

ORIGINAL

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March 20, 2001

BY HAND DELIVERY

Blanca Bayo  
Director, Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

RECEIVED-FPSC  
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RECORDS AND REPORTING

Docket No. 000288-EU  
In re: Petition for determination of need for electrical power plant in Lake County by Panda Leesburg Power Partners, L.P.

Docket No. 000289-EU  
In re: Petition for determination of need for electrical power plant in St. Lucie County by Panda Midway Power Partners, L.P.

Docket No. 000612-EU  
In re: Petition for determination of need for electrical power plant in St. Lucie County by Duke Energy St. Lucie, L.L.C.

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen copies of Panda Leesburg Power Partners, L.P., Panda Midway Power Partners, L.P., and Duke Energy St. Lucie, L.L.C.'s Joint Motion to Continue Abatement.

Please stamp a copy and return to us for our files. If you should have any questions please contact me at 850-877-5200.

Very truly yours,

*Suzanne Brownless*  
Suzanne Brownless  
Attorney for PEII

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DOCUMENT NUMBER-DATE  
03508 MAR 20 01  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for determination of need for electrical power plant in Lake County by Panda Leesburg Power Partners, L.P.

DOCKET NO. 000288-EU

IN RE: Petition for determination of need for electrical power plant in St. Lucie County by Panda Midway Power Partners, L.P.

DOCKET NO. 000289-EU

IN RE: Petition for determination of need for electrical power plant in St. Lucie County by Duke Energy St. Lucie, L.L.C.

DOCKET NO. 000612-EU

PANDA LEESBURG POWER PARTNERS, L.P.,  
PANDA MIDWAY POWER PARTNERS, L.P. AND  
DUKE ENERGY ST. LUCIE, L.L.C 'S  
JOINT MOTION TO CONTINUE ABATEMENT

Pursuant to Rule 28-106.204, Florida Administrative Code, Panda Leesburg Power Partners, L.P. (Panda Leesburg), Panda Midway Power Partners, L.P. (Panda Midway) (collectively referred to as PEII) and Duke Energy St. Lucie, L.L.C (DESL), jointly move the Florida Public Service Commission (the Commission) to continue to hold Docket Nos. 000288-EU, 000289-EU, and 000612-EU in abeyance until the conclusion of the 2001 Regular Session of the Florida Legislature. In support of this joint motion, PEII and DESL state:

1. On March 6, 2000, Panda Leesburg and Panda Midway filed petitions to determine the need for two 1,000 MW, natural gas fired, combined cycle electrical power plants to be located in Lake County and St. Lucie County, respectively. The petition filed by Panda Leesburg was assigned Docket No. 000288-EU. The petition filed by Panda Midway was assigned Docket No. 000289-EU. The commercial in-service dates for both of these plants is May, 2003.

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FPSC-RECORDS/REPORTING

2. On May 22, 2000, DESL filed a petition to determine the need for a 608 MW natural gas-fired, combined cycle merchant plant to be located in St. Lucie County Florida. This plant's commercial in-service date is June 1, 2003.

3. On June 5, 2000, the Commission issued Order No. PSC-00-1063-PCO-EU holding Docket Nos. 000288-EU and 000289-EU in abeyance pending the disposition of petitions for rehearing pending before the Florida Supreme Court in Tampa Electric Co. v. Garcia (TECO), 767 So.2d 428 (Fla. 2000). On July 6, 2000, the Commission issued Order No. PSC-00-1221-PCO-EU holding Docket No. 000612-EU in abeyance pending a ruling or rehearing in the TECO case.

4. On September 28, 2000, the Court issued a Revised Opinion in the TECO case denying the petitions for rehearing.

5. On December 12, 2000, the Commission issued Order No. PSC-00-2382-PCO-EU holding Docket Nos. 000288-EU, 000289-EU and 000612-EU in abeyance pending the expiration of the appellate time period to the United States Supreme Court in the TECO case.

6. The City of New Smyrna Beach Utilities Commission timely sought United States Supreme Court review of the TECO case. In early March, however, the United States Supreme Court declined to hear the case.

7. Notwithstanding the United States Supreme Court's decision, Docket Nos. 000288-EU, 000289-EU and 000612-EU should continue to be held in abeyance until the conclusion of the 2001 Regular Session of the Florida Legislature because of the possibility of legislative action that could affect the viability

of the petitions in these dockets.

8. On February 6, 2001, the Energy 2020 Study Commission issued its Interim Report, Proposal For Restructuring Florida's Wholesale Market For Electricity. This report has been presented to the Governor, the Senate Regulated Industries Committee and the House Utilities and Telecommunications Committee. Shell bills have been filed in both chambers of the legislature as a vehicle for Energy 2020 Study Commission legislation which is expected to be filed next week in the House.

9. There is a real possibility that legislation will be passed this session that addresses the issue of need determinations and the ability of exempt wholesale generators (EWGs) such as PEII and DESL to either qualify as applicants in need determinations or be exempt from this requirement.

10. The legislative session has started and is scheduled to end on May 4, 2001.

11. There is no harm to any party in continuing the abatement of these dockets. There is the potential for serious harm to PEII and DESL in not doing so. Valuable time will be lost, if PEII and DESL are forced to refile their petitions and start the siting "clock" all over again should the legislature keep the need determination process and allow EWGs to be applicants.

12. Therefore, PEII and DESL respectfully request that the Commission hold Docket Nos. 000288-EU, 000289-EU and 000612-EU in abeyance until the consideration of the 2001 Regular Session of the Florida Legislature.

Respectfully submitted this 20th day of March, 2001 by:

*Suzanne Brownless*

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Petition for determination  
of need for electric power plant  
in Lake County by Panda Leesburg  
Power Partners, L.P.

DOCKET NO. 000288-EU

IN RE: Petition for determination  
of need for electric power plant  
in Lake County by Panda Midway  
Power Partners, L.P.

DOCKET NO. 000289-EU

IN RE: Petition for determination of  
need for electrical power plant in  
St. Lucie County by Duke Energy St.  
Lucie, L.L.C.

DOCKET NO. 000612-EU

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing  
has been provided by U.S. Mail or (\*) Hand Delivery to the  
following on March 26th, 2001:

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