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COGENERATION
ALTERNATIVE ENERGY
ENERGY REGULATORY LAW
PUBLIC UTILITY LAW
ADMINISTRATIVE LAW
APPELLATE LAW

RICHARD A. ZAMBO
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PLEASE REPLY TO:
TALLAHASSEE

September 25, 1990

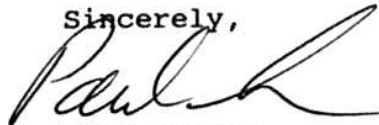
Mr. Steve Tribble
Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

Re: Docket No. 900004-EU - Hearings On Load Forecasts,
Generation Expansion Plans and Cogeneration Prices for
Peninsular Florida's Electric Utilities.

Dear Mr. Tribble:

Enclosed please find an original and ten copies of Seminole
Fertilizer Corporation's Brief for filing in the above docket.

Sincerely,



Paul Sexton

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Hearings On Load Forecasts,) Docket No. 900004-EU
Generation Expansion Plans and)
Cogeneration Prices for Peninsular) Submitted for Filing:
Florida's Electric Utilities.)

) September 25, 1990

BRIEF OF SEMINOLE FERTILIZER CORPORATION

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INTRODUCTION

1. Seminole's Interest in the Subscription Issue

At its September 11, 1990 Agenda Conference, the Commission directed affected parties to submit briefs on issues relating to subscription limits. One of those issues was whether contracts for units with in-service dates prior to 1996 should count against the subscription limit for the avoided unit - a 1996 500MW coal unit. It is this issue that Seminole, a party to this proceeding¹, will address in this brief.

Seminole is in the process of expanding its cogeneration capacity and negotiating a contract to deliver firm energy and capacity to a Florida investor-owned utility with a need for capacity prior to 1996. Seminole is concerned that the Commission's actions regarding subscription limits will hamper its ability to negotiate a contract to sell firm capacity to a utility with a need for power prior to 1996.

2. Seminole's Pending Negotiations

Seminole operates a phosphate fertilizer manufacturing complex and mine in Bartow, Florida. This complex includes a 35MW cogeneration facility which produces electric and thermal energy from "waste heat" recovered in the fertilizer manufacturing process and serves a portion of Seminole's electrical needs. Seminole is in the process of expanding its cogeneration capacity to 93MW

¹ Seminole intervened along with the Florida Industrial Cogeneration Association (FICA) prior to the 1989 Planning Hearings.

conditioned, to a large degree, on its ability to timely negotiate a contract for the sale of firm energy and capacity to a Florida investor-owned utility with a need for additional capacity before 1996. Seminole's early 1992 capacity expansion in-service date will match the utility's pre-1996 capacity needs and negotiations with the utility are based on such needs.

DISCUSSION

To the extent the Commission determines that negotiated contracts for units with in-service dates prior to 1996 must apply toward the 1996 subscription limit, Seminole may be unable to consummate its current negotiations to sell firm capacity and energy. Because over 2,500MW of potential QF capacity has been queued up for the 1996 unit, the Commission Staff is recommending that the subscription be closed out (Staff Recommendation dated 9/20/90). No replacement unit is being considered at this time and Seminole is concerned that its proposed contract would be precluded if it were required to be counted against a subscription that has been closed out.

The Commission has uniformly maintained a strong policy in favor of negotiated contracts between QFs and utilities as opposed to standard offers. Seminole believes that, consistent with this policy, negotiated contracts based on avoided units that do not match the designated statewide avoided unit in terms of in-service dates or type of unit should be judged only on the utility's avoided cost and should not apply toward the subscription limit for the statewide avoided unit. This standard should be enforced

regardless of whether the in-service date precedes or is subsequent to the in-service date of the designated statewide avoided unit.

No one would question that there is a clear need for additional generating capacity for the years prior to and after 1996. However, the Commission's decision on this matter can materially affect the quantities of cogenerated power which will be available to meet that need. Negotiated contracts may be fatally delayed or abandoned if they are tied to the avoided unit for no logical reason. Florida's utilities are planning to install thousands of megawatts of new generation between now and the year 2000, yet there is only a single designated statewide avoided unit: a 500MW coal plant with an in-service date of 1996. The Commission must recognize the magnitude of Florida's capacity needs and the injury that can be caused by applying all negotiated contracts toward the avoided unit subscription limits.

The Commission should not allow barriers to new firm QF contracts to be erected in light of the clear and pressing need for additional generating capacity, and it should certainly not erect barriers to the development of "waste heat" cogeneration capacity which can defer planned utility capacity. The subscription limit should not unnecessarily hinder a utility that willingly negotiates to purchase QF capacity, and should not prohibit a utility from negotiating with QFs when it has a need for capacity prior to 1996.

Staff's August 30, 1990 recommendation appears to address a portion of Seminole's concerns by recommending that negotiated

contracts be applied against the subscription limit if (1) they have an in-service date prior to the 1996 unit and (2) the subscription limit is not yet filled:

In summary, Staff believes that the proper treatment of negotiated contracts for subscription limit purposes is as follows:

1) a contract that has an in-service date prior to the in-service date of the statewide avoided unit and before the subscription limit is filled should be counted towards the subscription total until the subscription amount is closed by the Commission. . .

At p. 4

Although this approach, if adopted, would appear to eliminate the barrier to Seminole's successful negotiation of a firm capacity contract, Seminole believes that, considering the clear need for capacity prior to 1996, a blanket policy of applying pre-1996 contracts to the 1996 subscription limit is not founded in reason or in fact. Negotiated contracts simply should not apply to the 1996 avoided unit subscription limit unless they are of the same unit type and in-service date as that unit.

CONCLUSION


Seminole requests that the Commission determine that negotiated contracts for avoided units with in-service dates preceding the 1996 coal-fired statewide avoided unit do not apply to the subscription limit and that such contracts will be evaluated on the basis of the individual utility's avoided costs and capacity need. Barring such a determination, Seminole requests that the Commission determine that, once the 1996 subscription limit is

filled, parties remain free to enter into negotiated contracts for avoided units with in-service dates prior to 1996 and that such contracts will be evaluated based on the utility's avoided costs.

Dated: September 25, 1990

Respectfully submitted

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