

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Determination that)
The Osprey Plant Acquisition and,)
Alternatively, the Suwannee Simple) DOCKET NO. 150043-EI
Cycle Project is the Most Cost)
Effective Generation Alternative to) FILED: FEBRUARY 23, 2015
Meet the Remaining Need Prior to 2018)
For Duke Energy Florida, Inc.)
_____)

PETITION TO INTERVENE OF OSPREY ENERGY CENTER, LLC

Osprey Energy Center, L.L.C. ("Osprey LLC"), pursuant to Chapters 120 and 366, Florida Statutes,¹ and Rules 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code ("F.A.C."), hereby respectfully petitions to intervene in the above-styled docket.

In summary, Osprey LLC is the owner of the Osprey Energy Center, a natural gas fired combined cycle electrical power plant located in Auburndale, Florida (the "Osprey Plant"), and Osprey LLC and Duke Energy Florida, Inc. ("Duke" or "DEF") have entered into a contract by which Osprey LLC will sell, and Duke will purchase, the Osprey Plant. Duke initiated this docket by submitting its petition on January 30, 2015, in which Duke seeks the Commission's determination that Duke's acquisition of the Osprey Plant (the "Osprey Plant Acquisition") is the most cost-effective generation alternative available to Duke to meet its remaining need for generating capacity prior to 2018. As the

¹All references herein to the Florida Statutes are to the 2014 edition thereof.

Seller of the Osprey Project, Osprey LLC's substantial interests in pursuing its business of supplying cost-effective power to Duke Energy Florida, in this instance the sale of the Osprey Plant, a generating asset, will be determined by the Commission's decisions in this docket.

In further support of its Petition to Intervene, Osprey LLC states as follows.

PROCEDURAL BACKGROUND

1. The name, address, and telephone number of the Petitioner are as follows:

Osprey Energy Center, LLC
717 Texas Avenue, Suite 1000
Houston, Texas 77002
Telephone (713) 830-8872.

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright
John T. LaVia, III
Gardner, Bist, Wiener, Bowden, Bush,
Dee, LaVia & Wright, P.A.
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Tallahassee, Florida 32308
Telephone (850) 385-0070
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with a courtesy copy to:

Shonnie L. Daniel
Vice President and Deputy General Counsel
Calpine Corporation
717 Texas Avenue
Suite 1000
Houston, Texas 77002
(713) 830-8872 Office
(713) 830-8751 Fax.

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850.

4. This docket was initiated by Duke's filing of its "Petition for Determination that the Osprey Plant Acquisition and, Alternatively, the Suwannee Simple Cycle Project is the Most Cost Effective Generation Alternative to Meet the Remaining Need Prior to 2018 for Duke Energy Florida, Inc." (the "Petition") on January 30, 2015. Pursuant to Commission Order No. 15-0110-PCO-EI, the Order Establishing Procedure, the hearing in this proceeding is scheduled for June 3-4, 2015, and therefore this Petition to Intervene is timely filed.

FACTUAL BACKGROUND

5. Osprey Energy Center, LLC, is a Delaware limited liability company authorized to do business in Florida and duly registered with the Florida Department of State, Division of Corporations. Osprey LLC is a wholly owned subsidiary of Calpine Construction Finance Company, L.P. ("CCFC"), a Delaware limited partnership authorized to do business in the State of Florida and duly registered with the Florida Department of State, Division of Corporations, as a foreign limited partnership. Calpine Corporation ("Calpine") is the ultimate parent of both Osprey LLC and CCFC.

6. The Osprey Plant is an advanced-class, 599 MW (nominal) natural gas fired combined cycle electrical generating plant located in Auburndale, Florida. The Osprey Plant is interconnected to Tampa Electric Company's transmission system and to the interstate natural gas pipeline owned and operated by Gulfstream Natural Gas System, LLC ("Gulfstream"). The Osprey Plant is operated by Calpine Operating Services Company Inc. ("COSCI") under an operating and maintenance agreement between Osprey LLC and COSCI.

7. The Osprey Plant consists of two Siemens 501FD combustion turbine ("CT") generators, two Nooter Erikson heat recovery steam generators, and one Siemens steam turbine generator. The Osprey Plant achieved commercial operation in 2004 and has a proven track record of reliable operations. Since 2006, Osprey has supplied more than 14 million MWh of wholesale power to a number of Florida utilities, including DEF, Tampa Electric Company, Seminole Electric Cooperative, and other utilities, with an equivalent forced outage rate of less than 2.0 percent. The Osprey Plant is fully dispatchable and, when integrated into DEF's generating fleet, the Plant is expected to continue to operate with high availability factors and at a capacity factor that is consistent with other DEF combined cycle units of similar vintage.

8. At the outset of the hearing in Docket No. 140111-EI, DEF and Calpine executed a Term Sheet (included as Exhibit MEP-1 to the prefiled testimony of Duke's witness Matthew E. Palasek) in which the Parties agreed to negotiate toward definitive agreements for the sale by Calpine and purchase by Duke of the Osprey Plant. Those negotiations produced the "Asset Purchase and Sale Agreement by and between Duke Energy Florida, Inc., as Purchaser and Osprey Energy Center, LLC, as Seller Dated as of December 17, 2014," hereinafter referred to as the "APA," which Duke has submitted as Exhibit MEP-2 to Mr. Palasek's testimony. Among other things, the APA provides that the sale and purchase of the Osprey Plant is contingent on certain regulatory approvals, including the approval of the Commission, and the APA requires DEF to make appropriate filings to obtain the required regulatory approvals.

STATEMENT OF AFFECTED INTERESTS

9. In this docket, the Commission will decide whether to approve Duke's petition for determination that Duke's acquisition of the Osprey Plant pursuant to the APA is the most cost-effective alternative to meet the needs of Duke and its customers. The Commission's decision will directly determine Osprey LLC's substantial interests in that it will immediately determine Osprey LLC's substantial interests in selling the Osprey Plant to Duke, and correspondingly, if the Commission were

to deny Duke's petition, that decision would also determine Osprey LLC's substantial interests by directly and adversely impacting the efficiency and cost-effectiveness of the Florida bulk power supply market.

10. Osprey LLC's substantial interests are of sufficient immediacy to entitle it to participate in the proceeding and are the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So. 2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). Here, the outcome of this proceeding will immediately determine Osprey LLC's substantial interests in selling the Osprey Plant to Duke; correspondingly, if the Commission were to deny Duke's petition for approval of the Osprey Plant Acquisition, that decision (i.e., hypothetical denial) would also substantially affect Osprey LLC's substantial interests by virtue of such a decision's impacts on the Florida bulk power supply market.

11. Moreover, Osprey LLC's substantial interests will be affected in an additional way. Because the Osprey Energy Center

is an existing, reliable, and productive generating asset that has well served Florida electric utilities and their customers for ten-plus years, Osprey LLC has a substantial interest in having the Commission exercise and enforce its jurisdiction under Section 366.04(5), Florida Statutes, "over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities." As the owner of an existing facility, Osprey LLC is entitled to standing to protect its interests in this proceeding.

DISPUTED ISSUES OF MATERIAL FACT

12. Osprey LLC is not aware of any disputed issues of material fact at this time, and agrees that the issues proposed by Duke in its Petition are appropriate for this proceeding. Osprey LLC reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure in this case.

STATEMENT OF ULTIMATE FACTS ALLEGED

13. As summarized above and as described in more detail in the testimony and exhibits submitted by DEF in this proceeding, Duke and Osprey LLC engaged in extensive negotiations and Duke conducted extensive due diligence reviews and analyses

of the Osprey Plant and the terms and conditions of the APA before the Parties executed the APA. The resulting transactions, when consummated and implemented, will be significantly beneficial and cost-effective for Duke Energy Florida, its customers, and for the Florida bulk power supply grid. The facts set forth in DEF's testimony and exhibits demonstrate that the Osprey Plant is the most cost-effective alternative available to meet the needs of DEF, its customers, and the Florida bulk power supply grid prior to 2018, and that DEF needs the Osprey Plant, acquired pursuant to the APA, to meet its needs for system reliability and integrity, for adequate electricity at a reasonable cost, and for fuel diversity and supply reliability.

STATUTES AND RULES THAT ENTITLE OSPREY LLC TO RELIEF

14. The applicable statutes and rules that entitle Osprey LLC to relief include, but are not limited to, Sections 120.569, 120.57(1), and 366.04(5), Florida Statutes, and Rules 25-22.039, and 28-106.205, Florida Administrative Code. The cited rules provide that persons whose substantial interests will be affected by agency action are entitled to intervene, and the cited sections of Chapter 120 provide that persons whose substantial interests will be affected are entitled to a hearing before the agency. Section 366.04(5), Florida Statutes, provides that the Commission has jurisdiction "over the planning, development, and maintenance of a coordinated electric power grid throughout

Florida to assure an adequate and reliable source of energy . . . and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities." As the current owner and proposed Seller of the Osprey Plant, which is the most cost-effective alternative available to meet Duke's needs prior to 2018, Osprey LLC's interests are protected by this statute.

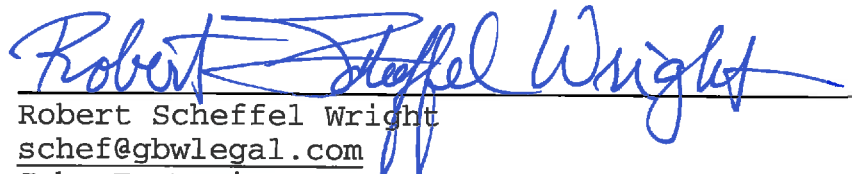
STATEMENT EXPLAINING HOW THE FACTS ALLEGED BY OSPREY LLC ENTITLE OSPREY LLC TO THE RELIEF REQUESTED

15. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. As stated above, Osprey LLC has a direct and substantial interest in consummating the sale of the Osprey Plant to Duke pursuant to the APA, and in having the Commission approve the Osprey Plant Acquisition because that acquisition is in the best interests of an efficient and cost-effective bulk power grid in Florida. Therefore, the interests that Osprey LLC seeks to protect via its intervention and participation in this case are immediate and of the type to be protected by this proceeding, and accordingly, Osprey LLC is entitled to intervene.

CONCLUSION AND RELIEF REQUESTED

WHEREFORE, Osprey LLC respectfully requests the Commission to enter its order GRANTING this Petition to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents to Osprey LLC's representatives indicated in paragraph 2 above.

Respectfully submitted this 23rd day of February 2015.



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Attorneys for Osprey Energy Center, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following by electronic mail on this 23rd day of February 2015.

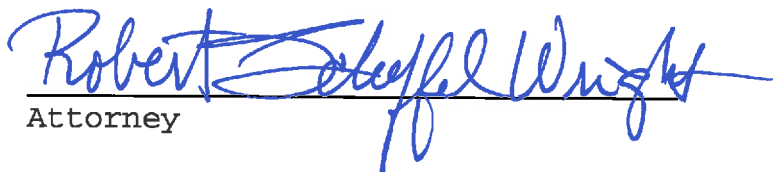
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