

STATE OF FLORIDA

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.



DIVISION OF RECORDS & REPORTING
BLANCA S. BAYÓ
DIRECTOR
(850) 413-6770

Public Service Commission

DATE: January 11, 2000
TO: Parties of Record
FROM: Blanca S. Bayó, Director *bsb*
Division of Records and Reporting
RE: Docket No. 991462-EU - Petition for determination of need for an electrical power plant in Okeechobee County by Okeechobee Generating Company, L.L.C.

This is to inform you that the Commission is reporting the following communication in the above-referenced docket.

- Letters from Mr. John C. Moyle, Jr., and Mr. John K. Hawks, representing PG&E Generating, dated December 27, 1999 and December 21, 1999, respectively.

These letters, copies of which are attached, will be made a part of the record in this proceeding. Pursuant to Section 350.042, F.S. any party who desires to respond to these communications may do so. The response must be received by the Commission within 10 days after receiving notice that the communication has been placed on the record. Please mail your response to the Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870.

AFA _____
APP _____
CAF _____
CMU _____
CTR _____
EAG _____
LEG _____
MAAS _____
OPC _____
PRR _____
SEC _____
VAVW _____
OTH _____

BSB/cp
Attachment
cc: Cathy Bedell-w/letter

DOCUMENT NUMBER - DATE

00549 JAN 12 8

FPSC-RECORDS/REPORTING

MOYLE, FLANIGAN, KATZ, KOLINS, RAYMOND & SHEEHAN, P.A.
ATTORNEYS AT LAW

The Perkins House
118 North Gadsden Street
Tallahassee, Florida 32301

Telephone: (850) 681-3828
Facsimile: (850) 681-8788

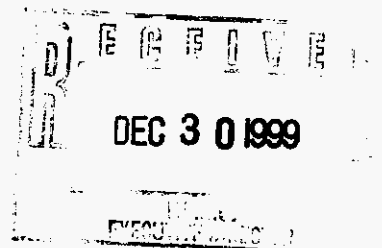
JON C. MOYLE, JR.
E-mail: jmoylejr@moylslaw.com

December 27, 1999

West Palm Beach Office
(561) 659-7500

BY HAND-DELIVERY

Mr. Bill Talbott
Executive Director
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850



Dear Bill:

I am enclosing four letters, addressed to each of the current Public Service Commissioners, that are identical except for the addressee. This letter has also been sent to the Governor and Cabinet, as well as to all members of the Florida Legislature.

I would ask that you review the letters and provide them to each Commissioner as addressed, if appropriate. I am asking that the letters be handled this way since the Okeechobee Generating Company, an affiliate of PG&E Generating Company, currently has a need determination petition pending before the Public Service Commission. Out of an abundance of caution with respect to any possibly ex parte communication, I am directing these letters to you. The only mention of the Okeechobee Project is cursory and, in my view, not of such significance so as to make these letters problematic for the respective Commissioners or violate the ex parte prohibition. However, I wanted you to have a chance to review them and make your own judgment.

I would appreciate if you could deliver these letters unless you believe that would be a problem. If you see it as a problem, please give me a call so that we can discuss it further.

Sincerely,

Jon C. Moyle, Jr.

Enclosures

December 21, 1999

The Honorable Joe Garcia
Chairman
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Chairman Garcia:

I am writing to introduce you to our company, PG&E Generating, and to provide some information to you about the current situation in Florida regarding electric power generation.

PG&E Generating, which was formerly known as U.S. Generating or USGen, is the power generation unit of PG&E Corporation, a national energy services holding company. PG&E Gen has two electric generation plants operating in Florida, and a capital investment of more than \$1 billion in the state. PG&E Generating has a strong interest in helping Florida meet its demand for new electricity and in ensuring the reliability of its electric system. For this reason, the PG&E Generating project development team has embarked on a new power project in Okeechobee County that you will be hearing more about in the months ahead.

Given our strong interest in helping Florida achieve these two goals, and the difficulties facing any competitive generator who wants to invest in Florida, we have enclosed for your review and information a recent article that appeared on the Dow Jones/Wall Street Journal Interactive Newswire. The article discusses the status of electric power generation in Florida. This subject is currently one of the key public policy issues in Florida—and in many states across the country—and one that has major implications for all energy consumers in the state.

The article points out that competition among power plant developers for the privilege of siting and building new generation facilities is rapidly becoming the principal way new demand for electricity is being satisfied across the country. Throughout the United States, companies like PG&E Generating are building highly efficient, clean “merchant” electric generating plants to help meet the growing demand for electricity.

As you may be aware, merchant generating plants are not part of a utility's regulated ratebase and do not have captive retail customers. Rather, they are designed to compete in the wholesale market and to help maintain and enhance the reliability of the regional electric

PG&E Generating (PG&E Gen) and any other company referenced herein that uses the PG&E name or logo are not the same company as Pacific Gas and Electric Company, the regulated California utility. Neither PG&E Gen nor these other referenced companies are regulated by the California Public Utilities Commission. Customers of Pacific Gas and Electric Company do not have to buy products from these companies in order to continue to receive quality regulated services from the utility.

The Honorable Joe Garcia
December 21, 1999
Page 2 of 2

system – all of this without the need for traditional utility customers to pay for the construction and operating costs. Merchant generating facilities bear all of the investment and other risks associated with building and operating these plants – an added consumer benefit. Merchant power plants have become the dominant source of new power generation throughout most of the United States. However, as the article notes, Florida is conspicuously absent from this trend.

Peninsular Florida needs upwards of 10,000 megawatts of new generating capacity—representing a multi-billion dollar new investment—in order to keep up with demand for electricity and to have the necessary reserves in place. This amount of electricity accounts for more than a quarter of the state's current capacity. Unfortunately, Florida, whose reserves have been declining, is missing out on the benefits that wholesale competition and the competitive power generation business are providing.

Merchant generators are eager to invest in Florida to satisfy this demand. Yet, some of Florida's larger utilities are vigorously opposing this investment. In their view, only regulated public utilities should be permitted to build new generation, and this dispute is now the subject of a case before the Florida Supreme Court. They have adopted this position in Florida even though at least one of them is busy developing and building merchant plants for itself in other regions of the country—and even though the Federal Energy Regulatory Commission adopted wholesale competition as a national policy, following the passage of the Energy Policy Act in 1992.

I hope you find this information useful. Please feel free to contact me at 301-280-6805 or through e-mail at jack.hawks@gen.pge.com, if you have any questions or would like to meet to discuss these important public policy issues. Best wishes for the holidays.

Sincerely,



John K. Hawks
Vice President, Public Affairs
& Government Relations

/encl.

Reprinted from DOW JONES NEWS SERVICE

TUESDAY, NOVEMBER 9, 1999

© 1999 Dow Jones & Company, Inc. All Rights Reserved.

Florida Utilities Wage War On Would-Be Competitors

By EILEEN O'GRADY

HOUSTON — (Dow Jones)— In the spring of 1999, a group of Florida utilities moved to block an out-of-state company from building a power plant in the state.

At the same time, one of the utilities, FPL Group Inc. (FPL), was buying power plants in Maine and building others in Texas.

The strategy is clear: Guard the home turf while expanding elsewhere.

Energy companies around the U.S. have used the strategy as utility deregulation opens new markets. But nowhere have outsiders been rebuffed with more determination than in Florida, say energy companies, regulators and others.

"You see opposition, but not to this extent," said Sean Finnerty, manager of project development for a unit of PG&E Corp. (PGE), a San Francisco energy company that wants to build a natural gas-fired plant in southern Florida. "Florida is clearly lagging behind the rest of the states in moving to (electric) competition — wholesale or retail — even though existing utilities, like FPL Group, are active elsewhere."

"Florida is a difficult market," agreed Julie Simon, director of policy for the Electric Power Supply Association, a Washington, D.C.-based trade group that represents competitive generators, power marketers and other suppliers.

"The numbers speak for themselves," said Simon, noting that, according to EPSC's tally of announced new generation projects, 5,224 megawatts of non-utility owned generation is planned in the Florida Reliability Coordinating Council, a group of interconnected utilities that covers all but eight western panhandle counties.

"Florida is low on generation, but they are not going out of their way to encourage new generation. There's a lot more going on in other markets with a lot less need," she said.

More than 122,000 MW of new generation is planned nationwide, according to EPSC.

PG&E and others are fighting to get into Florida, and watching to see just how far the state's utilities will go to keep them out.

In particular, they're closely following

a case involving Duke Energy Services of North Carolina, a unit of Duke Energy Corp. (DUK). Duke has been blocked in its effort to build a \$160 million, 500-MW power plant near New Smyrna Beach.

In March, the state Public Service Commission gave Duke the green light to move ahead with the plant.

It was to be a merchant plant, selling most of its electricity into competitive markets, with the exception of 30 MW it would supply to the municipal utility of New Smyrna Beach. Duke wanted to start operating the plant in 2001. The start date is now uncertain.

The state's utilities appealed the PSC decision, and that appeal is now being considered by the Florida Supreme Court. A hearing on the case has been set for early January.

While half of U.S. states have moved to open their consumer electric markets to competition, Florida lawmakers have yet to study the issue seriously.

U.S. regulators opened all U.S. wholesale electricity markets to competition in 1996 when they ordered utilities to let others buy and sell electricity competitively over their electric transmission lines. In wholesale markets, energy companies buy and sell large volumes of electricity for resale.

Despite the 1996 law, Florida's wholesale power market isn't truly competitive.

"I don't believe in retail competition, but in a viable wholesale market and that's what we're moving toward," said Joe A. Garcia, chairman of the state's public service commission.

The state's major utilities — FPL Group, Florida Power Corp. (FPC), and Tampa Electric, a unit of TECO Energy Inc. (TECO) — say the PSC overstepped its authority in approving Duke's New Smyrna Beach plant. They argued that Duke would be violating a 1973 law known as the Florida Power Plant Siting Act by building the plant.

The law says power plants with steam boilers that produce more than 75-MW of electricity must be built by an electric utility or operate under a long-term contract to sell the power to a Florida utility.

"Under current law, it's clearly the regulated utilities (that should build new

generation) because we have the obligation to serve (customers)," said Paul Evanson, president of FPL Group's utility subsidiary, Florida Power & Light.

Evanson said he believes the Duke proposal is an effort to undermine Florida's regulated electric system "that is working extremely well."

The siting act was passed to help the state balance the need to meet growing electricity demand with the need to control the environmental impact of plants in the state, he said.

But PSC hearings showed the New Smyrna Beach plant is needed to supply Florida's growing appetite for electricity, said PSC Chairman Garcia. He said the plant wouldn't hurt existing Florida rate payers.

"Everything is up in the air until Duke is finalized," said PG&E spokesman Jack Hawks.

Despite the unfriendly welcome, Florida's fast-growing economy and its expanding need for electricity are so attractive that other power plant developers are lining up to enter the fray.

Among them are Reliant Energy Wholesale Group, a unit of Reliant Energy Inc. (REI); Constellation Power, a unit of Baltimore Gas and Electric Co. (BGE), and Panda Energy International, a private Dallas-based developer of power plants. Atlanta utility giant Southern Co. (SO) is also said to be interested in moving into the state.

Interest in the Florida market "is not surprising when you look at the demand. The whole Southeast is growing and Florida is one of the biggest markets," said Rick Rhodes of Duke Energy Services.

The state's utilities and regulators agree Florida will need 8,000 MW to 10,000 MW of new generation over the next decade to meet its growing demand for electricity.

According to FP&L, companies based outside Florida want to build as much as 9,700 MW of new generation in the state, almost 25% of the state's 38,000 MW of installed capacity.

Because of its peninsular shape, Florida must rely on its own power plants because it has a limited ability to move power in and out of the state along the high-voltage electric transmission grid.

(over please)

THE PUBLISHER'S SALE OF THIS REPRINT DOES NOT CONSTITUTE OR IMPLY ANY ENDORSEMENT OR SPONSORSHIP OF ANY PRODUCT, SERVICE, COMPANY OR ORGANIZATION.
Journal Reprints (609) 520-4328 P.O. Box 300 Princeton, N.J. 08543-0300. DO NOT EDIT OR ALTER REPRINTS • REPRODUCTIONS NOT PERMITTED

DOW JONES

The state's incumbent utilities can meet Florida's power needs, said FP&L's Evanson. They are rushing to fill the gap by accelerating plans to build new plants or by converting older oil-fired generating units to burn natural gas.

Evanson said Florida utilities aren't afraid of competition, but see Duke's proposal and others as an end-run on the state's existing regulated framework that has kept electric rates below the U.S. average.

"If there's a merchant plant and they're willing to sell power cheaper than we can produce power, we'll buy from that company; no question about that," said Evanson.

Companies such as Duke, PG&E and Reliant have an ally in the form of the state's municipal utilities. They have good reasons to want a more competitive wholesale power market.

"Municipal utilities tend to be buyers in the wholesale market," said Barry Moline, executive director of the Florida Municipal Electric Association, a trade group representing 32 public power communities serving about 25% of the population. "We think there's a better opportunity to save money for all customers with better competition in the wholesale market."

Like Duke, Reliant Energy has teamed up with a public power group to try to ease its way into Florida's market.

Reliant said it plans to build a 460-MW, natural gas-fired power plant in Osceola County near Holopaw, Fla. Like Constellation's Oleander plant, the plant would supply power only during times of peak power use.

Reliant would sell about two-thirds of the plant's output to Seminole Electric Cooperative through a five-year contract. Seminole supplies power to 10 distribution co-ops that serve 660,000 customers in 45 Florida counties.

Reliant has also bought the 619-MW

Indian River Power Plant in Brevard County for \$205 million from the Orlando Utilities Commission.

"Indian River gives us an early entry into Florida's high-growth market," said Joe Bob Perkins, president of Reliant's wholesale energy group.

Opposition from powerful utilities isn't the only obstacle facing new entrants in Florida. Other hurdles include a lack of available natural gas to power the proposed new generating stations and a tight market for new electric turbines, said Matt Schatzman, executive vice president for energy marketing for Dynegy Inc. (DYN), a Houston company that has a power marketing alliance with Florida Power Corp., a unit of Florida Progress Corp. (FPC).

The state now gets its natural gas from Florida Gas Transmission, a joint venture of Enron Corp. (ENE) and Southern Natural Gas Co. (SNT). The company wants to expand its pipeline system to increase the capacity to 2.0 billion cubic feet per day of natural gas, up from the current capacity of 1.5 Bcf/day.

Three other pipeline companies have proposed building new pipelines into Florida to increase its supply of natural gas to be sold to utilities and other power generators.

Despite the additional difficulties in Florida, developers remain optimistic.

"Florida is a great market," said Dynegy's Schatzman. "We believe the market will dictate what is built. The dust will clear and plants will be built."

Despite the ongoing delay with the New Smyrna Beach plant, Duke spokesman Rhodes predicted his company will pursue additional power projects in Florida.

Meanwhile, the state's utilities will continue to fight outsiders, a development that isn't lost on the PSC's Garcia.

"It's fascinating that they believe in competition in other places, but not in Florida," Garcia said.

The state's incumbent utilities can meet Florida's power needs, said FP&L's Evanson. They are rushing to fill the gap by accelerating plans to build new plants or by converting older oil-fired generating units to burn natural gas.

Evanson said Florida utilities aren't afraid of competition, but see Duke's proposal and others as an end-run on the state's existing regulated framework that has kept electric rates below the U.S. average.

"If there's a merchant plant and they're willing to sell power cheaper than we can produce power, we'll buy from that company; no question about that," said Evanson.

Companies such as Duke, PG&E and Reliant have an ally in the form of the state's municipal utilities. They have good reasons to want a more competitive wholesale power market.

"Municipal utilities tend to be buyers in the wholesale market," said Barry Moline, executive director of the Florida Municipal Electric Association, a trade group representing 32 public power communities serving about 25% of the population. "We think there's a better opportunity to save money for all customers with better competition in the wholesale market."

Like Duke, Reliant Energy has teamed up with a public power group to try to ease its way into Florida's market.

Reliant said it plans to build a 460-MW, natural gas-fired power plant in Osceola County near Holopaw, Fla. Like Constellation's Oleander plant, the plant would supply power only during times of peak power use.

Reliant would sell about two-thirds of the plant's output to Seminole Electric Cooperative through a five-year contract. Seminole supplies power to 10 distribution co-ops that serve 660,000 customers in 45 Florida counties.

Reliant has also bought the 619-MW

Indian River Power Plant in Brevard County for \$205 million from the Orlando Utilities Commission.

"Indian River gives us an early entry into Florida's high-growth market," said Joe Bob Perkins, president of Reliant's wholesale energy group.

Opposition from powerful utilities isn't the only obstacle facing new entrants in Florida. Other hurdles include a lack of available natural gas to power the proposed new generating stations and a tight market for new electric turbines, said Matt Schatzman, executive vice president for energy marketing for Dynegy Inc. (DYN), a Houston company that has a power marketing alliance with Florida Power Corp., a unit of Florida Progress Corp. (FPC).

The state now gets its natural gas from Florida Gas Transmission, a joint venture of Enron Corp. (ENE) and Southern Natural Gas Co. (SNT). The company wants to expand its pipeline system to increase the capacity to 2.0 billion cubic feet per day of natural gas, up from the current capacity of 1.5 Bcf/day.

Three other pipeline companies have proposed building new pipelines into Florida to increase its supply of natural gas to be sold to utilities and other power generators.

Despite the additional difficulties in Florida, developers remain optimistic.

"Florida is a great market," said Dynegy's Schatzman. "We believe the market will dictate what is built. The dust will clear and plants will be built."

Despite the ongoing delay with the New Smyrna Beach plant, Duke spokesman Rhodes predicted his company will pursue additional power projects in Florida.

Meanwhile, the state's utilities will continue to fight outsiders, a development that isn't lost on the PSC's Garcia.

"It's fascinating that they believe in competition in other places, but not in Florida," Garcia said.