

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Petition for Determination )  
of Need for an Electrical Power )  
Plant in Polk County by Calpine )  
Construction Finance Company, L.P. )

DOCKET NO. 000442-EI  
Submitted for filing: October 3, 2000  
RECORDS AND REPORTING

FLORIDA POWER CORPORATION'S OPPOSITION  
TO CALPINE'S MOTION FOR REVISED PROCEDURAL SCHEDULE

Florida Power Corporation ("FPC") opposes the motion filed by Calpine Construction Finance Company, L.P. ("Calpine") requesting a revised procedural schedule purportedly expediting discovery.

The proposal is illusory. In denying the petitions for rehearing in the Duke case, the Supreme Court made clear (again) that an independent power producer like Calpine has no standing in its own right to obtain a determination of need. At best, Calpine may participate in a need proceeding only as a co-applicant with a Florida retail utility that has contracted to purchase the power from Calpine's proposed plant in order to meet the specific needs of that utility.

Calpine has identified no contracts whatsoever with any Florida retail utility, professing instead that it is engaged in discussions with one or more utilities that might lead to contract negotiations that might culminate someday in some kind of contract. We have no concrete assurance whether or when Calpine might enter into such a contract or, if it does, whether the contract will be sufficient to justify authorization of Calpine's proposed plant under controlling

- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP 1
- COM 3
- CTR \_\_\_\_\_
- ECR 2
- LEG 2
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- RGO \_\_\_\_\_
- SEC \_\_\_\_\_
- SEP Hale
- OTH \_\_\_\_\_

Nonetheless, Capine has filed testimony and offered to provide discovery. But about

what? Not about any contracts. When Calpine's counsel contacted us to propose expediting

discovery, we asked about the status of any contract negotiations and were advised that counsel

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was not at liberty to provide that information. But, that is the only discovery that matters, and Calpine is unable or unwilling to provide it.

Accordingly, we must view Calpine's proposal to expedite discovery as meaningless gesture of, at best, as unilateral. Apparently, for some reason, Calpine proposes to serve discovery on FPC and FPL and seeks to expedite our obligation to object and respond same. Yet, Calpine has no intention of identifying or providing information on what must be the central feature of this need proceeding—namely, any purchase power contracts—until the eve of the hearing, if at all.

For these reasons, FPC opposes Calpine's motion. The only thing that should be expedited is a ruling on the intervenors' motions to dismiss.

Respectfully submitted,

FLORIDA POWER CORPORATION



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing FLORIDA POWER CORPORATION'S Opposition to Calpine's Motion for Revised Procedural Schedule has been furnished by fax to Robert Scheffel Wright as counsel for Calpine Construction Finance Company, L.P. and via U.S. Mail to all other parties of record this 3<sup>rd</sup> day of October, 2000.

  
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