

Matilda Sanders

From: Vicki Kaufman [vkaufman@asglegal.com]
Sent: Friday, January 04, 2008 4:09 PM
To: Filings@psc.state.fl.us
Cc: wade_litchfield@fpl.com; charles.gauthier@dca.state.fl.us; Mike.Halpin@dep.state.fl.us; Charles Beck; Ken Hoffman; Alliance4Cleanfl@aol.com; Jennifer Brubaker; Caroline Klancke; Katherine Fleming; zeasterling@ouc.com; ryoung@yvlaw.net; fred.bryant@fmpa.com; jody.lamar.finklea@fmpa.com; dan.ohagan@fmpa.com; roger@fmpa.com; John_Butler@fpl.com; minimushomines@aol.com; Matilda Sanders
Subject: Docket No. 070650-EI
Attachments: Prehearing Statement.doc

In accordance with the electronic filing procedures of the Florida Public Service Commission, Seminole Electric Cooperative, Inc. makes the following filing. **THIS IS THE SAME DOCUMENT PREVIOUSLY SUBMITTED; THIS VERSION IS IN WORD:**

- a. The name, address, telephone number and email of the person responsible for the filing is:
 Vicki Gordon Kaufman
 Anchors Smith Grimsley
 118 North Gadsden Street
 Tallahassee, FL 32301
 (850) 222-4771
 vkaufman@asglegal.com
- b. This filing is made in Docket No. 070650-EI, In re: Petition to Determine Need for Turkey Point Nuclear Units 6 and 7 Electrical Power Plant, by Florida Power & Light Company
- c. The document is filed on behalf of Seminole Electric Cooperative, Inc.
- d. The total number of pages in the document is 9.
- e. The attached document is Seminole's Prehearing Statement.

Vicki Gordon Kaufman

vkaufman@asglegal.com



Anchors Smith Grimsley
 The Perkins House
 118 N. Gadsden St.
 Tallahassee, FL 32301
 850-222-4771 (Voice)
 850-222-9771 (Fax)
 850-218-0454 (Blackberry Cell)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition To Determine Need for
Turkey Point Nuclear Units 6 and 7
Electrical Power Plant, by Florida
Power & Light Company

DOCKET NO. 070650-EI

FILED: January 4, 2008

**PREHEARING STATEMENT OF
SEMINOLE ELECTRIC COOPERATIVE, INC.**

Seminole Electric Cooperative, Inc. (Seminole), pursuant to Order No. PSC-07-0869-PCO-EI, files its Prehearing Statement.

A. APPEARANCES:

VICKI GORDON KAUFMAN, Anchors Smith Grimsley, 118 North Gadsden Street, Tallahassee, Florida 32301

WILLIAM T. MILLER, Miller, Balis & O'Neil, P.C., Suite 700, 1140 19th Street, N.W., Washington, D.C. 20036

On behalf of Seminole Electric Cooperative, Inc.

B. WITNESSES:

None.

C. EXHIBITS:

None; however, Seminole reserves the right to use, as appropriate, cross-examination exhibits.

D. STATEMENT OF BASIC POSITION:

Seminole supports FPL's request for a determination of need for Turkey Point Nuclear Units 6 and 7. However, FPL's request affects not only FPL and its customers, but also *all* Florida citizens, including Seminole's member systems and the Florida consumers who receive power from such member systems. Seminole must provide adequate, reliable and cost-effective power to its members. Thus, Seminole is vitally

affected by FPL's request for a determination of need and the action the Commission takes on such a request.

Seminole has approached FPL regarding beginning discussions of co-ownership of the nuclear plants at issue in this docket; FPL declined such request (see attachments to Seminole's Petition To Intervene). FPL's refusal to discuss co-ownership with Seminole is incompatible with section 403.519(4)(a)(5), Florida Statutes. This section expresses the Legislature's interest in ensuring that co-ownership of nuclear facilities is explored among Florida's utilities when a nuclear plant is proposed. The statute requires FPL to include in its application "[i]nformation on whether there were any discussions with any electric utilities regarding ownership of a portion of a nuclear or integrated gasification combined cycle power plant by such electric utilities." The Commission, in Rule 25-22.081(2)(d), Florida Administrative Code, requires the applicant to provide a summary of such discussions. FPL has failed to comply with these requirements. Further, FPL has failed even to discuss co-ownership with Seminole despite Seminole's request that it do so. The Commission should ensure that FPL engages in meaningful discussions with Seminole (and similarly situated utilities in the State) regarding co-ownership early in the process.

E. STATEMENT OF ISSUES AND POSITIONS :

ISSUE 1: Is there a need for the proposed generating units, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519(4), Florida Statutes?

SEMINOLE: Yes.

ISSUE 2: Is there a need for the proposed generating units, taking into account the need for fuel diversity, as this criterion is used in Section 403.519(4), Florida Statutes?

SEMINOLE: Yes.

ISSUE 3: Is there a need for the proposed generating units, taking into account the need for base-load generating capacity, as this criterion is used in Section 403.519(4), Florida Statutes?

SEMINOLE: Yes.

ISSUE 4: Is there a need for the proposed generating units, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519(4), Florida Statutes?

SEMINOLE: Yes.

ISSUE 5: Are there any renewable energy sources and technologies or conservation measures taken by or reasonably available to Florida Power & Light Company which might mitigate the need for the proposed generating units?

SEMINOLE: No. Seminole is not aware of any such sources, technologies or measures at this time.

ISSUE 6: Will the proposed generating units provide the most cost-effective source of power, as this criterion is used in Section 403.519(4), Florida Statutes?

SEMINOLE: Yes.

ISSUE 7: Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition to determine the need for the proposed generating units?

SEMINOLE: Yes; but the Commission should ensure that FPL engages in co-ownership discussions with Seminole as to these units.

ISSUE 8: Should this docket be closed?

SEMINOLE: No. The Commission should grant the determination of need, but ensure that FPL engages in co-ownership discussions with Seminole as to these units. The Commission should require FPL to file quarterly reports with the Commission as to its discussions with other utilities regarding co-ownership.

Additional Issues

FPL

ISSUE 9: If the Commission grants Florida Power & Light Company’s petition to determine the need for the proposed generating units, should the Commission’s order expressly state support for the development of new nuclear generation in Florida, affirm the need to take steps now to preserve new nuclear generation as a resource option to meet future customer needs in Florida, acknowledge the risks and costs associated with a project of such magnitude and the corresponding stepwise role of the annual review process, and emphasize the importance of continued regulatory support for nuclear power in Florida throughout the process? (FPL 8)¹

SEMINOLE: Yes, so long as the Commission makes it clear that its support for nuclear power is to enable the needs of *all* Florida customers of *all* Florida utilities to be met. By necessity this requires that FPL engage in discussions with utilities that seek to participate with FPL in nuclear projects.

ISSUE 10: If the Commission grants Florida Power & Light Company’s petition to determine the need for the proposed generating units, is it prudent for FPL to make advance payments for such long-lead procurement items as are reasonably necessary to preserve the potential for 2018-2020 in-service dates for the proposed generating units? (FPL 9)

SEMINOLE: Yes.

ISSUE 11: If the Commission grants Florida Power & Light Company’s petition to determine the need for the proposed generating units, are prudent advance payments made prior to the completion of the proposed generating units’ site clearing work properly characterized as “pre-construction costs,” to be recovered pursuant to the mechanism provided in Rule 25-6.0423, F.A.C.? (FPL 10)

SEMINOLE: Yes.

ISSUE 12: If FPL were to file for recovery by May 1, 2008, would pre-construction costs associated with the proposed generating units that the Commission determines are reasonable and prudent be included for cost recovery purposes as a component of the 2009 Capacity Cost Recovery Factor in the annual Fuel and Purchased Power Cost Recovery proceeding, pursuant to Rule 25-6.0423(5)(c), F.A.C.? (FPL 11)

SEMINOLE: Yes.

FMPA/FMEA

¹ Seminole suggests the changes in this issue indicated by the language it has inserted, which is underlined.

ISSUE 13: Does FPL’s nuclear power plant petition contain a summary of any discussions with other electric utilities regarding ownership of a portion of the plant by such utilities consistent with the requirements of Rule 25-22.081, F.A.C.? (FMPA/FMEA 7)

SEMINOLE: No. FPL has provided no summary of its discussions.

OUC

ISSUE 14: Does not 403.519(4)(b), Fla. Stat., stating that the Commission shall “take into account matters within its jurisdiction, which it deems relevant” allow the Commission to conclude that co-ownership is relevant especially in light of (4)(b)(2) which requires the Commission to consider whether the approval will enhance the reliability of power production within the state (not just in FPL’s territory) and (4)(b)(3) requiring the Commission to take into account the plant’s contribution to the long-term stability and reliability of the electric grid? (OUC 1)

SEMINOLE: Yes. The units FPL has proposed will impact the reliability and long-term stability of power production throughout the State and the Commission should consider issues of co-ownership.

ISSUE 15: Did Florida Power and Light’s Petition, as required by Rule 25-22.081 (2) (d) F.A.C., contain a summary of any discussions Florida Power and Light had with other electric utilities concerning the other electric utilities’ ownership of a portion of the Florida Power and Light nuclear plant? (OUC 2)

SEMINOLE: No. FPL’s petition does not contain a summary of discussions; further, FPL has refused to discuss the project with Seminole.

ISSUE 16: Does 403.519(4)(a)(5), Fla. Stat., and Rule 25-22.081(2)(d) F.A.C., create any duty on Florida Power & Light (“FPL”) to initiate discussion with other utilities that might have an interest in ownership of a portion of the nuclear plants or is this legislation and rule meaningless and may be ignored all together (FPL says they can satisfy law and rule by not having any discussions and reporting that fact at FPL Response, Paragraph 2, page 2)? (OUC 4)

SEMINOLE: Yes. Section 403.519(4)(a)(d), Fla. Stat., and rule 25-22.081(2)(d), F.A.C., create a duty on FPL’s part to engage in discussions with utilities, such as Seminole, which have indicated an interest in co-ownership of the units. To interpret the statute any other way would render it meaningless. The Commission may not presume that the Legislature enacted a statutory provision with no meaning.

ISSUE 17: Does OUC, a utility that presently has ownership in two nuclear power plants, have a substantial interest in having meaningful discussions with Florida Power & Light regarding ownership of a portion of the nuclear power plants at issue here as required by 403.519(4)(a)(5), Fla. Stat. (OUC 5)

SEMINOLE: Yes. Similarly, Seminole has a substantial interest in having meaningful discussions with Florida Power & Light regarding ownership of a portion of the nuclear power plant units at issue here as required by section 403.519(4)(a)(5).

ISSUE 18: Should the Commission infer any intent by Legislature from actions that were not taken by the Legislature (an amendment was proposed but withdrawn)? (OUC 6)

SEMINOLE: No; actions *not* taken by the Legislature provide no evidence of legislative intent.

Seminole

ISSUE 19: Has FPL engaged in meaningful discussions with other electric utilities regarding ownership of a portion of the proposed nuclear plants by such utilities? (SEMINOLE 7)

SEMINOLE: No. Despite Seminole's request, FPL has refused to discuss co-ownership of the nuclear units with Seminole in contravention of Section 403.519(4)(a)(d), Florida Statutes. Section 403.519(4)(a)(5) expresses the Legislature's interest to ensure that co-ownership of nuclear facilities is explored among Florida's utilities when a nuclear plant is proposed.

ISSUE 20: If not, should the Commission require such discussions? (SEMINOLE 8)

SEMINOLE: Yes. The Commission should require FPL to engage in discussions with Seminole as to the nuclear project which affects the efforts of Seminole to serve its members reliably, adequately, and cost-effectively.

F. STIPULATED ISSUES:

None at this time.

G. PENDING MOTIONS:

Seminole's Petition To Intervene, filed December 3, 2007.

Seminole's Motion for Leave To File a Reply, filed December 12, 2007.

H. PENDING CONFIDENTIALITY REQUESTS:

None at this time.

I. OBJECTIONS TO WITNESSES QUALIFICATIONS:

None at this time.

J. REQUIREMENTS THAT CANNOT BE COMPLIED WITH:

Seminole is not aware of any requirements with which it cannot comply at this time.

s/ Vicki Gordon Kaufman

Vicki Gordon Kaufman
Anchors Smith Grimsley
118 North Gadsden Street
Tallahassee, FL 32301
(850) 222-4771 (Voice)
(850) 222-9771 (Fascimile)
vkaufman@asglegal.com

William T. Miller
Miller, Balis & O'Neil, P.C.
Suite 700
1140 19th St., N.W.
Washington, D.C. 20036
(202) 296-2960 (Voice)
(202) 296-0166 (Fascimile)
wmiller@mbolaw.com

Attorneys for Seminole

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Prehearing Statement was furnished by electronic mail and U.S. Mail this 4th day of January, 2008 to:

(*)Florida Public Service Commission
Jennifer Brubaker, Esq.
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
jbrubake@psc.state.fl.us.

Florida Power & Light Company
Mr. William Walker
215 South Monroe St., Suite 810
Tallahassee, FL 32301-1859

Florida Power & Light Company
Mr. Stephen L. Huntoon
801 Pennsylvania Ave., N.W.
Suite 200
Washington, D.C. 20004

(*)Florida Power & Light Company
Litchfield, Ross, Butler, Anderson
Fernandez and Cano
700 Universe Blvd.
Juno Beach, FL 33408-0420
John_Butler@fpl.com
Wade_litchfield@fpl.com

(*)Department of Community Affairs
Mr. Charles Gauthier
Division of Community Planning
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
charles.gauthier@dca.state.fl.us

(*)Department of Environmental
Protection
Mr. Michael P. Halpin
Siting Coordination Office
2600 Blair Stone Rd, MS 48
Tallahassee, FL 32301
Mike.Halpin@dep.state.fl.us

(*)Jane and Bob Krasowski
1086 Michigan Avenue
Naples, FL 34103
minimushomines@aol.com

(*)Office of Public Counsel
Mr. Charles Beck
c/o 111 W. Madison St., Room 812
The Florida Legislature
Tallahassee, FL 32399-1400
Beck.charles@leg.state.fl.us

(*)Rutledge Law Firm
Kenneth A. Hoffman
P.O. Box 551
Tallahassee, FL 32302-0551
ken@reuphlaw.com

(*)The Florida Alliance for a Clean
Environment
Mr. Bob Krasowski
1086 Michigan Avenue
Naples, FL 34103
Alliance4Cleanfl@aol.com

(*)Zolia P. Easterling
Orlando Utilities Commission
500 South Orange Avenue
Orlando, FL 32801
zeasterling@ouc.com

(*)Roy C. Young
Young van Assenderp, PA
225 South Adams Street, Suite 200
Tallahassee, FL 32301
ryoung@yvlaw.com

(*)Frederick M. Bryant
(*)Jody Lamar Finklea
(*)Daniel B. O'Hagan
2061-2 Delta Way (32303)
Post Office Box 3209
Tallahassee, Florida 32315-3209
fred.bryant@fmpa.com
jody.lamar.finklea@fmpa.com
dan.ohagan@fmpa.com

(*)Roger Fontes
Florida Municipal Power Agency
8553 Commodity Circle
Orlando, FL 32819
roger@fmpa.com

s/ Vicki Gordon Kaufman

Vicki Gordon Kaufman