

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Planning Hearings on Load)	DOCKET NO.	910004-EU
Forecasts Generation Expansion)	ORDER NO.	25022
Plans, and Cogeneration Prices)	ISSUED:	9/6/91
for Florida's Electric Utilities.)		

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 BETTY EASLEY
 MICHAEL McK. WILSON

ORDER DENYING RECONSIDERATION

BY THE COMMISSION:

The Panda/Live Oak Corporation has asked us to reconsider Order No. 23792, in which standard offer contracts were queued for subscription limit purposes under our old cogeneration rules. In its motion, Panda has reargued the question of the effect of queuing for subscription limit purposes. Specifically, Panda has asked us to reconsider our determination that those contracts which did not fall within the 500 MW subscription limit are invalid and have no force or effect.

The issue being reargued by Panda was fully briefed by the parties in this proceeding. In addition we heard thorough and detailed argument on this matter. Panda is now asking us to reconsider an issue which we have already fully considered, and which we resolved contrary to the position taken by Panda.

The purpose of a motion for reconsideration is to point out some matter of law or fact which the Commission failed to consider or overlooked in its prior decision. Diamond Cab Co. of Miami v. King, 146 So.2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (Fla. 1 D.C.A. 181). It is not an appropriate avenue for rehashing arguments which have already been fully considered by the Commission.

Prior to our issuance of Order No. 23792, standard offer contracts for over 2,500 MW of power had been signed to fill a subscription limit of 500 MW. Panda argues that those standard offers which did not fall within the 500 MW subscription limit should sit in limbo pending the certification of those projects within the subscription limit. We believe that this would cause confusion regarding the status of contracts in excess of the 500 MW

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subscription limit. With contracts "sitting in limbo", QFs might be reluctant to negotiate contracts or to sign new standard offer contracts made available under our current rules.

Panda also argues that in declaring the oversupply of standard offer contracts null and void, the Commission has violated Section 366.051, Florida Statutes, and PURPA. Panda is wrong. Panda has shown no authority for the proposition that a QF should be able to claim a contractual right to payments prescribed in a standard offer contract which was beyond the subscription limit of the avoided unit.

It is therefore

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration of Order No. 23792 filed by the Panda/Live Oak Corporation, is hereby denied.

By ORDER of the Florida Public Service Commission, this
6th day of SEPTEMBER, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.