

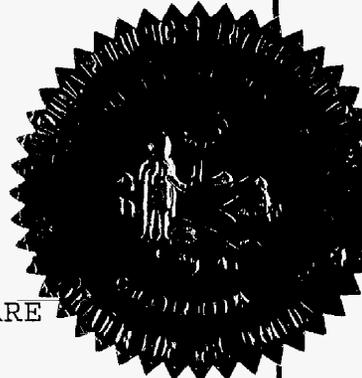
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of

PETITION FOR DETERMINATION OF NEED DOCKET NO. 040766-EI
FOR EXPANSION OF ELECTRICAL
COGENERATION POWER PLANT IN PALM
BEACH COUNTY BY FLORIDA POWER &
LIGHT COMPANY AND NEW HOPE POWER
PARTNERSHIP.

PETITION FOR APPROVAL OF DOCKET NO. 040767-EI
AS-AVAILABLE ENERGY PURCHASE
AGREEMENT BETWEEN FLORIDA POWER &
LIGHT COMPANY AND NEW HOPE POWER
PARTNERSHIP.



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PROCEEDINGS: PREHEARING CONFERENCE
BEFORE: COMMISSIONER RUDOLPH "RUDY" BRADLEY
Prehearing Officer
DATE: Monday, October 4, 2004
TIME: Commenced at 1:30 p.m.
Concluded at 1:37 p.m.
PLACE: Betty Easley Conference Center
Room 152
4075 Esplanade Way
Tallahassee, Florida
REPORTED BY: LINDA BOLES, RPR
Official FPSC Reporter
(850) 413-6734

1 APPEARANCES:

2 ROBERT SCHEFFEL WRIGHT, ESQUIRE, Landers & Parsons,
3 P.A, P.O. Box 271, Tallahassee, Florida 32302, appearing on
4 behalf of New Hope Power Partnership.

5 CHARLES A. GUYTON, ESQUIRE, Steel, Hector & Davis,
6 LLP, 215 South Monroe Street, Suite 601, Tallahassee, Florida
7 32301-1804, appearing on behalf of Florida Power & Light
8 Company.

9 JENNIFER BRUBAKER, ESQUIRE, FPSC General Counsel's
10 Office, 2540 Shumard Oak Boulevard, Tallahassee, Florida
11 32399-0850, appearing on behalf of the Commission staff.

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P R O C E E D I N G S

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2 COMMISSIONER BRADLEY: I'd like to call this
3 prehearing conference to order. Could I have the notice read,
4 please.

5 MS. BRUBAKER: Commissioner, this time and place has
6 been set aside for the purposes of holding a hearing in Dockets
7 040766-EI and 040767-EI. The purpose of the prehearing is set
8 forth more fully in the notice.

9 COMMISSIONER BRADLEY: Thank you. The next order of
10 business is to take appearances.

11 MR. WRIGHT: I'm Robert Scheffel Wright,
12 Landers & Parsons, 310 West College Avenue, Tallahassee, 32302,
13 appearing on behalf of New Hope Power Partnership.

14 MR. GUYTON: Charles Guyton, Steel, Hector &
15 Davis, LLP, 215 South Monroe Street, Tallahassee, Florida
16 32301, appearing on behalf of Florida Power & Light Company.

17 MS. BRUBAKER: And Jennifer Brubaker on behalf of the
18 Commission. Thank you.

19 COMMISSIONER BRADLEY: Are there any preliminary
20 matters by any of the parties?

21 MS. BRUBAKER: Commissioner, I don't believe there
22 are any preliminary matters. Just to set the framework for the
23 prehearing conference, staff has met with the parties, and
24 after discussion I believe we can stipulate to what would
25 otherwise be issues for hearing, and those are reflected in the

1 stipulation section of the prehearing order. So once we go,
2 we'll simply, I guess, address those at that particular time.

3 COMMISSIONER BRADLEY: Okay. Thank you. It is my
4 intention to proceed through the draft prehearing order section
5 by section as expeditiously as possible. If there are any
6 questions, clarifications or changes, please let me know at the
7 appropriate time.

8 And with that, we will begin going through the draft
9 prehearing order. Section I, conduct of proceedings.

10 MR. WRIGHT: No comments.

11 COMMISSIONER BRADLEY: Section II, case background.

12 MR. WRIGHT: No changes or comments.

13 COMMISSIONER BRADLEY: Thank you. Section III,
14 jurisdiction.

15 MR. GUYTON: That's fine.

16 MR. WRIGHT: We agree.

17 COMMISSIONER BRADLEY: Section IV, procedure for
18 handling confidential information.

19 Section V, post-hearing procedures.

20 MR. WRIGHT: We have no comments, although we are
21 hopeful that the Commission will be able to issue a bench
22 decision, Commissioner.

23 MR. GUYTON: No comments.

24 COMMISSIONER BRADLEY: Prefiled testimony and
25 exhibits; witnesses.

1 MR. WRIGHT: No comments or changes to the prehearing
2 order.

3 COMMISSIONER BRADLEY: Section VII, order of
4 witnesses.

5 MS. BRUBAKER: Staff has one comment to make to this
6 section. Staff believes it's possible that the panel will have
7 no questions for these witnesses. Staff will confirm that with
8 all three members of the panel and hopefully will know that
9 prior to the issuance of the prehearing order. If staff does
10 know that the witnesses can be excused prior to the issuance of
11 the prehearing order, I'd simply ask that we be permitted to
12 reflect that in the prehearing order.

13 COMMISSIONER BRADLEY: Thank you.

14 MS. BRUBAKER: Also if we could make a small change
15 or addition actually where the witnesses are listed to include
16 that they each speak to Issues 1 through 5.

17 COMMISSIONER BRADLEY: Any other changes?

18 MR. WRIGHT: No, sir.

19 MR. GUYTON: No, sir.

20 COMMISSIONER BRADLEY: Thank you. Section VIII,
21 basic positions.

22 MR. GUYTON: No change.

23 MR. WRIGHT: No change.

24 MS. BRUBAKER: No change.

25 COMMISSIONER BRADLEY: Section IX, issues and

1 positions.

2 MS. BRUBAKER: Again, just for clarification,
3 Commissioner, what would otherwise appear here as issues are
4 reflected in the following section listed as proposed
5 stipulations..

6 COMMISSIONER BRADLEY: Thank you. Section X, exhibit
7 list.

8 MR. GUYTON: It's our understanding there may be a
9 couple of additional exhibits not shown here, but --

10 MS. BRUBAKER: Staff is in the process of compiling a
11 composite exhibit list. It would be normally tendered for the
12 purposes of cross-examination. If, indeed, the case is
13 stipulated, it would simply be admitted into the record as a
14 stipulated exhibit. It would compose of a letter and some
15 discovery responses.

16 MR. GUYTON: That's fine with us.

17 MR. WRIGHT: Same with New Hope, yes, sir.

18 COMMISSIONER BRADLEY: Okay. Thank you. Section XI,
19 proposed stipulations.

20 MS. BRUBAKER: I believe that there will be one
21 proposed change to Stipulation Number 1, and I'll let
22 Mr. Guyton address that.

23 MR. GUYTON: At the top of the first issue we would
24 propose that the first sentence in its entirety be dropped:
25 "There is a need for the proposed New Hope Project, taking into

1 account," et cetera, and that the issue begin with a second
2 sentence, the phrase, "Although FPL does not have a reliability
3 need," insert a comma and the phrase, "as this criterion is
4 used in Section 403.519, Florida Statutes," and then pick up
5 with the remainder of the sentence.

6 COMMISSIONER BRADLEY: Does New Hope or Mr. Guyton
7 (sic.) agree with that?

8 MR. WRIGHT: Yes, sir. New Hope agrees with the
9 change.

10 COMMISSIONER BRADLEY: Okay.

11 MS. BRUBAKER: Staff also agrees with the change.

12 COMMISSIONER BRADLEY: Thank you. Section XII,
13 pending motions.

14 MS. BRUBAKER: No changes.

15 MR. GUYTON: No changes.

16 MR. WRIGHT: Correct.

17 COMMISSIONER BRADLEY: Section XIII, pending
18 confidentiality matters.

19 MS. BRUBAKER: No changes.

20 MR. GUYTON: None.

21 MR. WRIGHT: None.

22 COMMISSIONER BRADLEY: Section XIV, rulings.

23 MS. BRUBAKER: As a precaution, it may be prudent to
24 have a ruling that should opening statements be held, that they
25 be limited to ten minutes for each party.

1 COMMISSIONER BRADLEY: It is my ruling that they be
2 held to or limited to ten minutes per party. Is that okay?

3 MR. GUYTON: Yes, sir.

4 MR. WRIGHT: That's great.

5 COMMISSIONER BRADLEY: Okay.. Is there anything else
6 to come before the prehearing officer at this time?

7 MR. GUYTON: We have nothing. We thank you.

8 MR. WRIGHT: Neither does New Hope. Thank you.

9 **MS. BRUBAKER:** Staff has nothing.

10 COMMISSIONER BRADLEY: Thank you for your
11 participation. This prehearing conference is adjourned.

12 (Prehearing conference adjourned at 1:37 p.m.)

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