

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition to deter-) DOCKET NO. 920520-EQ
mine need for electric power) ORDER NO. PSC-92-0750-PCO-EQ
plant to be located in Okeechobee) ISSUED: 8-5-92
County by Florida Power & Light)
Company and Cypress Energy)
Partners, Limited Partnership.)
_____)

ORDER DENYING MOTION FOR
ALTERATION OF TIME LIMITS

On July 10, 1992, Ark energy, Inc. (Ark), and CSW Development-I, Inc. (CSW) filed a motion requesting that we alter the newspaper publication notice requirement for Ark and CSW's petition for determination for need from 45 days to 35 days. The purpose of the request was to allow Ark and CSW to have their petition for determination of need heard in conjunction with the FPL/Cypress need petition which is scheduled for hearing, August 19, 1992.

Section 403.519, Florida Statutes, requires the Commission to publish notice of need determination proceedings in a newspaper of general circulation at least 45 days before a hearing to determine need. Section 403.5095, Florida Statutes provides that time limitations in the Power Plant Siting Act may be altered "for good cause shown by any party."

Cypress Energy Partners argues that Section 403.5095 is inapplicable because it gives authority to alter time limitations to "the designated hearing officer", and not the Commission. Cypress also argues that Section 403.5095 applies only to Section 403.501 through 403.518, Florida Statutes, and not to Section 403.519, which governs Commission need determination proceedings.

We do not accept Cypress's position, and believe we have the authority, pursuant to Section 403.5095, to alter the time limitation in question. In this case however, we choose not to do so.

A need determination hearing is a major proceeding before this Commission. Our decision, either to grant or deny need, can have a profound affect on both reliability of service and rates, for millions of customers. We do not make such decisions hastily, and do not believe we should rush a need petition to hearing before our staff has had adequate time to conduct discovery.

DOCUMENT NUMBER-DATE

08620 AUG -5 1992

FDCA-RECORDS / DEPARTMENT

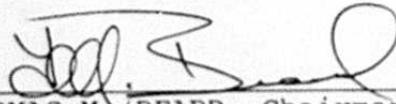
ORDER NO. PSC-92-0750-PCO-EQ
DOCKET NO. 920520-EQ
PAGE 2

In this case we have granted Ark and CSW intervenor status, and have specifically found that they have standing to address the issue of whether the proposed Cypress/FPL plant is the most cost-effective alternative available. The August 19, 1992 hearing will be conducted to determine whether present and future need exists under the standards set forth in Section 403.519, Florida Statutes, for the electrical generating capacity to be supplied by the proposed Cypress/FPL plant. The question of whether need exists for the proposed Ark/CSW plant will have to wait for another day, after our Staff has had adequate time to conduct discovery on the proposed Ark/CSW project.

It is therefore

ORDERED that the Motion for Alteration of Time Limits filed by Ark Energy, Inc. and CSW Development-I, Inc., on July 10, 1992, is hereby denied.

ORDER of Chairman Thomas M. Beard, as Prehearing Officer, this
5th day of August, 1992.



THOMAS M. BEARD, Chairman
and Prehearing Officer

(S E A L)

MAP:bmi

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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2),

ORDER NO.
DOCKET NO. 920520-EQ
PAGE 3

Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, is issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.