1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION 2 3 4 In the Matter of DOCKET NO. 990023-EM : : 5 Petition by City of Lakeland : for determination of need for : 6 McIntosh Unit 5 and proposed : conversion from simple to 7 combined cycle. 8 9 10 PROCEEDINGS: PREHEARING CONFERENCE 11 12 BEFORE: COMMISSIONER J. TERRY DEASON Prehearing Officer 13 14 DATE: Wednesday, March 17, 1999 15 TIME: Commenced at 1:30 p.m. Concluded at 1:40 p.m. 16 PLACE: Betty Easley Conference Center 17 Room 152 4075 Esplanade Way 18 Tallahassee, Florida 19 **REPORTED BY:** JOY KELLY, CSR, RPR 20 FPSC Chief, Bureau of Reporting 21 22 23 24 25 DOCUMENT NUMBER-DATE FLORIDA PUBLIC SERVICE COMMISSION 03440 MAR 17 8

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| 1 | APPEARANCES: |
| 2 | ROY C. YOUNG, Young, van Assenderp and |
| 3 | Varnadoe, P. A., P. O. Box 1833, Tallahassee, Florida |
| 4 | 32302-1833, appearing on behalf of the City of |
| 5 | Lakeland. |
| 6 | WILLIAM COCHRAN KEATING, Florida Public |
| 7 | Service Commission, Division of Legal Services, 2540 |
| 8 | Shumard Oak Boulevard, Tallahassee, Florida |
| 9 | 32399-0870, appearing on behalf of the Commission |
| 10 | Staff. |
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1 PROCEEDINGS 2 (Hearing convened at 1:30 p.m.) 3 COMMISSIONER DEASON: Call the prehearing conference to order. Could I have the Notice read, 4 5 please. 6 MR. KEATING: Pursuant to notice issued 7 February 3rd, 1999, this time and place have been set for a prehearing conference, in Docket 990023-EM, 8 petition by City of Lakeland for determination of need 9 for McIntosh Unit 5 and proposed conversion from 10 11 simple to combined cycle. 12 COMMISSIONER DEASON: Take appearances. 13 MR. YOUNG: I'm Roy Young, with Young van 14 Assenderp, Varnadoe, 225 South Adams Street, Suite 15 200, Tallahassee, Florida, representing the City of 16 Lakeland. 17 COMMISSIONER DEASON: Mr. Young, I think 18 your microphone was off. We got it. Now it's on. 19 MR. YOUNG: Do you need it again? 20 THE REPORTER: No. Thank you. 21 COMMISSIONER DEASON: She got it okay. 22 MR. KEATING: Cochran Keating on behalf of 23 Commission Staff. 24 COMMISSIONER DEASON: There are no intervenors in this docket, correct? 25

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| 1 | MR. KEATING: That's correct. |
| 2 | COMMISSIONER DEASON: Okay. Are there any |
| 3 | preliminary matters we need to address before we |
| 4 | proceed through the Draft Prehearing Order? |
| 5 | MR. KEATING: Preliminarily, I mention that |
| 6 | Staff and Lakeland are currently working on language |
| 7 | for positions on all of the issues so that we can have |
| 8 | these issues stipulated. |
| 9 | We would like to have some additional time |
| 10 | to continue to work with Lakeland so that we can get |
| 11 | some language that is agreeable to everyone. We would |
| 12 | like to be able to reflect this stipulated language in |
| 13 | the Prehearing Order. |
| 14 | COMMISSIONER DEASON: I appreciate those |
| 15 | efforts. I think that's a worthwhile thing to do. I |
| 16 | assume, Mr. Young, you have no objection to that. |
| 17 | MR. YOUNG: No, sir. In fact, I think |
| 18 | verbally we're pretty much in agreement. And we're |
| 19 | now trying to put down on paper what we've agreed to. |
| 20 | And I think it's just a matter of getting Cochran and |
| 21 | Tom and Judy a little bit more time and I think we'll |
| 22 | have it. |
| 23 | COMMISSIONER DEASON: Very well. |
| 24 | What I plan to do, then, is we'll go ahead |
| 25 | and proceed through the Draft Prehearing Order with |
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the understanding that positions contained therein,
 that there could be stipulations as a result of
 discussions that are ongoing. I understand there
 still may be some outstanding discovery that Staff may
 be reviewing.

6 MR. KEATING: There are a few late-filed 7 deposition exhibits that we'll be waiting on. And it 8 may be that some of the information we get will be 9 made a part of the position that's stipulated.

10 COMMISSIONER DEASON: Okay. Very well.
11 With that understanding, we'll proceed through the
12 Draft Prehearing Order. I've reviewed the Prehearing
13 Order and it appears fairly standard, so I think we
14 can proceed through here rather quickly.

15 Section I addresses the conduct of the 16 proceedings, and Section II, the case background. Any 17 changes or corrections? Section III is the standard section addressing confidential information. I assume 18 19 there are no questions or clarifications there. 20 Section IV addresses posthearing procedures that, 21 likewise, is standard, as is Section V addressing 22 prefiled testimony and exhibits. Are there any 23 questions or changes?

MR. YOUNG: No, sir.

COMMISSIONER DEASON: Very well. Section VI

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addresses the order of witnesses. Are there any
 questions or concerns with the order as contained in
 the Prehearing Order?

4 MR. KEATING: Commissioner Deason, I
5 discussed this with Mr. Young before we started the
6 prehearing conference.

7 If we have stipulated positions, I believe 8 they would like to have the possibility to have their 9 witnesses excused. And I think the way we've done 10 this a few times in the past is to set a date by which we'll let the parties know if the witnesses can be 11 12 excused after we have had a chance to talk with the 13 other Commissioners on the panel to see if they would 14 like to cross examine.

15 COMMISSIONER DEASON: That was the processed
16 we followed not too many months ago in a similar case.
17 I think it worked fine. Mr. Young, you have no
18 problem with that?

19

MR. YOUNG: No, sir.

COMMISSIONER DEASON: Obviously, if there's no need for witnesses to appear, there's no need to incur the time and travel expense to do that. And so we certainly want to be accommodating in that regard. But obviously if there are Commissioners with questions, it's important those questions get

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1 answered.

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| 2 | Section VII, basic positions. Any changes |
| 3 | there? I understand that Staff, you may be making |
| 4 | changes to your position. Is that correct? |
| 5 | MR. KEATING: I believe that's one of the |
| 6 | positions that we're still working on. Basically, |
| 7 | that Staff's basic position, as well as the |
| 8 | position on all of the issues listed after that in |
| 9 | Section VIII. |
| 10 | COMMISSIONER DEASON: Mr. Young, are there |
| 11 | any changes to your basic position? |
| 12 | MR. YOUNG: Not at this time. |
| 13 | COMMISSIONER DEASON: Section VIII addresses |
| 14 | the specific issues and positions, and I understand |
| 15 | that there are most likely to be some changes in |
| 16 | positions. The Issues 1 through 5, are all correctly |
| 17 | stated; is that correct? |
| 18 | MR. YOUNG: Yes, sir. |
| 19 | COMMISSIONER DEASON: And there are no |
| 20 | errors in the positions as contained in the Draft |
| 21 | Prehearing Order as it now exists; is that correct? |
| 22 | MR. YOUNG: That's correct. |
| 23 | MR. KENTING: That's correct. |
| 24 | COMMISSIONER DEASON: Okay. |
| 25 | I appreciate Staff working with the City, |
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and to the extent there can be stipulations, obviously 1 2 that is something that would be helpful to the 3 Commission. And if there are stipulations, Staff just bring those -- the language for the issues so that we 4 5 can get it included in the final order that goes out. 6 Section IX addresses the exhibit list. Т 7 have one question concerning that list. The exhibit that is entitled "LAK-1" is being sponsored by 8 9 numerous witnesses. I suppose this is the application 10 itself. 11 MR. YOUNG: The total application. 12 COMMISSIONER DEASON: Okay. Very well. 13 Any changes or corrections to the exhibit list? 14 15 MR. YOUNG: No, sir. 16 COMMISSIONER DEASON: And there are no proposed stipulations at this time in Section X, and 17 18 there are no pending motions; is that correct? 19 MR. YOUNG: Yes, sir. 20 COMMISSIONER DEASON: Okay. 21 Is there anything else that needs to come 22 before the Prehearing Officer at this time? 23 MR. KEATING: There's one other thing I wanted to mention and it's something we did in the 24 25 Cane Island need determination case.

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| 1 | In the Prehearing Order we left open the |
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| 2 | possibility for a bench vote. Recognizing that some |
| 3 | of the Commissioners on the panel may chose another |
| 4 | path, but I talked with Mr. Roy Young and he told me |
| 5 | he had no objection to the possibility of a bench |
| 6 | vote. We can reflect that in this Prehearing Order. |
| 7 | And let's see I believe that was it. |
| 8 | COMMISSIONER DEASON: Okay. Certainly |
| 9 | include that in the Prehearing Order. It will put |
| 10 | everyone on notice that the possibility exists. I |
| 11 | have no idea what the desire of the Commissioners will |
| 12 | be, but at least they will be noticed, and if that is |
| 13 | the desire then we can proceed that that direction. |
| 14 | MR. YOUNG: Okay. |
| 15 | COMMISSIONER DEASON: Anything else? |
| 16 | MR. YOUNG: No, sir. |
| 17 | COMMISSIONER DEASON: Thank you all. |
| 18 | This prehearing conference is adjourned. |
| 19 | (Thereupon, the hearing concluded at |
| 20 | 1:40 p.m.) |
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STATE OF FLORIDA) 1 CERTIFICATE OF REPORTER 2 COUNTY OF LEON) 3 I, JOY KELLY, CSR, RPR, Chief, Bureau of Reporting, Official Commission Reporter, 4 DO HEREBY CERTIFY that the Prehearing 5 Conference in Docket No. 990023-EM was heard by the Prehearing Officer at the time and place herein 6 stated; it is further 7 CERTIFIED that I stenographically reported the said proceedings; that the same has been 8 transcribed by me; and that this transcript, consisting of 9 pages, constitutes a true transcription of my notes of said proceedings. 9 10 DATED this 17th day of March, 1999. 11 12 13 14 JOY KEELY, CSR, RPR 15 Chief, Bureau of Reporting Official Commission Reporter 16 (850) 413-6732 17 18 19 20 21 22 23 24 25

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| 1 | CONFERENCE 1/10, 1/16, 3/4, 3/8, 6/6, 9/18, 10/5 | Inte-filed 5% |
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| 1 7/16 152 1/17 | contained 5/1, 6/2, 7/20 | Legal 2/7 LEON 19/2 |
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| | creas 6/14 | March 1/14, 10/10 Matter 1/4, 4/20 |
| 2 | CSR 1/19, 10/3 | matters 4/3 |
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| | D | months 6/16 motions 8/18 |
| 3 | DATE 1/14. 6/10 | MR. KEATING 36, 3/22, 4/1, 4/5, 5/6, 6/4, 7/5, |
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| 32399-0670 29 | day | Mr. Rey 9/4 |
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