

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition for determination of need for) DOCKET NO. 150196-EI
Okeechobee Clean Energy Center Unit 1)
By Florida Power & Light Company)
_____)

**PETITION TO INTERVENE BY
ENVIRONMENTAL CONFEDERATION OF SOUTHWEST FLORIDA**

Pursuant to sections 120.569, 120.57, Florida Statutes, and Rules 25-22.039 and 28-106.205, Florida Administrative Code, the Environmental Confederation of Southwest Florida (ECOSWF), through its undersigned counsel, petitions for leave to intervene in the above captioned proceeding, and in support thereof states:

I. AGENCY AFFECTED

1. The name and address of the agency affected by this petition is

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

II. IDENTIFICATION OF THE INTERVENORS AND THEIR COUNSEL

2. The name and address of Petitioner is:

Environmental Confederation of Southwest Florida
421 Verna Road
Sarasota, Florida 34230

3. The names and address of counsel for Petitioner, authorized to receive all notices, pleadings, and other communications in this docket are:

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III. RECEIPT OF NOTICE OF AGENCY'S PROPOSED ACTION

4. Petitioner received notice of the Florida Public Service Commission's ("Commission") action through Florida Power & Light's Petition for Determination of need on the Commission's website, filed September 3, 2015.

IV. THE INTERVENOR'S SUBSTANTIAL INTERESTS

5. ECOSWF has over 100 members consisting of business entities, other organizations, and individuals living in southwest Florida that reside in Florida Power & Light's (FPL) service territory. ECOSWF was organized for the purpose of conserving the natural resources of Southwest Florida, implement energy efficiency improvements and alternatives, and to engage in actions in the furtherance of energy conservation and alternative energy source development.

6. In this docket, FPL is requesting a certificate of need for a 1,622 MW combined-cycle power plant in Okeechobee County, estimated to cost \$1.196 billion dollars. The Commission will decide in this docket whether it should certify the need, and in doing so, must take into account the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, the need for fuel diversity and supply reliability, whether the proposed plant is the most cost-effective alternative available, whether the power generated by the proposed plant can be produced with the least risk of all alternatives, and the Commission must expressly consider the conservation measures taken by or reasonably available to FPL which might mitigate the need for the proposed plant, and may consider other matters within its jurisdiction which it deems relevant. FPL will ultimately recover the costs, and a return on

investment, from ratepayers, including ECOSWF's members, which will affect ECOSWF members' substantial interests. A substantial number of ECOSWF's members live in FPL's service area and are customers receiving electricity service from FPL and will be substantially affected by the outcome of this proceeding as FPL ratepayers.

7. ECOSWF has been granted intervention in an FPL need determination proceeding before based on its members' substantial interests as FPL ratepayers. Order No. PSC-07-0238-PCO-EI

V. STATEMENT OF AFFECTED INTERESTS

8. ECOSWF has interests that are of the type this proceeding is designed to protect. As consumers, ECOSWF's members bear a significant risk associated with the Commission's decision in this case, in particular, related to energy price volatility resulting from regulatory decisions that are made based on incorrect and/or inadequate factual information reflecting a narrow and short-sighted energy strategy. As ratepayers, ECOSWF's members are affected by the construction of unneeded power plants. Additionally, ECOSWFs' members will be directly affected by the inappropriate reliance on new capacity instead of less expensive and readily available improvements in efficiency and other demand-side alternatives, and the health and environmental consequences of energy decisions that disproportionately rely on fossil fuels. ECOSWF believes that before taking any action, FPL should be required to meaningfully evaluate alternatives such as energy efficiency, renewable energy, demand-side management and conservation – strategies that are grossly underutilized in Florida's energy portfolio – and that the Commission and the interested public should have the opportunity to examine and provide testimony on FPL's evaluation of these strategies. Failure to require a rigorous assessment of such strategies will result in unnecessary premiums for fossil fuel generation for Florida's

ratepayers, including ECOSWF's members. While the availability of an adequate, affordable, and reliable supply of electricity is vitally important, an irresponsibly one-sided strategy of completely relying on natural gas for accomplishing this goal is not in the best interest of Florida's or ECOSWF's electricity consumers.

9. ECOSWF and its members advocate for all cost-effective energy efficiency measures that cost less than non-renewable electricity generation. Such measures can meet electricity demand at a fraction of the cost of building new power plants. ECOSWF's members have an interest in ensuring that the Commission properly considers the true value of all conservation measures, including demand side renewable energy, as required by law. Thus, the substantial interest of members of ECOSWF are affected in this case because the Commission's order will determine whether any of those more cost-effective measures will be able to substitute for FPL's proposed 1.192 billion dollar power plant. If the Commission chooses the 1.192 billion dollar power plant, ECOSWF's members will be saddled with higher rates and will have to pay the price for the non-cost-effective decision making.

10. Moreover, ECOSWF and its members rely on these proceedings to provide the Commission with expert testimony and opinion about the energy efficiency and renewable energy options for meeting Florida's energy needs.

11. These are the type of interests this proceeding is designed to protect because the purpose of these consolidated cases coincides with the substantial interests of ECOSWF and its members. *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), reh. denied, 415 So.2d 1359 (Fla. 1982); *Florida Home Builders Ass'n v. Department of Labor and Employment Security*, 412 So.2d 351, 353-54 (Fla. 1982).

12. ECOSWF is authorized by its bylaws to represent its interests and the interests of its members in legal actions, including formal administrative actions such as these. The subject matter of this docket is well within the scope of interest and activities of ECOSWF, and the relief requested is the type of relief appropriate for ECOSWF to receive on behalf of its members. The rights and interests of ECOSWF and its members cannot be adequately represented by any other party in this docket, and intervention will not unduly delay or prejudice the rights of other parties.

13. ECOSWF's intervention is timely and consistent with the Commission's Order Establishing Procedure. Rule 25-22.039, F.A.C.

VI. STATEMENT OF DISPUTED ISSUES OF FACT

14. Whether FPL has demonstrated the need for its proposed 1,622 MW generating plant to be located in Okeechobee County under Section 403.519, Florida Statutes.

15. Whether FPL has demonstrated that, at most, a smaller power plant is warranted.

16. Whether the use of the 20% reserve margin is appropriate when reliability is more directly measured by Loss of Load Probability (LOLP).

17. Whether FPL's LOLP has decreased as FPL has built newer, more reliable power plants, and has built more power plants.

18. Whether FPL's LOLP is dramatically smaller than when the 20% reserve margin was stipulated to in 1999.

19. Whether FPL has adequately demonstrated a need for additional generating capacity in the area that will be served by the proposed plant.

20. Whether FPL has adequately demonstrated that the proposed plant is the most cost-effective and lowest risk alternative to provide needed capacity in the area that will be served by the proposed plant.

21. Whether FPL erroneously concluded in its filing that there are no additional reasonable available conservation or DSM measures, which would mitigate the need for the proposed plant.

22. Whether conservation and DSM measures have been adequately valued and examined in connection with assessing the need for and appropriateness of a new 1,622 MW generating plant.

23. Whether a generation-only reserve margin is necessary or desirable given the known reliability of conservation and DSM measures.

24. Whether FPL adequately considered alternative new capacity options such as renewable energy sources and energy efficiency.

25. Whether the proposed plant is consistent with general principles of good integrated planning and portfolio management.

26. Whether FPL's proposed plant is the best resource choice for FPL in the context of fuel diversity.

27. Whether FPL's projected costs for the proposed plant are reasonable.

28. Whether FPL's proposed plant will provide reliable electricity at a reasonable cost.

29. Whether FPL's projected energy load is reasonable.

30. Whether FPL's projected natural gas prices are reasonable.

31. Whether FPL's proposal is the best available alternative.

VII. STATEMENT OF ULTIMATE FACTS

32. Before certifying the need for the FPL plant as proposed, the Commission must ensure that the proposed plant is needed, and that it is the most appropriate alternative considering all available options.

33. The analysis proposed by FPL does not fully evaluate important alternatives, including DSM and other conservation measures, does not adequately assess costs that will affect the plant over the life of the plant, and does not analyze important risks, including an over-reliance on natural gas.

34. The analysis presented by FPL does not demonstrate that the plant is needed.

35. Each of these elements is necessary to protect the interests of affected consumers as required by Florida law.

36. The Commission must closely scrutinize the FPL proposal, including cost projections, evaluation of alternatives, evaluation of risks, and the conclusion that new capacity totaling 1,622 MW is needed in the area to be served by the proposed plant.

37. The Commission must require additional analysis where any of these evaluations are found lacking, and should decline to certify the need for the proposed facility unless FPL can affirmatively demonstrate that the proposed plant is the best available alternative.

VIII. STATEMENT OF DISPUTED LEGAL ISSUES

28. Whether FPL has carried its burden to prove that the proposed plant meets all of the regulatory and statutory requirements.

IX. STATUTES AND RULES THAT REQUIRE THE RELIEF REQUESTED

38. The rules and statutes that entitle ECOSWF to the relief requested include, but are not limited to, the following:

- a. §120.569, Fla. Stat.;
- b. § 120.57, Fla. Stat.;
- c. §§366.80-.85, Fla. Stat.;
- d. § 403.519, Fla. Stat.;
- e. R. 25-22.039, F.A.C.;
- f. R. 25-22.080, F.A.C.; and
- g. R. 25-22.081, F.A.C.

X. RELIEF SOUGHT

39. WHEREFORE, the Environmental Confederation of Southwest Florida respectfully requests that the Commission enter an order granting them leave to intervene in the above-styled series of dockets as a full party, and further requests parties to provide the undersigned with all pleadings, testimony, evidence and discovery filed in said dockets.

RESPECTFULLY SUBMITTED this 6th day of October, 2015

/s/Bradley Marshall
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on
this 6th day of October, 2015 via electronic mail on:

| | |
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