

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Determination)	DOCKET NO. 910816-EI
of Need for Electrical Power Plant)	ORDER NO. 25748
(Amelia Island Cogeneration Facility))	ISSUED: 2/18/92
by Nassau Power Corporation)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK

ORDER DENYING REQUEST FOR OFFICIAL RECOGNITION

BY THE COMMISSION:

On January 7, 1992, Nassau Power Corporation (Nassau) filed a Request for Official Notice of a Florida Power and Light Company (FPL) Status Report filed as required by Order No. 23909. Order No. 23909 was officially noticed and admitted to the record as part of Exhibit No. 64. Nassau cites sections 90.202 and 90.203, Florida Statutes; section 120.57 (1)(b)6 Florida Statutes; and rule 25-22.048, F.A.C. as authority for its request. Nassau further alleges that FPL will have the opportunity to "address the relevancy and import of" this document in its response to the motion.

On January 13, 1992, FPL filed a response to the Request for Official Notice. FPL states that the Status Report filed by FPL is not an "official action" of an "executive agency" and thus not subject to judicial notice or official recognition. The response further alleges that FPL would be denied the opportunity to contest or explain the material, in violation of section 120.58 (1)(f), Florida Statutes.

Judicial Notice (Official Recognition) is governed by sections 90.201, 90.202 and 90.203, Florida Statutes. Section 90.201 requires judicial notice of statutory and decisional law of the Florida Legislature and the United States Congress, as well as rules of court for certain Federal and Florida courts. The material at issue is clearly not subject to the provisions of section 90.201, Florida Statutes. Section 90.202(5), Florida Statutes permits official recognition of "Official actions of the legislative, executive, and judicial departments of the United

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/DEPT. OF

ORDER NO. 25748
DOCKET NO. 910816-EI
PAGE 2

States and of any state, territory, and jurisdiction of the United States." An Order of the Commission is certainly an "Official action" of an "executive department" of the State of Florida, making it an appropriate subject for a request for official recognition. We do not believe the material at issue is an "Official action" of the Commission, but rather, a response required by a Commission Order. This is outside the scope of the statute.

Based on the foregoing, it is

ORDERED that the Request For Official Notice filed January 7, 1992 by Nassau Power Corporation is DENIED.

By ORDER of the Florida Public Service Commission, this 18th day of FEBRUARY, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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ORDER NO. 25748
DOCKET NO. 910816-EI
PAGE 3

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.