

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition to determine need for )  
Seminole combined cycle facility, by ) DOCKET NO. 20170266-EC  
Seminole Electric Cooperative, Inc. )  
)  
In re: Joint petition for determination )  
of need for Shady Hills combined cycle ) DOCKET No. 20170267-EC  
facility in Pasco County, by Seminole )  
Electric Cooperative, Inc. and Shady ) FILED: March 12, 2018  
Hills Energy Center, LLC. )  
)  
\_\_\_\_\_)

**INTERVENORS' OBJECTIONS TO SEMINOLE ELECTRIC  
COOPERATIVE, INC.'S NOTICE OF INTENT  
TO USE DEPOSITIONS**

Pursuant to Section VI.G. of the Order Establishing Procedure (Order No. PSC-2018-0018-PCO-3C), Intervenors Quantum Pasco Power, L.P. ("Quantum"), Michael Tulk, and Patrick Daly (collectively "Intervenors") hereby submit their objections to Seminole Electric Cooperative, Inc.'s ("Seminole") Notice of Intent to Use Depositions ("Seminole's Notice of Intent") which was filed on March 9, 2018, and in support thereof state:

**Deposition of Quantum's Corporate Representative, James Maiz**

1. Seminole's Notice of Intent provides that Seminole intends to introduce portions of the deposition of Quantum's corporate representative, James Maiz to:

- (a) establish basic facts about Quantum and the Pasco Facility which was the subject of Quantum's proposals submitted in response to Seminole's Request for Proposals;
- (b) rebut the assertion made in the "Statement of Ultimate Facts Alleged" in Quantum's Motion to Intervene and discussed in witness Sotkiewicz's testimony that Quantum's proposals are cost-effective as compared to the Seminole Combined Cycle Facility and as compared to Seminole's

- proposed power purchases from the Shady Hills Facility;
- (c) rebut the assertion made the in "Statement of Ultimate Facts Alleged" in Quantum's Motion to Intervene and discussed in witness Sotkiewicz's testimony that Seminole's Proposed Resource Plan would uneconomically duplicate the capacity of the Pasco Facility, which is already operating reliably within the Florida bulk power supply grid; and
  - (d) establish facts that have a direct bearing on Intervenors' interests in this proceeding.

Intervenors do not object to Seminole's intent to introduce Quantum's corporate representative deposition for the purposes described in subparagraphs (a) - (c) above.

2. However, Intervenors do object to Seminole's request to introduce any portions of the deposition of Quantum's corporate representative, James Maiz "to establish facts that have a direct bearing on Intervenors' interests in this proceeding," as set forth in subparagraph (d). Quantum, Mr. Tulk and Mr. Daly have been granted intervenor status in this proceeding (PSC Orders PSC-2018-0062-PCO-EC and PSC-2018-0063-PCO-EC, dated January 24, 2018). Seminole had the opportunity to raise as an issue in this proceeding Intervenors' standing to participate in this proceeding; and Seminole chose not to do so. In fact, Seminole's counsel informed counsel for the Intervenors and counsel for the Commission Staff, in writing, that "Petitioners will not raise the standing of Quantum Pasco Power or either of the individual intervenors as an issue." (See e-mail from Gary Perko dated January 24, 2018,

attached hereto as Exhibit A.) Thus, the "Intervenors' interests" in this proceeding are not a disputed issue in this proceeding. Moreover, the "Intervenors' interests" are not relevant to any of the specific issues that are set forth in the Prehearing Order (draft as of this writing). Neither Mr. Maiz, Mr. Tulk, nor Mr. Daly are witnesses in this proceeding. If Seminole had followed the Commission's procedures and identified "Intervenors' interests" as a disputed issue in this proceeding, Intervenors would have filed direct testimony specifically addressing the "Intervenors' interests" in this proceeding. Accordingly, Seminole's attempt to introduce evidence relating to the "Intervenors' interests" at this late date in the proceeding is unfair, would result in a violation of Intervenors' due process rights, and is a departure from the essential requirements of law. In sum, Intervenors object to the use of any portion of the deposition of Quantum's corporate representative to establish any facts concerning the Intervenors' interests, because any such facts and any such testimony are irrelevant to any issues identified in this consolidated docket.

3. If any portion of the deposition of Quantum's corporate representative James Maiz is admitted into evidence, Intervenors request that the Commission apply the rule of completeness and admit the entire deposition into evidence.

### Depositions of Mr. Tulk and Mr. Daly

4. Seminole's Notice of Intent provides that Seminole intends to introduce portions of the depositions of Mr. Tulk and Mr. Daly solely "to establish facts that have a direct bearing" on their "interests in this proceeding, as referenced in witness Sotkiewicz's testimony." Intervenors object to Seminole's request to introduce portions of the depositions of Mr. Tulk and Mr. Daly for this purpose. Mr. Tulk and Mr. Daly are customers of Withlacoochee River Electric Cooperative, Inc. ("WREC"), and have been granted intervenor status in this proceeding (PSC Order PSC-2018-0062-PCO-EC, dated January 24, 2018).<sup>1</sup> Seminole had the opportunity to raise as an issue in this proceeding Intervenors' standing to participate in this proceeding; and Seminole chose not to do so. In fact, Seminole's counsel informed counsel for the Intervenors and counsel for the Commission Staff, in writing, that "Petitioners will not raise the standing of Quantum Pasco Power or either of the individual intervenors as an issue." (See e-mail from Gary Perko dated January 24, 2018.) Thus, the "Intervenors' interests" in this proceeding are not a disputed issue in this proceeding. Moreover, the "Intervenors' interests" are not relevant to any of the specific issues that are set forth in the

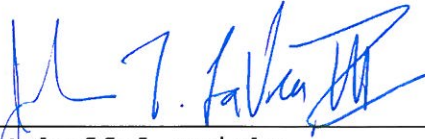
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<sup>1</sup> Seminole claims that it wants to use the depositions to establish facts that have a direct bearing on Mr. Tulk's and Mr. Daly's interests in the proceeding. However, Seminole failed to designate the portions of Mr. Tulk's and Mr. Daly's depositions where each states that he is a customer of WREC.

prehearing order. Neither Mr. Tulk nor Mr. Daly are witnesses in this proceeding. If Seminole had followed the Commission's procedures and identified "Intervenors' interests" as a disputed issue in this proceeding, Intervenors would have filed direct testimony specifically addressing "Intervenors' interests" in this proceeding. Accordingly, Seminole's attempt to introduce evidence relating to the "Intervenors' interests" at this late date in the proceeding is unfair, would result in a violation of Intervenors' due process rights, and is a departure from the essential requirements of law. In sum, Intervenors object to the use of any portions of the depositions of Mr. Tulk or Mr. Daly to establish any facts concerning the Intervenors' interests because any such facts and any such testimony are irrelevant to any issues identified in this consolidated docket.

5. If any portion of the deposition of Mr. Tulk or Mr. Daly is admitted into evidence, Intervenors request that the Commission apply the rule of completeness and admit the entire deposition into evidence.

Respectfully submitted this 12th day of March 2018.



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**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 12th day of March 2018.

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**From:** Gary Perko <GaryP@hgslaw.com>  
**Sent:** Wednesday, January 24, 2018 11:10 AM  
**To:** 'rdziehc@psc.state.fl.us'; 'scuello@psc.state.fl.us'; Schef Wright; Jay LaVia; Charles Murphy  
**Subject:** Issue ID Followup

Following up on our discussion on Monday, Petitioners will not raise the standing of Quantum Pasco Power or either of the individual intervenors as an issue. By not contesting standing, however, Petitioners do not agree with or concede any of the allegations or assertions in the motions to intervene.