

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Determination of) DOCKET NO. 991462-EU
Need for an Electrical Power Plant in))
Okeechobee County by Okeechobee) FILED: December 23, 1999
Generating Company, L.L.C.))

RECEIVED-FPSC
RECORDS AND REPORTING
DEC 23 PM 3:55

OKEECHOBEE GENERATING COMPANY'S MOTION
TO ESTABLISH HEARING DATES
AND REVISED PROCEDURAL SCHEDULE

Okeechobee Generating Company, L.L.C., ("OGC") pursuant to Uniform Rule 28-106.204, Florida Administrative Code, the Order Establishing Procedure, and the Order on Procedural Matters and Notice of Proposed Agency Action Order Granting Petition for Rule Waiver (hereinafter "Order on Procedural Matters"), hereby respectfully submits this motion requesting that the Prehearing Officer establish hearing dates and a revised procedural schedule in this docket. In support of this motion, OGC says:

1. On December 13, 1999, the Commission issued its Order on Procedural Matters. Part V of the Order on Procedural Matters provides in pertinent part:

We do not agree, however, that this proceeding should be stayed pending the Florida Supreme Court's decision in the Duke New Smyrna appeal. Such a stay would indefinitely postpone our consideration of OGC's need determination petition beyond a reasonable length of time for FPC to prepare for hearing. Accordingly, we find that this proceeding should be stayed only for an amount of time adequate for the parties to fully prepare for hearing. The Prehearing Officer for this case shall have the discretion to establish hearing dates and a prehearing schedule that will allow the parties adequate time to prepare.

APA _____
APP _____
CAF _____
CMU _____
CTR _____
EAC 1
LEG 1
MIS 3
OPC _____
RRR _____
SEC 1
WAW _____
OTH _____

RECEIVED & FILED

1

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

991462-EU-23

FPSC-RECORDS/REPORTING

2. The Commission's calendar indicates that the hearing in this docket has now been re-scheduled to March 20-22, 2000. OGC agrees that these hearing dates will meet the dual goals of providing FPC and the other intervenors adequate time to prepare for hearing and at the same time avoiding an indefinite time postponement of OGC's need determination proceeding.

3. Based on the above-referenced hearing dates, OGC respectfully requests that the Prehearing Officer establish the following procedural schedule for this docket.

Intervenor's and Staff's direct testimony and exhibits due:	January 21, 2000
Petitioner's rebuttal testimony and exhibits due:	February 18, 2000
Discovery cutoff date (all discovery must be completed):	March 17, 2000
Prehearing statements due:	February 28, 2000
Prehearing conference:	March 1, 2000
Hearing:	March 20-22, 2000
Post-hearing briefs due:	April 12, 2000
Staff recommendation:	May 4, 2000
Agenda conference:	May 16, 2000

4. For the following reasons, OGC believes the date it proposes for intervenors to file their direct testimony (January 21, 2000) provides intervenors more than adequate time to prepare such

testimony:

(a) OGC filed its direct testimony in this docket on October 25, 1999. Thus, the intervenors will have had over three months to consider OGC's direct testimony prior to filing their testimony;

(b) On November 8, 1999, and November 16, 1999, OGC provided FPC and FPL, respectively, with all of the input and output of the Altos Models used to support Dr. Dale Nesbitt's direct testimony. Thus, the intervenors will have had nearly two months to study the input and output of the Altos Models prior to filing testimony; and

(c) On December 7, 1999, OGC offered to provide FPL and FPC access at no cost to the Altos Models. (See access term sheet attached hereto as Exhibit A.) If FPL and FPC had accepted OGC's offer, FPL and FPC would have had over 6 weeks to conduct as many runs of the Altos Models as desired. The fact that FPL and FPC have chosen to quibble about the terms of access to the Altos Models rather than preparing responsive testimony should not be a reason for further delaying the filing of intervenors' testimony in this case.

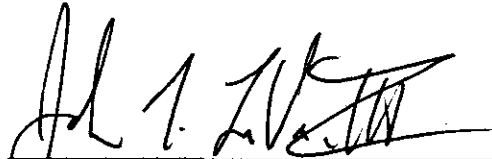
5. In sum, the timeframes proposed by OGC provide the intervenors over three months from the filing of OGC's testimony, to prepare their testimony and approximately four weeks for OGC to

prepare its rebuttal testimony. OGC respectfully suggests that this schedule is more than fair to the intervenors and that the Prehearing Officer should adopt it.

6. Counsel for OGC have contacted counsel for FPC, FPL and LEAF regarding this motion and are authorized to represent that: FPC takes no position on this motion; FPL is in agreement with the schedule set forth in the motion except that FPL suggests the date for the filing of intervenors' testimony should be January 28, 2000; LEAF has no objections to the motion. Counsel for OGC have been unable to contact counsel for Commission Staff and counsel for TECO regarding this motion.

WHEREFORE, OGC respectfully requests that the Prehearing Officer issue an order adopting the procedural schedule proposed by OGC.

Respectfully submitted this 23rd day of December, 1999.



John C. Moyle, Jr.
Florida Bar No. 727016
Moyle Flanigan Katz Kolins
Raymond & Sheehan, P.A.
The Perkins House
118 North Gadsden Street
Tallahassee, Florida
Telephone (850) 681-3828
Telecopier (850) 681-8788

and

Robert Scheffel Wright
Florida Bar No. 966721
John T. LaVia, III
Florida Bar No. 853666
LANDERS & PARSONS, P.A.
310 West College Avenue (ZIP 32301)
Post Office Box 271
Tallahassee, Florida 32302
Telephone (850) 681-0311
Telecopier (850) 224-5595

Attorneys for Okeechobee Generating
Company, L.L.C.

CERTIFICATE OF SERVICE
DOCKET NO. 991462-EU

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (*) or by United States Mail, postage prepaid, on the following individuals this 23rd day of December, 1999.

William Cochran Keating, IV, Esq.*
Florida Public Service Commission
2540 Shumard Oak Boulevard
Gunter Building
Tallahassee, FL 32399

Matthew M. Childs, Esq.*
Charles A. Guyton, Esq.
Steel Hector & Davis
215 South Monroe Street
Suite 601
Tallahassee, FL 32301
(Florida Power & Light)

William G. Walker, III
Vice President, Regulatory Aff.
Florida Power & Light Company
9250 West Flagler Street
Miami, FL 33174

Gail Kamaras, Esq.
Debra Swim, Esq.
LEAF
1114 Thomasville Road
Suite E
Tallahassee, FL 32303-6290

Gary L. Sasso, Esquire
Carlton Fields
One Progress Plaza
200 Central Avenue, Ste. 2300
St. Petersburg, FL 33701
(Florida Power Corporation)

Harry W. Long, Jr.
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601

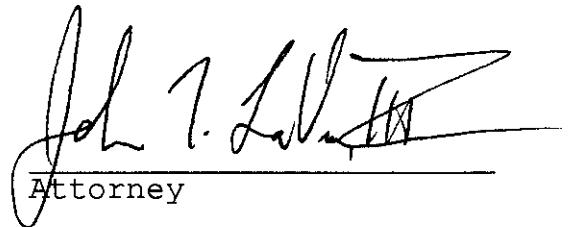
Lee L. Willis, Esq.
James D. Beasley, Esq.
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302

Mr. Paul Darst
Dept. of Community Aff.
Division of Local
Resource Planning
2740 Centerview Drive
Tallahassee, FL 32399

Mr. Scott A. Goorland
Florida Dept. of
Environmental Protection
3900 Commonwealth Blvd.
MS 35
Tallahassee, FL 32399

Ms. Angela Llewellyn
Administrator
Regulatory Coordination
Tampa Electric Company
Post Office Box 111
Tampa, FL 33601-2100

James A. McGee, Esq.
Florida Power Corporation
P.O. Box 14042
St. Petersburg, FL 33733


Attorney

PROPOSED TERM SHEET FOR ACCESS TO ALTOS MODELS, 12/7/99

Altos and MarketPoint will make available and load the models onto a single computer at the FPSC under a protective agreement to be incorporated into a protective order issued by the FPSC.

No one may copy the models or any supporting materials for use elsewhere. All use of the models must be done on-site at the FPSC on the computer upon which MarketPoint is installed.

Nesbitt and Blaha will conduct a two-day workshop/training session on the models in Tallahassee on dates to be arranged. At this time, dates in the first two weeks of January are possible. OGC will pay for the workshop. All parties to the case will be permitted to attend.

No licensing fees will be required from the parties to the case nor from the FPSC.

The FPSC will maintain a log book that details every person who accesses the model, including the person's name, title, date, time, and employer or affiliation.

Unlimited access will be provided to the models for FPSC personnel and full-time, bona fide FPL, FPC, and TECO company employees during regular business hours at the FPSC.

If FPC, FPL, or TECO wish to hire a consultant, then each and every hour of the consultant's access must be directly supervised by an Altos professional. The organization who has hired the consultant must pay the Altos professional's labor and travel expenses (\$225 per hour plus actual, reasonable out-of-pocket travel costs). Prior to such access, the sponsoring organization must execute a time and materials contract with Altos and must prepay for 40 hours of Altos' professional time. If the sponsoring organization uses less than 40 hours, then the remaining balance will be refunded on a pro rata basis. Payments to Altos for such supervision must be made within 15 working days of receipt of Altos invoices.

All runs made on the FPSC computer, including all inputs and all outputs of such runs, must be furnished to the FPSC Staff and to OGC. It is expressly understood that such information may be introduced as part of the record of this proceeding.

Any additional technical support will be provided by Altos at the requesting utility's expense. (Nesbitt @ \$300 per hour, Blaha @ \$200 per hour)

EXHIBIT A

Use of the MarketPoint software and the Altos NARE and NARG models will be limited to the OGC proceeding. There will be no use of either MarketPoint or the NARE or NARG models for any commercial purpose under this agreement.

The models will be maintained at the FPSC for the duration of the need determination proceeding for the Okeechobee Generating Project before the FPSC. The models may be retrieved by Altos at any time on or after the day following the conclusion of the hearings in this proceeding.

There will be no communication or disclosure whatsoever about the models (including MarketPoint and the NARE and NARG models), data, or results outside the record of this proceeding, including advising others to look at the record of the proceeding and also including furnishing copies of the record to others. No party to this proceeding will disparage, decry, "badmouth," or otherwise criticize the models in any situation, context, or venue whatsoever outside the record of this proceeding.

Each individual who accesses the model will sign a statement that personally guarantees compliance with this agreement. There will be personal as well as corporate guarantees for all persons who access the models.

All parties to this agreement agree to provide reciprocal access, on fundamentally the same terms as set forth herein, to any models used by any of FPL's, FPC's, or TECO's witnesses or experts in this proceeding.

One copy of the user's manual will be provided to the FPSC to be held, subject to a confidential protective order, for use in the course of this proceeding. Neither user's manual nor any portion thereof will be introduced into the written record of this proceeding, except as a confidential document under applicable Florida law and rules, because that user's manual is the confidential, valuable, and competitively sensitive property of Altos.