

M E M O R A N D U M

August 23, 2000

TO: CHAIRMAN J. TERRY DEASON

FROM: DIVISION OF LEGAL SERVICES (ELIAS, ISAAC) *RNB 28 CB RVE 92H*  
 DIVISION OF SAFETY AND ELECTRIC RELIABILITY (HARLOW) *VB*

RE: WITHDRAWAL OF RECOMMENDATION FOR DOCKET 000442-EI *JDJ*  
 PETITION FOR DETERMINATION OF NEED FOR THE OSPREY ENERGY  
 CENTER BY CALPINE CONSTRUCTION FINANCE COMPANY, L.P. *Item 31*

Staff requests a withdrawal of the recommendation filed on August 3, 2000, which was deferred at the August 15, 2000 Agenda to the upcoming August 29, 2000 Agenda. Staff's request is based on a letter received August 23, 2000, from Calpine Construction Finance Company, L.P. (Calpine) that offers to move the hearing date to November 29, 30, and December 1, 2000 to accommodate staff's concerns.

Staff believes that rescheduling the hearing will allow time for Calpine to file documentation of energy output commitments to retail utilities and provide time for the Florida Supreme Court to act with regards to the Duke-New Smyrna case. Furthermore, staff believes that the calender can accommodate this request. If necessary, staff will bring this item back to agenda on November 7, 2000.

Attachment  
 RNI

- cc: Commissioner Jacobs  
 Commissioner Jaber  
 Bill Talbott, Executive Director  
 Mary Bane, Deputy Executive Director  
 Cathy Bedell, General Counsel  
 Noreen Davis, Director of Legal Services  
 Joe Jenkins, Director of Division of Safety & Electric Reliability  
 Roland Floyd, Division of Safety & Electric Reliability  
 Tom Ballinger, Division of Safety & Electric Reliability

*Recommend Approved.  
 MAB*

- APP
- CAF
- CMP
- COM
- CTR
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- OPC
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- SEC
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DOCUMENT NUMBER-DATE  
**10645 AUG 29 8**  
 FPSC-RECORDS/REPORTING

LANDERS & PARSONS, P.A.

ATTORNEYS AT LAW

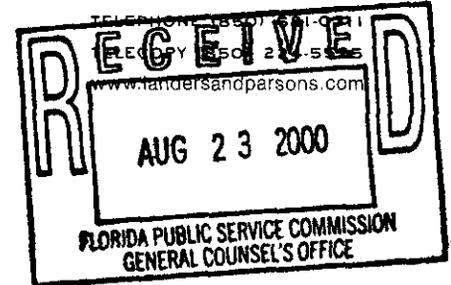
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VICTORIA J. TSC HINKEL  
SENIOR CONSULTANT  
(NOT A MEMBER OF THE FLORIDA BAR)

August 23, 2000



Catherine Bedell, Esquire  
General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: FPSC Docket No. 999442-EI, Calpine Construction Finance  
Company's Petition for Determination of Need for the Osprey  
Energy Center

Dear Ms. Bedell:

As you know, my firm represents Calpine Construction Finance Company, L.P. ("Calpine"), the petitioner and primary applicant for the Commission's determination of need for the Osprey Energy Center, a 529 MW natural gas-fired, combined cycle electrical power plant to be located in Auburndale, Polk County, Florida. Calpine has been proceeding and conducting itself so as to allow the hearings presently scheduled for October 18-20 to go forward as scheduled. Accordingly, Calpine filed the testimony and exhibits of its seven witnesses on August 18 and 21, 2000, and Calpine filed its Revised Exhibits on August 22, 2000.

I have read the Staff's recommendation regarding the need determination case for the Osprey Project. Let me reiterate that Calpine stands fully ready to proceed as scheduled to the hearings on October 18-20. However, in order to accommodate and address the Staff's concerns in their recommendation, Calpine would offer that, if the Commission's calendar would accommodate rescheduling the hearing dates to late November, Calpine would not oppose such rescheduling. Based on preliminary research and discussions with staff of the Florida Department of Environmental Protection, we believe that this modest rescheduling would not affect the planned in-service date for the Osprey Project, and accordingly, would not delay the realization of the Project's benefits for Florida's retail-serving utilities and their customers. As evidenced by the attached letters, there is strong support from several Florida utilities for Calpine's approach to permitting and committing the Osprey Project's output to serve the wholesale needs of Florida retail-serving utilities.

Catherine Bedell, Esquire  
Re: IPSC Docket No. 000442-EI  
August 23, 2000  
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If you have any questions, please give me a call.

Cordially yours,

A handwritten signature in cursive script, reading "Robert Scheffel Wright". The signature is written in black ink and is positioned above the typed name.

Robert Scheffel Wright

Attachments



**Frederick M. Eryant**  
General Counsel

P.O. Box 3209  
Tallahassee, Florida 32315-3209  
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Tallahassee, Florida 32303  
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**August 11, 2000**

**Mr. Joseph D. Jenkins, Director  
FPSC Division of Reliability and Safety  
225 Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee FL 32399**

**BY HAND DELIVERY**

**Re: FPSC Docket No. 000442 - EI / Osprey Energy Center  
Need Determination**

**Dear Joe:**

I am disturbed by your staff's recommendation in the above-referenced docket concerning the need determination filing for the Osprey Energy Center. I am well aware of the Supreme Court ruling in the case of Tampa Electric v. Garcia, dealing with the Duke - New Smyrna Beach need application, and I am disappointed with the Court's ruling. Nevertheless, I appreciate the fact that the Commission must deal with this Supreme Court ruling when reviewing a petition for determination of need dealing with a merchant power plant such as the proposed Osprey Energy Center to be built by Calpine.

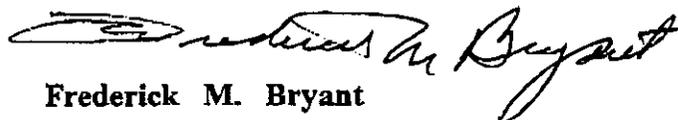
However, I believe there are alternatives available to the Commission other than holding the need determination docket in abeyance. Florida Municipal Power Agency ("FMPA") has had several discussions with Calpine relating to purchasing power from the proposed facility. As you are aware, there is a scarcity of new power supply resources in the State of Florida, and FMPA is heavily dependent on a robust wholesale power supply market in order to serve its customers' power supply needs. We believe that the Commission should do everything it can to encourage a robust wholesale power supply market. I fear that the staff's recommendation in this docket may be a step backwards.

I would propose the Commission staff consider recommending that the need determination proceed forward for the Osprey Energy Center and, after the need hearing, if the Commission finds that all other need determination factors have been met by Calpine, the Commission could simply condition the issuance of the need certificate on Calpine finalizing sufficient wholesale power supply contracts for the output of the proposed Osprey Energy Center. One of the factors FMPA evaluates in a wholesale power supply proposal is the PSC need determination status; thus, the greater the uncertainty, the less attractive the proposal.

Mr. Joseph D. Jenkins, Director  
FPSC Division of Reliability  
and Safety  
August 11, 2000  
Page 2

I apologize for sticking my nose into this controversy, but I believe that there are procedural alternatives the Commission can utilize and still meet the holding of the Tampa Electric v. Garcia Supreme Court case.

Sincerely,



Frederick M. Bryant

FMB/cl

cc: Robert V. Elias, Esquire  
Chief, Bureau of Electric and Gas  
FPSC Division of Legal Services

Robert Scheffel Wright, Esquire  
LANDERS & PARSONS, P.A.

PSC/JENKINS.001

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# COPY



August 10, 2000

Joseph D. Jenkins, Director  
Division of Safety & Electric Reliability  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**RE: FPSC DOCKET NO. 000442-EI, STAFF'S RECOMMENDATION TO  
HOLD THE OSPREY ENERGY CENTER NEED DETERMINATION  
PROCEEDING IN ABEYANCE**

Dear Mr. Jenkins:

As Vice President of the Power Resources Business Unit for the Orlando Utilities Commission (OUC), I am responsible for OUC's power supply planning and procurement activities.

Planning for the future supply and procurement of firm electric energy is of paramount importance for OUC to maintain low rates for its customers, especially in a deregulated environment. We feel it is in the best interest of our retail customers to provide for an environment that supports diversity of generation resources and efficiencies that exist in a competitive marketplace.

In an effort to diversify OUC's options and maintain low rates for our customers, OUC has had meetings with representatives of Calpine to discuss the potential for OUC to purchase firm electric generating capacity and energy from Calpine's proposed Osprey Energy Center. More recently, Calpine has responded to OUC's market solicitation. OUC would like to consider Calpine's proposal and possibly enter into a formal agreement with Calpine to meet a portion of its power supply portfolio requirements. However, a potential hold on the Osprey Energy Center Need Determination application process may eliminate a viable option OUC currently has under consideration.

OUC appreciates the work of the Florida Public Service Commission and its support of our needs in the past. We look forward to maintaining this working relationship, and if we may be of any assistance in your deliberation of these matters, please feel free to contact us.

Very truly yours,

Frederick F. Haddad, Jr.  
Vice President, Power Resources



**REEDY CREEK  
IMPROVEMENT  
DISTRICT**

DISTRICT ADMINISTRATOR  
Thomas M. Moses

August 18, 2000

Joseph D. Jenkins, Director  
Division of Reliability and Safety  
Florida Public Service Commission  
240 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: FPSC Docket No. 000442-E1, Staff's Recommendation to hold The Osprey Energy Center Need Determination Proceeding in Abeyance

Dear Mr. Jenkins:

I am Thomas M. Moses, District Administrator for Reedy Creek Improvement District (RCID). Among other things, I have ultimate responsibility for RCID's power supply planning and procurement activities. Today I read with some disappointment the Commission Staff's recommendation to hold the need determination proceeding for the Osprey Energy Center in abeyance, and I write to you to ask that you and your Staff reconsider that recommendation.

Over the past several weeks, RCID representatives have had meetings with representatives of Calpine to discuss the potential for RCID to purchase firm electric generating capacity and energy from Calpine's proposed Osprey Energy Center. Calpine has tendered to RCID a term sheet, and RCID and Calpine are, at the present time, actively negotiating the pricing, quantity, duration, and other material terms of a power purchase arrangement that would be cost-effective and beneficial to RCID, and the retail customers we serve. If these negotiations are successful, our goal would be to present the definitive terms of the transaction to the Commission in time for full and appropriate consideration at the hearings for the Osprey plant, which are presently scheduled for October 18-20.

It is in the best interests of RCID, and our retail customers for the Commission to allow Calpine to proceed with the Osprey need determination process as expeditiously as possible. As planning to meet our needs is a long-term process, any delay in the Osprey need determination process resulting in a delay in the commercial operation of the plant beyond summer of 2003, could have a direct detrimental impact on RCID's planning processes and on our ability to obtain needed, cost-effective power supplies in a timely manner. Accordingly, I write to you to suggest that the Staff should withdraw its recommendation to hold the Osprey need determination case in abeyance.

Thank you very much for considering our request and the interests of the customers we serve. If you have any questions, please give me a call.

Sincerely,

Thomas M. Moses