

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for
determination of need for an
electrical power plant in
Volusia County by the Utilities
Commission, City of New Smyrna
Beach, Florida, and Duke Energy
New Smyrna Beach Power Company
Ltd., L.L.P.

DOCKET NO. 981042-EM
ORDER NO. PSC-98-1317-PCO-EM
ISSUED: October 9, 1998

ORDER GRANTING LEAVE FOR APPEARANCE
OF QUALIFIED REPRESENTATIVES

On September 17, 1998, Petitioners, Utilities Commission City of New Smyrna Beach and Duke Energy New Smyrna Beach Power Company, Ltd. L.L.P., filed two Requests For Certification of Counsel and Notices of Sponsorship (Requests).

The Requests seek qualified representative status for Steven G. Gey and Mark Seidenfeld pursuant to Rule 28-106.106, Florida Administrative Code. Petitioners allege that neither individual is a member of the Florida Bar, both individuals are professors of law at Florida State University and both are members of the New York Bar Association and have practiced in the state courts of New York as well as various federal courts. No responses in opposition to the Requests have been filed.

Rule 28-106.106(3), Florida Administrative Code, provides that any party in an agency proceeding has the right, at his own expense, to be represented by counsel or by a qualified representative. A qualified representative is an individual who, while not a member of the Florida Bar or a certified law student, has demonstrated that the representative has the necessary qualifications to responsibly represent the party's interests in a manner which will not impair the fairness of the proceeding or the correctness of the action.

Having considered the specific allegations set forth in the Requests, the Prehearing Officer has determined that the Requests meet the minimum criteria set forth in Rule 28-106.106(4), Florida Administrative Code.

DOCUMENT NUMBER-DATE

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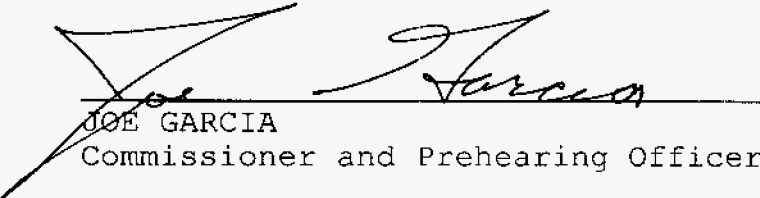
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Based on the foregoing it is

ORDERED that Steven G. Gey and Mark Seidenfeld shall be permitted to appear as qualified representatives in this docket.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 9th day of October, 1998.



JOE GARCIA
Commissioner and Prehearing Officer

(S E A L)

LJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, Florida

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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.

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