

Ruth Nettles

From: Vicki Kaufman [vkaufman@asglegal.com] 070650-EI
Sent: Monday, December 03, 2007 3:45 PM
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Cc: wade_litchfield@fpl.com; charles.gauthier@dca.state.fl.us; Mike.Halpin@dep.state.fl.us; Charles Beck; Ken Hoffman; Alliance4Cleanfl@aol.com; Jennifer Brubaker; Caroline Klancke; Katherine Fleming
Subject: Docket No. 070650-EI
Attachments: Petition to Intervene FINAL 12.03.07.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, Seminole Electric Cooperative, Inc. makes the following filing:

- a. The name, address, telephone number and email of the person responsible for the filing is:
 Vicki Gordon Kaufman
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- b. This filing is made in Docket No. 070650-EI, In re: Petition to Determine Need for Turkey Point Nuclear Units 6 and 7 Electrical Power Plant, by Florida Power & Light Company
- c. The document is filed on behalf of Seminole Electric Cooperative, Inc.
- d. The total number of pages in the document is 12.
- e. The attached document is a petition to intervene with two exhibits.

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 FPSC - COMMISSION OF FPL

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition To Determine Need for
Turkey Point Nuclear Units 6 and 7
Electrical Power Plant, by Florida
Power & Light Company

DOCKET NO. 070650-EI

FILED: December 3, 2007

SEMINOLE ELECTRIC COOPERATIVE, INC.'S
PETITION TO INTERVENE

Pursuant to Sections 120.569(1) and 120.57, Florida Statutes, and Rules 25-22.039 and 28-106.205, Florida Administrative Code, Seminole Electric Cooperative, Inc. ("Seminole") files this Petition To Intervene, and in support thereof shows as follows:

INTRODUCTION

1. The name and address of the affected agency is:

The Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

2. The name and address of the Petitioner is:

Seminole Electric Cooperative, Inc.
P.O. Box 272000
16313 North Dale Mabry Highway
Tampa, FL 33688-2000
(813) 963-0994 (Voice)
(813) 264-7906 (Facsimile)

Copies of all correspondence, pleadings, notices, orders and other documents in this docket should be provided to:

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NOTICE OF RECEIPT OF ACTION

3. Seminole received notice of this proceeding after the petition was filed through press notices of the petition.

BACKGROUND

4. On October 16, 2007, Florida Power & Light Company ("FPL") filed a Petition To Determine Need for two nuclear-fueled generating units which will add between 2,200 and 3,040 MW to the grid. FPL projects that the first of the units will be brought into service in 2018 and the second one will be brought into service in 2020.

STATEMENT OF SUBSTANTIAL INTERESTS

5. Seminole is a non-profit electric generation and transmission cooperative organized under the Rural Electric Cooperative Law of Florida (Chapter 425, Florida Statutes). Seminole's corporate purpose is to supply wholesale electric power and energy reliably and at the lowest feasible cost to its ten member non-profit, rural distribution cooperatives. Seminole's member systems provide retail electric service to over 880,000 consumers in 46 Florida counties. In 2006, member system retail sales were in excess of 16 billion kWh, and these sales are expected to grow over the next 15 years at an average annual rate of 4.0%. Seminole acquires the power to serve its member load from its own

generation, from power purchases from both investor-owned utilities and independent power producers, and from co-owned facilities in the State.

6. In this proceeding, the Florida Public Service Commission (“FPSC” or “Commission”) will determine whether to approve FPL’s petition for a determination of need for two proposed nuclear power plants in Dade County, Florida which will contribute a large amount of new generation to the system. Seminole has a need for capacity during the same time frame in which the FPL proposed nuclear units are projected to come on line.

7. Seminole’s substantial interests will be affected by the outcome of this proceeding because in this proceeding the Commission will determine: whether there is a need for the proposed units taking into account system reliability and integrity; whether there is a need for the units taking into account fuel diversity; whether there is a need for the units taking into account the need for base-load generating capacity; whether there is a need for the units taking into account the need for adequate electricity at a reasonable cost; whether other measures might mitigate the need; and whether the proposed units provide the most cost-effective source of power.

8. Seminole has a substantial interest in the Commission’s decision as to each of these issues. As a wholesale supplier of power to its members, which in turn supply such power at retail to the citizens of the State, Seminole has a direct and substantial interest in ensuring that there are adequate and economical sources of power in the State for all citizens. As discussed below, Seminole intends to pursue discussions with FPL regarding a joint ownership arrangement as to the proposed nuclear units. Because of siting, permitting and other regulatory requirements, the number of nuclear

units that can be permitted and built in Florida to meet the needs of Florida's citizens, including Seminole's members, is, of necessity, very limited. Seminole thus has a substantial interest in ensuring that appropriate units are built and permitted and that it has the opportunity to participate in the co-ownership of such units.

9. In addition, Section 403.519(4)(a)(5), Florida Statutes, expresses the Legislature's interest in ensuring that co-ownership of nuclear facilities is explored among Florida's utilities. The statute provides that a need applicant file "[i]nformation on whether there were any discussions with any electric utilities regarding ownership of a portion of a nuclear or integrated gasification combined cycle power plant by such electric utilities." Rule 25-22.081(2)(d), Florida Administrative Code, has a similar requirement.

10. This statutory language reflects the Florida State Legislature's clear understanding that in this day of rapidly growing power load in Florida and elevated concerns over carbon dioxide ("CO₂") emissions, public utilities planning major new nuclear facilities must talk meaningfully to other electric utilities in the State about co-ownership. Such discussions give all power customers in the State the opportunity to avail themselves of this type of generation, which emits no CO₂. Thus, before the FPSC issues an order on a need application, such as the instant one, it should ensure that the applicant is committed to discussions regarding co-ownership on reasonable terms and conditions with those electric utilities in the State, like Seminole, that are likewise in need of base load generation in the same time frame as FPL so that retail customers may be reliably and economically served.

11. Given the recent actions by the Governor of the State to eliminate new construction of coal-fired power plants in the State, the importance of meaningful discussions about co-ownership of new nuclear facilities in the State is heightened, as the options for power generation and the locations available for such options continue to decline, while Florida's load continues to grow.

12. FPL recognizes its obligation to discuss co-ownership with other Florida utilities. In its petition (paragraph 63), FPL states:

FPL has held preliminary discussions regarding the potential for ownership participation with several Florida utilities who have expressed interest. As FPL proceeds through the licensing phase and begins dedicated commercial negotiations with the selected vendor, opportunities for partnership with Florida utilities will continue to be explored.

Mr. Scroggs makes a similar statement in his prefiled direct testimony at (64-65). However, FPL has had no such discussions with Seminole. Because Seminole seriously intends to pursue co-ownership with FPL, the FPSC should ensure that FPL engages in meaningful discussions with Seminole as Seminole requires base load power so that its members are able to serve their load in the indicated time frame.

13. Since FPL did not contact Seminole regarding co-ownership prior to filing its petition in this docket, Seminole on October 26, 2007 sent a letter to FPL regarding the nuclear project and its desire to purchase a combined 400 MW share of the new units. (Exhibit 1). FPL responded by letter of November 8, 2007 (Exhibit 2) stating, in part, that "having substantive discussions on partnership or co-ownership are premature until we are much further down the road on this project." Seminole respectfully disagrees. Given the substantial amount of work FPL has already done on the proposal, such

discussions could well be very fruitful. Such discussions should begin now so that areas of concern can be addressed earlier rather than later in the process.¹

14. Seminole has a substantial interest in this proceeding due to the statutory and regulatory requirements for ensuring that there is an adequate, reliable, cost-effective supply of electricity in the State. Seminole also has a substantial interest in ensuring that FPL has meaningful discussions with potential co-owners, like Seminole, as to the proposed nuclear units.

15. As described above, Seminole's substantial interests will be directly affected by the Commission's decision in this proceeding and are the types of interests that this proceeding is designed to protect. *See, e.g., Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2nd DCA 1981).

DISPUTED ISSUES OF MATERIAL FACT AND LAW

16. Seminole's allegations of disputed issues of fact and law include, but are not limited to, the following:

- a. The Tentative List of Issues appended to Order No. PSC-07-0869-PCO-EI. These issues may be disputed by Staff or potential intervenors;
- b. Whether FPL has engaged in meaningful discussions regarding co-ownership of the proposed project; and
- c. Whether the FPSC should require FPL to engage in discussions with Seminole regarding co-ownership of the project.

¹ Order No. PSC-07-0869-PCO-EI, Order Establishing Procedure, at 2, notes that: "A list of the issues identified thus far in this proceeding is attached hereto as Appendix A. The scope of this proceeding will be based upon these issues as well as other issues raised by the parties up to and during the Prehearing Conference, unless modified by the Commission." Thus, Seminole has properly raised the issue of co-ownership discussions.

STATEMENT OF ULTIMATE FACTS²

17. Without waiving or relinquishing the right to allege additional ultimate facts should they become known, Seminole's allegations of ultimate facts include the following:

a. FPL has failed to engage in meaningful discussions with Seminole regarding co-ownership of the proposed nuclear units; and

b. The FPSC should require FPL to engage in meaningful co-ownership discussions with Seminole as a part of issuance of the determination of need of need.

STATEMENT OF SPECIFIC RULES AND STATUTES ENTITLING PETITIONER TO RELIEF

18. Seminole is entitled to relief pursuant to :

a. Sections 120.569 and 120.57, Florida Statutes, which entitle Seminole to a hearing when its substantial interests are affected as they are in this matter;

b. Section 403.519, Florida Statutes, and rule 25-22.081, Florida Administrative Code, which relate to discussions of co-ownership; and

c. Rules 25-22.039, and 28-106.205, Florida Administrative Code, which entitle Seminole to intervene in this proceeding.

RELIEF REQUESTED

WHEREFORE, Seminole respectfully requests that:

a. It be permitted to intervene as a full party in this proceeding; and

² The specific facts supporting the Ultimate Facts are included in the prior section titled Material Issues of Disputed Fact and Law.

b. The Commission direct FPL to engage in meaningful discussions with Seminole regarding co-ownership of the nuclear units for which it seeks a determination of need in this docket.

Respectfully submitted this 3rd day of December 2007.

s/ Vicki Gordon Kaufman

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Attorneys for Seminole

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition To Intervene has been furnished by electronic mail (*) and U.S. Mail this 3rd day of December 2007 to the following :

(*)Florida Public Service Commission
Jennifer Brubaker, Esq.
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
jbrubake@psc.state.fl.us

Florida Power & Light Company
Mr. William Walker
215 South Monroe St., Suite 810
Tallahassee, FL 32301-1859

Florida Power & Light Company
Mr. Stephen L. Huntoon
801 Pennsylvania Ave., N.W.
Suite 200
Washington, D.C. 20004

(*)Florida Power & Light Company
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Fernandez and Cano
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Juno Beach, FL 33408-0420
Wade_litchfield@fpl.com

(*)Department of Community Affairs
Mr. Charles Gauthier
Division of Community Planning
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100
charles.gauthier@dca.state.fl.us

(*)Department of Environmental
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Mr. Michael P. Halpin
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Jane and Bob Krasowski
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Mr. Bob Krasowski
1086 Michigan Avenue
Naples, FL 34103
Alliance4Cleanfl@aol.com

s/ Vicki Gordon Kaufman

Vicki Gordon Kaufman



DELIVERED VIA FEDERAL EXPRESS

October 26, 2007

Mr. R. Wade Litchfield
Vice President
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

Re: FPSC Docket No. 070650-EI

Dear Mr. Litchfield:

I have read with interest Florida Power & Light Company's petition for a need determination regarding Turkey Point nuclear units 6 and 7 filed with the Florida Public Service Commission on October 16, 2007 in the above-referenced proceeding. At paragraph 63 of the filing, FPL states that it has held preliminary discussions with several Florida utilities regarding the potential for ownership participation by them and will continue to explore partnership opportunities with Florida utilities.

Seminole was not one of those Florida utilities that was contacted by FPL, so I am taking this opportunity to note for the record our interest in an ownership share of Turkey Point units 6 and 7 in the amount of 400 MW (with half attributable to each unit). Seminole would be pleased to discuss this matter with you at your earliest convenience.

Please contact me or Mr. Mike Opalinski, Seminole's Senior V.P. of Strategic Services, with any questions regarding this letter or our request. Thank you in advance for your consideration of this matter.

Very truly yours,

Timothy S. Woodbury
Executive Vice President
and General Manager

cc: Ann Cole (FPSC)
Mal Green (SECI)
Mike Opalinski (SECI)
Armando Olivera (FPL)



November 8, 2007

Timothy S. Woodbury
Executive Vice President
and General Manager
Seminole Electric Cooperative, Inc.
16313 North Dale Mabry Highway
Tampa, Florida 33688-2000

Re: Docket No. 070650-EI

In re: Florida Power & Light Company's Petition to Determine Need for Turkey Point Units 6 and 7 Nuclear-Fueled Electrical Power

Dear Mr. Woodbury:

Mr. Litchfield has referred your letter dated October 26, 2007 to me for a response. As you know, Florida Power & Light Company ("FPL") has initiated a process that is intended to culminate in the construction of two new nuclear units at Turkey Point. Although we have discussed the possibility of third-party ownership interest in some portion of one or both units or their output, I am sure you understand that our focus at this time must remain on obtaining the requisite regulatory approvals and moving forward with the significant siting and preconstruction activities.

We appreciate your willingness to discuss Seminole Electric's interest in exploring the possibility of some form of partnership or ownership participation. However, we feel that such discussions would be premature until we are much further down the road on this project. This will allow the necessary time to resolve many of the regulatory issues facing the project and further clarify commercial parameters and project schedules.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven D. Scroggs", written in a cursive style.

Steven D. Scroggs
Senior Director, Project Development
Florida Power & Light Company