

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSISON

In re: Petition for Determination	)	DOCKET NO. 910816-EI
of Need for Electrical Power Plant	)	ORDER NO. 25749
(Amelia Island Cogeneration Facility)	)	ISSUED: 2/18/92
by Nassau Power Corporation	)	

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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK

ORDER DENYING MOTION TO STRIKE

BY THE COMMISSION:

On January 6, 1992, Nassau Power Corporation (Nassau) filed a Motion to Strike portions of the brief filed by Florida Power and Light Company (FPL) in this docket. Nassau alleged that certain portions of FPL's brief were "factually wrong, not supported by the record, misleading and must be stricken." Nassau cited no statute, case or rule of the Florida Public Service Commission in support of its motion.

On January 13, 1992, FPL filed a response to the Motion to Strike. FPL responded in detail to the specific areas raised by Nassau in its Motion to Strike. FPL cited no statute, case or rule of the Florida Public Service Commission in its response to the motion. The response states in part: "Nassau's disagreement with FPL's phrasing of FPL's argument is not grounds for striking and does not justify allowing rebuttal argument."

Rule 25-22.037(2)(b), F.A.C. states in pertinent part: "All motions shall be in writing unless made at the hearing, and shall fully state the action requested and the grounds relied upon." Here, Nassau has failed to state any authority permitting the Commission to strike portions of a brief because another party believes them to be "factually wrong, not supported by the record, (and) misleading..." Since the motion is deficient, it must be denied.

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Based on the foregoing, it is

ORDERED that the Motion to Strike filed January 6, 1992 by Nassau Power Corporation is DENIED.

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

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

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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.