

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Generic investigation
into the aggregate electric
utility reserve margins planned
for Peninsular Florida.

DOCKET NO. 981890-EU
ORDER NO. PSC-99-2507-S-EU
ISSUED: December 22, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

APPEARANCES:

JAMES D. BEASLEY and LEE WILLIS, Ausley & McMullen, Post Office Box 391, Tallahassee, Florida 32302, appearing on behalf of Tampa Electric Company.

JOSEPH A. MCGLOTHLIN, McWhirter, Reeves, McGlothlin, Davidson, Dekker, Kaufman, Arnold & Steen, 117 South Gadsden Street, Tallahassee, Florida 32301, appearing on behalf of Reliant Energy Power Generation.

VICKI GORDON KAUFMAN and JOHN MCWHIRTER, McWhirter, Reeves, McGlothlin, Davidson, Dekker, Kaufman, Arnold & Steen, 117 South Gadsden Street, Tallahassee, Florida 32301, appearing on behalf of the Florida Industrial Power Users Group.

GARY L. SASSO, Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A., Post Office Box 2861, St. Petersburg, Florida 33731, appearing on behalf of Florida Power Corporation.

MATTHEW M. CHILDS, Steel, Hector & Davis, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301, appearing on behalf of Florida Power & Light Company.

DEBRA SWIM, Legal Environmental Assistance Foundation, 1115 North Gadsden Street Tallahassee, Florida 32301, appearing on behalf of Legal Environmental Assistance Foundation (LEAF).

DOCUMENT NUMBER-DATE

15628 DEC 22 8

FPSC-RECORDS/REPORTING

ORDER NO. PSC-99-2507-S-EU
DOCKET NO. 981890-EU
PAGE 2

ROY YOUNG, Young, van Assenderp and Varnadoe, P. A., P. O. Box 1833, Tallahassee, Florida 32302-1833, appearing on behalf of the City of Lakeland and Kissimmee Utility Authority.

PAUL SEXTON, Thornton Williams & Associates, 215 South Monroe Street, Suite 600-A, Tallahassee, Florida 32301, appearing on behalf of the Florida Reliability Coordinating Council, Inc.

JON C. MOYLE, JR. Moyle, Flanigan, Katz, Kolins, Raymond & Sheehan, 210 South Monroe Street, Tallahassee, Florida 32301, appearing on behalf of PG&E Generating Company.

ROBERT SCHEFFEL WRIGHT, Landers & Parsons, 310 West College Avenue, Tallahassee, Florida 32302, appearing on behalf of Duke Energy New Smyrna Beach Power Company, Ltd., L.L.P.

FREDERICK M. BRYANT, General Counsel, Florida Municipal Power Agency, 2010 Delta Boulevard, Tallahassee, Florida 32315, appearing on behalf of Florida Municipal Power Agency.

THOMAS J. MAIDA, III, Foley & Lardner, Post Office Box 508, Tallahassee, Florida 32302, appearing on behalf of Seminole Electric Cooperative.

KENNETH A. HOFFMAN, Rutledge, Ecenia, Underwood, Purnell and Hoffman, P. O. Box 511, 215 South Monroe Street, Suite 420, Tallahassee, Florida 32302-0551, appearing on behalf of the City of Tallahassee.

MICHAEL B. WEDNER, Office of General Counsel, 117 West Duval Street, Suite 480, Jacksonville, Florida 32202, appearing on behalf of Jacksonville Electric Authority.

ROBERT V. ELIAS, GRACE JAYE and COCHRAN KEATING, FPSC Division of Legal Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, appearing on behalf of the Florida Public Service Commission Staff.

ORDER APPROVING STIPULATION

BY THE COMMISSION:

During our reviews of the Ten Year Site Plans filed in 1997 and 1998, we expressed concerns about the adequacy of the reserve margins planned for Peninsular Florida. At the December 15, 1998, Internal Affairs meeting, we directed staff to open this docket to consider the reserve margins planned for Peninsular Florida electric utilities.

By Order No. PSC-99-1274-PCO-EI, nineteen issues were identified for consideration in this proceeding. The investor-owned utilities, the cooperative utilities, several municipal utilities, the various intervenors, and Commission staff filed testimony concerning these issues. The hearing was scheduled for November 2nd and 3rd, 1999.

At the outset of the hearing, Florida Power & Light Company (FPL), Florida Power Corporation (FPC), and Tampa Electric Company (TECO), presented a proposal designed to settle the case; addressing what they believe are the Commission's major concerns. By the proposal, these three utilities stipulated to voluntarily adopting a twenty percent reserve margin planning criterion. Each of these three utilities would achieve the twenty percent level by the summer of 2004. Further, pursuant to the proposal, no decisions would be made concerning the specifically enumerated issues, and the docket would be closed. FPL, FPC, and TECO would be the only utilities adopting the twenty percent criteria.

Other parties argued in support of and against the proposal. The Florida Industrial Power Users Group (FIPUG) requested additional time to present a counter-proposal. The hearing was continued until November 30, 1999, and the parties were directed to attempt to reach a negotiated settlement. FIPUG offered a counter-proposal on November 17, 1999. No settlement was reached.

At the continued hearing, we considered both proposals. After discussion, FPL, FPC, and TECO agreed to further modifications to their proposal. A document incorporating these agreed-upon changes was filed on December 15, 1999. A copy of this document (hereinafter the "Stipulation") is included in this Order as Attachment A and is incorporated herein by reference. FPL, FPC, and TECO have each agreed to achieve a planned twenty percent

reserve margin by the summer of 2004. In response to concerns expressed by some of the other parties, each utility has agreed to make a good faith effort to notify the Commission if it opts to modify the twenty percent criterion. The three utilities signing the Stipulation further acknowledge in paragraph 9 at page 4 that

the Commission shall retain the ability and discretion to consider all facts and circumstances applicable to a given utility and/or peninsular Florida. Further, with respect to the evaluation of the adequacy of reserves in peninsular Florida, the Commission may employ any methodology and consider any facts and circumstances it deems appropriate, subject to applicable legal requirements.

We approve the Stipulation agreed to by Florida Power & Light Company, Florida Power Corporation, and Tampa Electric Company. It addresses the basic concern about the adequacy of planned reserve margins for Peninsular Florida. Collectively, these three utilities plan for approximately 80 percent of the Peninsular Florida load. Thus, a twenty percent planning criterion adopted by these three utilities is a significant increase over the fifteen percent criterion currently employed.

Further, we will convene a workshop to receive and consider information regarding how distributed resources, both demand and supply-side, may be used to meet Florida's energy service reliability needs. In addition, we will convene a workshop for the consideration of the appropriate relationship between the non-firm load of an individual utility and the total reserves required to maintain the utility's appropriate reserve margin.

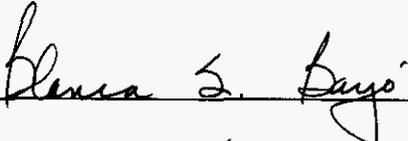
Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that the Stipulation agreed to by Florida Power & Light Company, Florida Power Corporation, and Tampa Electric Company, which is included in this Order as Attachment A and is incorporated by reference herein, is approved. It is further

ORDER NO. PSC-99-2507-S-EU
DOCKET NO. 981890-EU
PAGE 5

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 22nd
day of December, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RVE

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This

ORDER NO. PSC-99-2507-S-EU
DOCKET NO. 981890-EU
PAGE 6

filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Generic investigation into
the aggregate electric utility
reserve margins planned for
Peninsular Florida

Docket No. 981890-EU

STIPULATION

WHEREAS, the Florida Public Service Commission initiated this proceeding regarding reserve margins of Peninsular Florida utilities in December 1998; and

WHEREAS, subsequent to that date Staff and parties identified certain issues to be addressed and procedures to be followed; and

WHEREAS, Florida Power & Light Company (FPL), Florida Power Corporation (FPC), and Tampa Electric Company (TECO) (collectively, the IOUs) have asserted, and continue to assert, that the scope of the proceeding has been expanded beyond the intent of the Commission, and that the procedural posture of this proceeding is such that the Commission cannot lawfully take formal action that would affect their substantial interests at this time; and

WHEREAS, in Orders No. PSC-99-1274-PCO-EU and No. PSC-99-1716-PCO-EU the Commission overruled the IOUs' procedural objections, clarified the scope of the docket, identified specific issues to be addressed, and confirmed its intent to conduct a formal evidentiary proceeding in this docket and take the actions it deems appropriate; and

WHEREAS, Reliant Energy Power Generation, Inc (Reliant Energy), Florida Industrial Power Users Group (FIPUG), PG&E Generating Company (PG&E), the Legal Environmental Assistance Foundation, Inc. (LEAF), and Duke Energy North America, LLC, and Duke Energy New Smyrna Beach Power Company, Ltd., LLP (Duke Energy), (hereinafter referred to as Intervenors), filed Petitions to Intervene in which they alleged the actions contemplated by the Commission in this docket would affect their substantial interests; and

WHEREAS, the Commission granted Intervenors' petitions to intervene, and Intervenors have participated as full parties to the proceeding; and

WHEREAS, on October 29, 1999, FPC, acting on behalf of the IOUs, submitted to the Commission Staff a proposal for the resolution of the issues in this proceeding; and

WHEREAS, upon receipt of the proposal the Commission continued the hearing scheduled for November 2, 1999 and convened on that date a conference of all parties for the purpose of discussing the proposal of the IOUs; and

WHEREAS, upon consideration of the IOUs' proposal, without waiving their respective litigation positions and for the purposes of compromise and settlement, the undersigned, representing all of the parties to this proceeding that have been identified by the Commission or allowed by Commission to intervene, have decided to prepare this Stipulation, and present it to the Commission for the purpose of concluding this docket.

NOW, THEREFORE, the parties stipulate and agree as follows:

1. The IOUs will each voluntarily adopt a minimum reserve margin planning criterion of twenty percent (20%).
2. The twenty percent (20%) reserve margin planning criterion will be a minimum; no maximum or cap will be represented or implied by this criterion.
3. No utility other than the three IOUs identified hereinabove is agreeing to adopt a twenty percent (20%) reserve margin planning criterion by virtue of this Stipulation.
4. The IOUs will calculate the minimum twenty percent (20%) reserve margin by employing their current methodology; i.e., Reserve Margin (%) = $[(\text{Total Firm Capacity} - \text{Peak Firm Demand}) / \text{Peak Firm Demand}] \times 100$, where Total Firm Capacity will be based on generating capacity owned by the IOUs or capacity for which there is a firm commitment to these IOUs and

where Peak Firm Demand means total demand reduced by demand side resources.

5. The IOUs will undertake to implement the twenty percent reserve margin criterion over a transition period of four years, meaning that they will plan to achieve a twenty percent (20%) reserve margin by the Summer of 2004.

6. The IOUs agree to adopt the twenty percent (20%) reserve margin planning criterion with the good faith intention of maintaining that planning criterion for the indefinite future, but each IOU must reserve the prerogative individually to modify its planning criteria to adapt to relevant circumstances. By the same token, it is understood that the Commission remains free to initiate an investigation or to take other appropriate action to review and to respond to any changes that the IOUs may make in the future regarding their planning criteria.

7. Should any IOU exercise its prerogative to change its twenty percent (20%) minimum reserve margin planning criterion discussed herein, such IOU will make a good faith effort to provide notice of the change to the Commission.

8. Neither the adoption by the IOUs of the minimum twenty percent (20%) planning criterion nor the approval of this Stipulation by the Commission shall be deemed to create any presumption that capacity additions must be through any particular mix of generation and/or demand-side resources. Nor shall said adoption or approval be deemed to create any presumption with respect to any proposals for adding generating capacity or create a presumption that a generating capacity addition proposed by any entity is not needed. All current and future proceedings under the Electrical Power Plant Siting Act, including those for the consideration of merchant plants, and all statutes, rules, regulations, and policies bearing on the Commission's determination of need for new generation (including the need determination criteria in § 403.519, Florida Statutes); the IOUs' obligation to solicit proposals for generating capacity; and the

obligations of the IOUs to otherwise prudently avail themselves of reasonably available conservation alternatives and cost-effective resource options; and the obligations of the IOUs to best serve their retail customers through their respective resource planning processes, are unaffected by this Stipulation and the approval thereof.

9. The parties acknowledge that for all regulatory purposes, the Commission shall retain the ability and discretion to consider all facts and circumstances applicable to a given utility and/or peninsular Florida. Further, with respect to the evaluation of the adequacy of reserves in peninsular Florida, the Commission may employ any methodology and may consider any facts and circumstances it deems appropriate, subject to applicable legal requirements.

10. The Commission is encouraged to take the following actions in conjunction with the approval of this Stipulation:

A. Convene a workshop, with the participation and the assistance of the Regulatory Assistance Project, to receive and consider information regarding how distributed resources, both demand and supply-side, may be used to meet Florida's energy service reliability needs, to be followed by any additional proceedings and/or actions relative to this matter that the Commission deems appropriate.

B. Convene a workshop for the consideration of the appropriate relationship between the non-firm load of an individual utility and the total reserves required to maintain the utility's appropriate minimum reserve margin, to be followed by any additional proceedings and/or actions relative to this matter that the Commission deems appropriate.

11. The parties enter into this Stipulation for the purpose of effecting a compromise and of achieving closure of this docket. By its participation in this Stipulation, no party expresses its endorsement of any individual provision included by any other party.

12. By entering this Stipulation, no party waives any position it has taken with respect to any aspect of this proceeding or any of the issues identified in this proceeding or any other proceeding. Further, no party waives the right and opportunity to petition the Commission to institute any action designed to provide any relief deemed appropriate or desirable by that party at any time.

13. The parties to this Stipulation agree that, by approving this Stipulation, the Commission does not waive its right and ability, pursuant to governing law, to initiate any proceeding or take any action for which it has requisite jurisdiction and authority.

14. In the event the Commission declines to approve this Stipulation in its entirety, it shall become null and void.

AGREED this 14th day of December 1999.


Matthew M. Childs
Charles A. Guyton
Steel Hector
215 South Monroe Street, Ste. 601
Tallahassee, FL 32301-1804
Attorneys for Florida Power & Light Company


James A. McGee
Legal Department MC A5E
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33711


James Beasley
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32301
Attorneys for Tampa Electric Co.

Gary L. Sasso
Carlton, Fields, Ward, Emmanuel, Smith &
Cutler, P.A.
Post Office Box 2861
St. Petersburg, FL 33731-2861
Attorneys for Florida Power Corporation