

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for  
determination of need for an  
electrical power plant in  
Volusia County by the Utilities  
Commission, City of New Smyrna  
Beach, Florida, and Duke Energy  
New Smyrna Beach Power Company  
Ltd., L.L.P.

DOCKET NO. 981042-EM  
ORDER NO. PSC-98-1598-PCO-EM  
ISSUED: December 1, 1998

ORDER DENYING PETITION FOR INTERVENTION

BY THE COMMISSION:

Pursuant to Rule 25-22.039, Florida Administrative Code, on November 13, 1998, Florida Wildlife Federation (FWF) petitioned to intervene in this proceeding. As a basis for intervention, FWF asserts that:

Approval of the Joint Petition would result in injury or harm to Florida's wildlife populations, causing them to decline and not be available for the benefits of FWF and its members as stated further below. FWF and its members are substantially affected by the issues to be determined in these proceedings.

No party has filed a response in opposition to this petition. Petitioners have stated verbally that they do not intend to file a response to this motion.

Upon review of the petition, the Prehearing Officer finds that FWF is not entitled to participate in the proceeding because its substantial interests are not subject to determination, neither will they be affected by this proceeding pursuant to Rule 25-22.039, Florida Administrative Code. Thus the petition should be denied.

Based upon the foregoing, it is therefore

ORDERED by Commissioner Joe Garcia, as Prehearing Officer, that the Petition to Intervene filed by Florida Wildlife Federation is hereby denied.

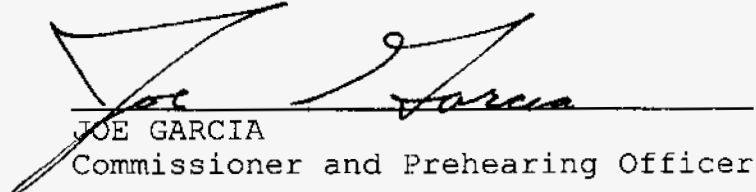
DOCUMENT NUMBER-DATE

13438 DEC-10 1454

FPSC-RECORDS/REPORTING

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By ORDER of Commissioner Joe Garcia, as Prehearing Officer,  
this 1st day of December, 1998.

  
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JOE GARCIA  
Commissioner and Prehearing Officer

( S E A L )

GAJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if 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

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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.

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