



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: September 22, 1998

TO: Russell Badders, Esquire
Michelle Hershel, Esquire
Gail Kamaras, Esquire
Matthew M. Childs, Esquire
Gary L. Sasso, Esquire
Scheffel Wright, Esquire
James Beasley, Esquire
Roger Howe, Esquire

FROM: Leslie J. Paugh, Senior Attorney, Division Of Legal Services
Grace A. Jaye, Attorney, Division of Legal Services

RE: Docket No. 981042-EM - Joint petition for determination of need for an electrical power plant in Volusia County by the Utilities Commission, City of New Smyrna Beach, Florida, and Duke Energy New Smyrna Beach Power Company, Ltd., L.L.P.

Paugh
RVE
For
GIAT

Via Facsimile

Attached is the list of proposed issues, revised as discussed during the three issue identification conferences held in this docket. Please review the wording for accuracy. In addition, if any entity which has filed for intervention in this docket wishes to take a position different from that which is reflected herein, either in support of or in opposition to inclusion of an issue, please advise staff of the position you wish to take. Please respond with corrections and/or positions by 12:00 noon, Thursday, September 24, 1998.

- ACK _____
- AFA _____
- APP _____
- CAF _____ LJP/js
- CMU _____ Attachment
- CTR _____ cc: Mark Futrell
Blanca Bayó
- EAG _____
- LEG _____
- LIN _____ i:\981402mm.ljp
- OPC _____
- RCH _____
- SEC _____ **1**
- WAS _____
- QTH _____

DOCUMENT NUMBER-DATE

10504 SEP 23 1998

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FPSC-RECORDS/REPORTING

Proposed Issues

FPC LEGAL

ISSUE 1: Does the Florida Public Service Commission ("PSC") have the statutory authority to render a determination of need under Section 403.519, Florida Statutes, for a project that consists in whole or in part of a merchant plant that does not have as to that component of the project an agreement in place for the sale of firm capacity and energy to a state-regulated utility with a statutory obligation to serve retail customers in this State?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

FPC

ISSUE 2: Is the proposed power plant needed for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

UCNSB/Duke New Smyrna: Disputes wording.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

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FPC

ISSUE 3: Is the proposed power plant needed to provide adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

UCNSB/Duke New Smyrna: Disputes wording.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

FPC

ISSUE 4: Is the proposed power plant the most cost-effective alternative available, as this criterion is used in Section 403.519, Florida Statutes?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

STAFF

ISSUE 5: Are there any conservation measures taken by or reasonably available to the petitioners which might mitigate the need for the proposed power plant?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

NEW

STAFF 6: Has Duke New Smyrna provided adequate assurances regarding available primary and secondary fuel to serve the proposed power plant on a long and short-term basis?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

FPC

ISSUE 7: Does Duke New Smyrna have an agreement in place with the Utilities Commission, New Smyrna Beach, ("UCNSB") and, if so, do its terms meet the UCNSB's needs in accordance with the statute?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Acquiesces to inclusion of the issue.

FPC

ISSUE 8: Can the capacity of the proposed project be properly included when calculating the reserve margin of an individual Florida utility or the State as a whole in the absence of an agreement with the individual utility for the sale of firm capacity and energy from the project?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Acquiesces to inclusion of the issue.

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FPC

ISSUE 9: What impact, if any, will the proposed power plant have on natural gas supply or transportation resources on State regulated power producers?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Acquiesces to inclusion of the issue.

FPC

ISSUE 10: What impact will the proposed project have on the reliability of the generation and transmission systems, of state regulated utilities?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Acquiesces to inclusion of the issue.

FPC

ISSUE 13: Will the proposed project result in the uneconomic duplication of transmission and generation facilities?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Acquiesces to inclusion of the issue.

STAFF

ISSUE 7: Has the UCNSB and Duke New Smyrna provided sufficient information on the site, design, and engineering characteristics of the New Smyrna Beach Power Project to evaluate the proposed Project?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: No position on issue inclusion.

FPC: No position on issue inclusion.

TECO: No position on issue inclusion.

FECA: No position on issue inclusion.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

STAFF

ISSUE 8: Have the costs of environmental compliance associated with the New Smyrna Beach Power Project been adequately considered by the UCNSB and Duke New Smyrna?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: No position on issue inclusion.

FPC: No position on issue inclusion.

TECO: No position on issue inclusion.

FECA: No position on issue inclusion.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

STAFF

ISSUE 9: Based on the resolution of the foregoing issues, should the petition of the UCNSB and Duke New Smyrna for determination of need for the New Smyrna Beach Power Project be granted?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: No position on issue inclusion.

FPC: No position on issue inclusion.

TECO: No position on issue inclusion.

FECA: No position on issue inclusion.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

NEW

STAFF: What transmission improvements and other facilities are required in conjunction with the construction of the proposed facility, and were their costs adequately considered?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: No position on issue inclusion.

FPC: No position on issue inclusion.

TECO: No position on issue inclusion.

FECA: No position on issue inclusion.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

STAFF

ISSUE 10: Should this docket be closed?

FP&L

ISSUE 1: Absent purchased power contracts for the output of the proposed power plant, does the Commission have sufficient information to assess the need for the proposed power plant under the statutory need criteria?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of an issue condensing FP&L Issues 1 and 2.

FPC: Supports inclusion of an issue condensing FP&L Issues 1 and 2.

TECO: Supports inclusion of an issue condensing FP&L Issues 1 and 2.

FECA: Supports inclusion of an issue condensing FP&L Issues 1 and 2.

LEAF: No position on issue inclusion.

Staff: Acquiesces to inclusion of an issue condensing FP&L Issues 1 and 2.

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FP&L

ISSUE 2: Absent purchased power contracts for the output of the proposed power plant, does the Commission have sufficient information to assess whether the needs, if any, of electric utilities in Peninsular Florida will be met and met consistently with the criteria of Section 403.519, Florida Statutes?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.
FPL: Supports inclusion of an issue condensing FP&L Issues 1 and 2.

FPC: Supports inclusion of an issue condensing FP&L Issues 1 and 2.

TECO: Supports inclusion of an issue condensing FP&L Issues 1 and 2.

FECA: Supports inclusion of an issue condensing FP&L Issues 1 and 2.

LEAF: No position on issue inclusion.

Staff: Acquiesces to inclusion of an issue condensing FP&L Issues 1 and 2.

FP&L

ISSUE 3: Does Duke New Smyrna have a need by 2001 for the 484 MW of capacity (476 MW summer and 548 MW winter less 30 MW) represented by the proposed facility?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Duplicative issue. Opposes inclusion of the issue.

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FP&L

ISSUE 6: What are the terms and conditions pursuant to which the electric utilities having the need will purchase the capacity and energy of the proposed power plant?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Duplicative issue. Opposes inclusion of the issue.

FP&L

ISSUE 12: Is the identified need for power of UCNSB which is set forth in the Joint Petition met by the power plant proposed by Florida Municipal Power Association in Docket No. 980802EM?

UCNSB/Duke New Smyrna: Supports inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Duplicative issue. Opposes inclusion of the issue.

POLICY ISSUES

FP&L

ISSUE 13: If Duke New Smyrna premises its determination of need upon Peninsular Florida without contracts from individual purchasing utilities, how would the Commission's affirmative determination of need affect subsequent determinations of need by utilities petitioning to meet their own need?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

FP&L

ISSUE 14: Will granting a determination of need as herein requested relieve electric utilities of the obligation to plan for and meet the need for reasonably sufficient, adequate and efficient service?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

FP&L

ISSUE 15: Will granting a determination of need as herein requested create a risk that past and future investments made to provide service may not be recovered and thereby increase the overall cost of providing electric service and/or future service reliability?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

FP&L

ISSUE 16: If Duke New Smyrna premises its determination of need upon Peninsular Florida without contracts from individual purchasing utilities, how would the Commission's affirmative determination of need affect subsequent determinations of need by QFs and other non-utility generators petitioning to meet utility specific needs?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

FP&L

ISSUE 17: If the Commission abandons its interpretation that the statutory need criteria are "utility and unit specific," how will the Commission maintain grid reliability and avoid uneconomic duplication of facilities in need determination proceedings?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

FP&L

ISSUE 18: Will granting a determination of need as herein requested result in electric utilities being authorized to similarly establish need for additional generating capacity by reference to potential additional capacity needs which the electric utility has no statutory or contractual obligation to serve?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

FP&L

ISSUE 19: If Duke New Smyrna were allowed to proceed as an applicant, would the Commission "end up devoting inordinate time and resources to need cases," "wast[e] time in need determinations proceedings for projects that may never reach fruition," and "devote excessive resources to micromanagement of utilities, power purchases?"

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.

FP&L

ISSUE 20: Will granting a determination of need as herein requested reduce the level of justifiable conservation measures in Florida?

UCNSB/Duke New Smyrna: Opposes inclusion of the issue.

FP&L: Supports inclusion of the issue.

FPC: Supports inclusion of the issue.

TECO: Supports inclusion of the issue.

FECA: Supports inclusion of the issue.

LEAF: No position on issue inclusion.

Staff: Supports inclusion of the issue.