

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for determination )	DOCKET NO. 900709-EQ
of need for proposed electrical power )	
plant and related facilities, )	ORDER NO. 23710
Indiantown Project, by FLORIDA POWER )	
& LIGHT COMPANY and INDIANTOWN )	ISSUED: 10-31-90
COGENERATION, L. P. )	
_____ )	

ORDER ON PREHEARING PROCEDURE

Pursuant to the provisions of Rule 25-22.038, Florida Administrative Code, all parties and Staff are hereby required to file with the Director of Records and Reporting a prehearing statement on or before November 15, 1990. Each prehearing statement shall set forth the following:

- (a) all known witnesses that may be called and the subject matter of their testimony;
- (b) all known exhibits, their contents, and whether they may be identified on a composite basis and witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue;
- (f) a statement of each policy question the party considers at issue and which of the party's witnesses will address the issue;
- (g) a statement of the party's position on each issue identified pursuant to paragraphs (d), (e) and (f) and the appropriate witness;
- (h) a statement of issues that have been stipulated to by the parties;
- (i) a statement of all pending motions or other matters the party seeks action upon; and

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- (j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefor.

The original and fifteen copies of each prehearing statement must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of November 15, 1990. Failure of a party to timely file a prehearing statement shall be a waiver of any issues not raised by other parties or by the Commission Staff. In addition, such failure shall preclude the party from presenting testimony in favor of his or her position on such omitted issues. Copies of prehearing statements shall also be served on all parties. Prehearing statements shall substantially conform to the Florida Rules of Civil Procedure requirements as to form, signatures, and certifications.

In addition to the filing with the Division of Records and Reporting, each party shall file a copy of its Prehearing Statement with the Division of Legal Services, Room 226, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0863, on computer diskette formatted to the specifications of Word Perfect Version 5.1.

This docket shall be and is hereby consolidated with Docket No. 900731-EQ (Petition for Approval of Cogeneration Agreement between Florida Power & Light Company and Indiantown Cogeneration, L. P.) for the purposes of prefiling exhibits and testimony and for the conduct of the prehearing and hearing. The parties shall file separate Prehearing Statements, Proposed Recommended Orders and subsequent pleadings as appropriate. If a party is sponsoring testimony or an exhibit which will be offered as evidence in both proceedings it shall be filed in Docket No. 900709-EQ and identified as being applicable to both the need determination and contract approval.

Each party is required to prefile all exhibits and all direct testimony it intends to sponsor in written form. Prefiled testimony shall be typed on standard 8 1/2 x 11 inch transcript quality paper, double spaced, with 25 numbered lines, in question and answer format, with a sufficient left margin to allow for binding. An original and fifteen copies of each witness' prefiled

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testimony and each exhibit must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the due date. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony. Copies of all prefiled testimony shall also be served by the sponsoring party on all other parties. Direct testimony of Staff and all Intervenors must be filed with the Director of Records and Reporting on or before November 6, 1990. Finally, rebuttal testimony, if any, must be filed on or before November 15, 1990.

A final prehearing conference will be held beginning at 9:30 a.m., November 27, 1990, in Room 106, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, will be met in this case and the following shall apply:

- (1) Any party who fails to attend the final prehearing conference, unless excused by the prehearing officer, will have waived all issues and positions raised in his or her prehearing statement.
- (2) Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: he or she was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issues; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

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- (3) Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, he or she shall bring that fact to the attention of the prehearing officer. If the prehearing officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify his or her position in a post-hearing statement of issues. In the absence of such a finding by the prehearing officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in his or her post-hearing statement.

To facilitate the management of documents in this docket, parties and Commission Staff shall submit an exhibit list with their respective prehearing statements. Exhibits will be numbered at the Prehearing Conference. Each exhibit submitted shall have the following in the upper right-hand corner: the docket number, the witness's name, the word "Exhibit" followed by a blank line for the Exhibit Number and the title of the exhibit.

An example of the typical exhibit identification format is as follows:

Docket No. 870675-EQ  
J. Doe Exhibit No. \_\_\_\_\_  
Cost Studies for Minutes Of Use by Time of Day

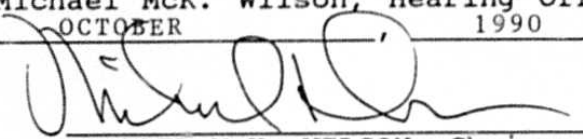
The following dates have been established to govern the key activities of this proceeding in order to maintain an orderly procedure.

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1. October 24, 1990 - Direct Testimony to be filed
2. November 6, 1990 - Staff/Intervenor Testimony to be filed
3. November 15, 1990 - Prehearing Statements to be filed
4. November 15, 1990 - Rebuttal Testimony to be filed
5. November 27, 1990 - Prehearing Conference
5. December 5-7, 1990 - Hearings

Attached to this order as Appendix "A" is a tentative list of the issues which will be addressed in this proceeding. Prefiled testimony and prehearing statements shall be addressed to the issues set forth in Appendix "A".

By ORDER of Chairman Michael Mck. Wilson, Hearing Officer,  
this 31st day of OCTOBER, 1990.

  
MICHAEL MCK. WILSON, Chairman  
and Hearing Officer

( S E A L )

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APPENDIX "A"

LIST OF ISSUES

ISSUE 1: Has ICL provided sufficient information on the site, technology and status of project development of the Indiantown Project to enable the Commission to evaluate its proposal?

ISSUE 2: Are the reliability criteria used by FPL to determine its need for 270-330 MW of capacity in 1996 to be satisfied by the proposed Indiantown Project reasonably adequate for planning purposes?

ISSUE 3: Is the load forecast used by FPL to determine its need for 270-330 MW of capacity in 1996 to be satisfied by the proposed Indiantown Project reasonably adequate for planning purposes?

ISSUE 4: Does FPL, as an individual utility interconnected with the statewide grid, exhibit a need for additional capacity in 1996?

ISSUE 5: Does FPL, as an individual utility interconnected with the statewide grid, have a need by 1996 for the additional 270-330 MW of capacity represented by the Indiantown Project?

ISSUE 6: Are there any adverse consequences to FPL and its customers if the proposed Indiantown Project is not completed in the approximate time frame provided in the power purchase agreement with ICL?

ISSUE 7: Would the proposed Indiantown Project and the purchase of power pursuant to the ICL/FPL contract contribute to the reliability and integrity of FPL's electric system?

Adequate Electricity at Reasonable Cost

ISSUE 8: Would the proposed Indiantown Project and the proposed

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purchased power agreement between ICL and FPL reliability provide electricity to FPL at a reasonable cost to assist FPL in providing reliable service to its customers?

ISSUE 9: Is the fuel price forecast used by FPL to compare power supply alternatives reasonable for planning purposes?

ISSUE 10: Does ICL'S fuel selection and fuel procurement plan provide adequate assurances regarding the availability of fuel for the Indiantown Project?

ISSUE 11: Will the Indiantown Project contribute toward maintaining adequate fuel diversity for FPL's system?

#### Cost-Effective Alternatives

ISSUE 12: Has FPL reasonably considered alternative supply side sources of capacity?

ISSUE 13: Is the Indiantown Project and the purchased power agreement between ICL and FPL the most cost-effective means of meeting 270-330 MW of FPL's 1996 capacity need, taking into account risk factors that are part of the cost-effectiveness analysis?

#### Conservation

ISSUE 14: Did FPL's power supply plan reasonably consider the ability of conservation or other demand side alternatives to mitigate the need by 1996 for the capacity represented by the Indiantown Project?

#### Associated Facilities

ISSUE 15: What off-site associated facilities are required in connection with the development of the Indiantown Project?

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Peninsular Florida Issue

ISSUE 16: Is the capacity to be provided by the Indiantown Project reasonably consistent with the needs of Peninsular Florida, taking into consideration timing, impacts on the reliability and integrity of the Peninsular Florida grid, cost, fuel diversity and other relevant factors?

Ultimate Issue

ISSUE 17: Based on the resolution of the above issues, should the joint petition of ICL and FPL for determination of need for the Indiantown Project be granted?