

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to determine) DOCKET NO. 961512-EM
need for electrical power plant) ORDER NO. PSC-97-0299-PCO-EM
in St. Marks, Wakulla County, by) ISSUED: March 19, 1997
City of Tallahassee.)
_____)

ORDER GRANTING INTERVENTION

By petition dated March 4, 1997, LS Power LLC (LS Power) has requested permission to intervene in this proceeding. On March 11, 1997, the City of Tallahassee (City) filed its response in opposition to LS Power's request to intervene.

LS Power asserts that it was a participant in the City's request for proposal (RFP) process having submitted a timely bid along with the required Proposal Evaluation Fee. LS Power's proposal was reviewed by the City in the first two phases of the evaluation process. LS Power, however, declined to pay the Comprehensive Negotiation and Analysis Fee which was required by the City for evaluation in the final phase of the evaluation process. The City argues that LS Power was not an alternative considered by the City by virtue of its withdrawal.

Section 403.519, Florida Statutes directs the Commission, in a need determination proceeding, to consider whether the proposed plant is the most cost-effective alternative available. In order to make such a determination, the Commission must be able to hear testimony regarding other alternatives considered by the utility and their relative cost-effectiveness. Here, LS Power provides an alternative to the City's proposed plant which was submitted to the City in response to the RFP and which may (or may not) be more cost-effective. It is therefore incumbent upon parties representing such competing alternatives, who believe that their project is more cost-effective, to participate in the hearing, and attempt to demonstrate that their proposal can provide the utility with power at a lower cost. The Commission would benefit from an exploration of the competing proposals considered by the City in its determination that the proposed plant was the most cost-effective alternative.

It is therefore found that LS Power has standing to intervene in this proceeding. Granting intervention to LS Power is not an affirmative determination as to the viability of its proposal.

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FPSC-RECORDS/REPORTING

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It is therefore

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer that LS Power LLC's petition to intervene is granted. It is further

ORDERED that all parties shall furnish copies of all testimony, exhibits, pleadings and other documents which may hereinafter be filed in this proceeding, to:

Patrick K. Wiggins
Wiggins & Villacorta, P.A.
501 East Tennessee Street
Suite B
Post Office Drawer 1657
Tallahassee, Florida 32302

Clarence Heller
LS Power LLC
1633 Des Peres Road
Suite 308
St. Louis, Missouri 63131

William H. Wilson, Jr.
Brown, Olson & Wilson, P.C.
501 South Street
Concord, New Hampshire 03304

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 19th day of March, 1997.



SUSAN F. CLARK, Commissioner and
Prehearing Officer

(S E A L)

VDJ

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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.

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 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.