opposition to Applicants' Motion to Strike and Request for Oral Argument on December 28, 2006.

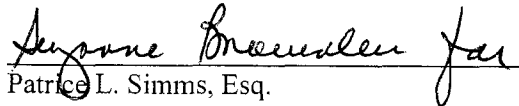
10. On January 5, 2007, Prehearing Officer Tew notified all parties to this docket by electronic mail that she had denied Applicants' Motions to Strike the testimony of NRDC's witnesses' Lashof and Bryk and granted its request to strike all of Ms. Bryk's exhibits (Exhibits. DB-1 through 3) and Dr. Lashof's Exhibits DAL-2 through 5 and DAL-7. By later electronic mail on the same date all parties were notified that an error had been made and DB-3 and DAL-5 had not been stricken. Both electronic mailings indicate that an order will be issued at a later date and state that "the rulings on the Applicants' Motions to Strike are based on examination of the case law, the Commission precedent and the statutes and rules referenced by the parties in their pleadings."

11. As in the case of the Motion to Compel discussed above, because the Applicants' presented numerous arguments in support of their Motion for Protective Order and without a written order, it is impossible for NRDC to state with particularity its grounds for reconsideration. Again, the Staff has promised to use its best efforts to get a written order issued by the final hearing but can't promise that it will be able to do so. NRDC is filing this response now in order to put the Commission on notice that it wishes to be heard on reconsideration of this issue before the full Commission at the beginning of the evidentiary hearing. And, assuming that a written order is issued before that time, will be prepared to state with specificity the grounds on which it is requesting reconsideration.

12. NRDC considers both the discovery requests at issue in the Motion to Compel and the exhibits stricken from this docket to be crucial to its ability to present its case to the Commission and crucial to the Commission's full understanding of the cost of the proposed TEC pulverized coal plant.

WHEREFORE, NRDC requests that its Motion for Reconsideration be granted and that the Applicants' be required to provide NRDC's First Set of Interrogatories Nos. 24 and 25. Further, NRDC requests that Exhibits Nos. DAL-2 through 4, DAL-7, DB-1 and DB-2 be included in the record of this case.

Respectfully submitted this 8th day of January, 2007 by:



Patrice L. Simms, Esq.
Natural Resources Defense Council
1200 New York Avenue, N.W. Suite 400
Washington, DC 20005
Phone: (202) 289-2437
FAX: (202) 289-1060

Suzanne Brownless, Esq.
Fla. Bar No. 309591
Suzanne Brownless, P.A.
1975 Buford Blvd.
Tallahassee, FL 32308
Phone: (850) 877-5200
FAX: (850) 878-0090

Attorneys for NRDC

c: 5695

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided by electronic mail as listed and U.S. Mail, this 8th day of January, 2006 to the following:

Gary V. Perko, Esq.
Carolyn S. Raepple, Esq.
Hopping Law Firm
P.O. Box 6526
Tallahassee, FL 32314-6526
Gperko@hgslaw.com
Craepple@hgslaw.com

Brian P. Armstrong, Esq.
7025 Lake Basin Road
Tallahassee, FL 32312
barmstrong@ngn-tally.com

E. Leon Jacobs, Esq.
Williams & Jacobs
1720 South Gadsden Street, MS 14, Suite 201
Tallahassee, FL 32302
ljacobs50@comcast.net

Jeanne Zokovitch Paben, Sr. Staff Attorney
Brett M. Paben, Sr. Staff Attorney
WildLaw
1415 Devils Dip
Tallahassee, FL 32308-5140
jeanne@wildlaw.org

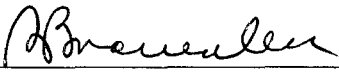
Valerie Hubbard, Director
Department of Community Affairs
Division of Community Planning
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
Valerie.Hubbard@dca.state.fl.us

Buck Oven
Michael P. Halpin
Department of Environmental Regulation
Siting Coordination Office
2600 Blairstone Road MS 48
Tallahassee, FL 32301
Hamilton.Oven@dep.state.fl.us
Michael.Halpin@dep.state.fl.us

Harold A. McLean
Office of the Public Counsel
111 West Madison Street, Room 812
Tallahassee, FL 32399
hallmc@earthlink.net

Jennifer Brubaker, Esq.
Katherine Fleming, Esq.
Legal Division
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Patrice L. Simms
Natural Resources Defense Council
1200 New York Ave., YW, Suite 400
Washington, DC 2005
psimms@nrdc.org



Suzanne Brownless
Fla. Bar No. 309591

c:teccert