

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination of Need of Hines Unit 2 Power Plant.

DOCKET NO. 001064-EI

Submitted for Filing: October 24, 2000

RECORDS AND REPORTING

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REQUEST FOR ORAL ARGUMENT

Florida Power Corporation ("FPC"), by and through undersigned counsel and pursuant to Rule 25-22.0376 and Rule 25-22.058, F.A.C., hereby requests oral argument on FPC's Motion for Reconsideration of the Prehearing Officer's Order Granting Panda's Petition to Intervene to take place on October 26, 2000, at the beginning of the scheduled final hearing on FPC's need petition. As grounds for this request, FPC states as follows:

On October 23, 2000, the prehearing officer granted Panda Energy International Inc.'s ("Panda") petition to intervene in this proceeding based on Panda's assertion that as a "rejected bidder" it has the right to contest the outcome of FPC's RFP selection process. In doing so, the prehearing officer failed to address the threshold legal issue presented by FPC's opposition to Panda's intervention request - that Panda's intervention request had to be denied because Panda's bid to FPC was not legally viable under the Supreme Court's controlling decision in Tampa Electric Co. v. Garcia, 25 Fla. L. Weekly S294 (Fla. Apr. 20, 2000), revised, \_\_\_ Fla. L. Weekly \_\_\_ (Fla. Sept. 28, 2000) ("Garcia").

Instead the Order states only that "the issue and impact of TECO [aka Garcia] on the Bidding Rule and the need determination process has not yet been addressed by this Commission." This is not an appropriate reason to decline to rule on the legal objection we have

raised. With all due respect, the Supreme Court in the Garcia case has already ruled on the issue we have raised, and the Court made clear how the Commission's enabling statutes apply to the need. As such, FPC believes that oral argument on this issue may assist the Commission panel

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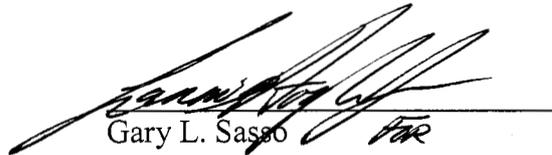
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FPSC-RECORDS/REPORTING

assigned to this matter in understanding the application of this controlling Supreme Court precedent to the issues before the it on intervention. In the end, FPC believes that the panel must agree that as a matter of law Panda's bid cannot change and as a result Panda cannot maintain that it submitted a legally viable proposal to FPC. Because the viability of Panda's proposal has already been foreclosed by controlling Supreme Court authority, nothing that happens in this case can further affect Panda's substantial interests. Oral argument will aid the panel in its effort to determine this strictly legal issue and proceed forward with the hearing on FPC's need petition.

Respectfully submitted this 24th day of October, 2000.



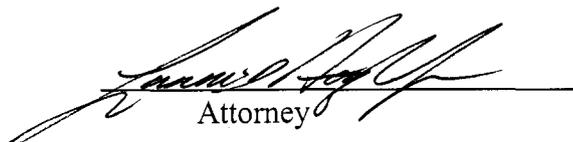
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT a true and correct copy of the foregoing have been furnished by Federal Express to Deborah Hart, Esq., as counsel for the Florida Public Service Commission and to Suzanne Brownless, as counsel for Panda Energy International, Inc. and has been furnished by U.S. Mail to all other interested parties of record as listed below on this 24<sup>th</sup> of October, 2000.

  
Attorney

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