

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to resolve) DOCKET NO. 940546-EU
territorial dispute with South) ORDER NO. PSC-94-1509-PCO-EU
Florida Cogeneration Associates) ISSUED: December 8, 1994
by Florida Power and Light)
Company)
_)

ORDER GRANTING MOTION TO HOLD PROCEEDINGS IN ABEYANCE

On November 14, 1994, South Florida Cogeneration Associates (South Florida), the respondent in this territorial dispute proceeding, filed a Motion to Hold Proceedings in Abeyance. In support of its motion South Florida described several recent events that it believes make it impractical to pursue the present hearing schedule in this docket. South Florida stated that its cogeneration facility experienced a forced outage on September 9, 1994, due to the failure of a major engine component. The plant ceased operating at that time, is not operating at present, and is not expected to operate again in the foreseeable future. In fact, South Florida has taken several steps to suspend operations at the facility indefinitely. South Florida concluded that because it has suspended operation of the facility for an indeterminate period of time, the change in circumstances has left no present dispute for the Commission to resolve.

Florida Power and Light Company (FPL) objected to South Florida's motion, primarily on the grounds that South Florida's allegation that the facility would not operate for an indeterminate period of time was too uncertain. FPL asserted that unsubstantiated allegations of an undefined "indefinite suspension of operation" was not sufficient to show that the dispute between FPL and South Florida had been permanently resolved.

The Commission Staff met with the parties on December 5, 1994, to explore ways to proceed with the case in light of the changed circumstances South Florida described. At that meeting South Florida explained that it had decided to suspend operations at the cogeneration facility indefinitely for economic reasons other than the mechanical equipment failure. South Florida indicated that at the present time it is simply not economically feasible to operate the plant. South Florida described several other actions it has taken, or is in the process of taking, that indicate it will cease operating the plant for a long time. South Florida has permanently dismissed all of its employees. It is negotiating a contract to release its natural gas transmission capacity on the Florida Gas Transmission Pipeline for a year. It is negotiating an assignment of its chilled water contract with Dade County.

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These actions demonstrate with reasonable certainty that South Florida will not begin operating the facility again in the foreseeable future, and thus it appears advisable to suspend the procedural schedule in this case and hold the proceedings in abeyance. The Chairman's office has approved the suspension of the hearing dates. FPL now agrees not to contest a suspension of the case schedule for a defined time. FPL suggests that if the facility begins operations again, or other circumstances materially change the status of the facility, within that time, the parties must inform each other, and the Commission, of the changed circumstances. FPL's suggestion is reasonable. It is therefore

ORDERED by the Prehearing Officer that the case schedule in this docket will be suspended, and South Florida Cogeneration Associates' Motion to Hold Proceedings in Abeyance is granted for a period of one year from the date this Order is issued. It is further

ORDERED that at the expiration of the one-year period, the parties shall file a report with the Commission that describes the current status of the case and the cogeneration facility. It is further

ORDERED that if the cogeneration facility begins operations, or other circumstances materially change the status of the facility or the case within the one-year period, the parties shall report the changes to each other, and to the Commission, within 21 days of the change in circumstances.

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 8th day of December, 1994.



SUSAN F. CLARK, Commissioner and
Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR 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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.