

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine need for Turkey  
Point Nuclear Units 6 and 7 electrical power  
plant, by Florida Power & Light Company.

DOCKET NO. 070650-EI  
ORDER NO. PSC-08-0050-PHO-EI  
ISSUED: January 24, 2008

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on January 14, 2008, in Tallahassee, Florida, before Commissioner Nathan A. Skop, as Prehearing Officer.

APPEARANCES:

R. WADE LITCHFIELD, MITCHELL S. ROSS, JOHN T. BUTLER, BRYAN S. ANDERSON, ANTONIO FERNANDEZ, JESSICA A. CANO, ESQUIRES, 700 Universe Boulevard, Juno Beach, Florida 33408-0420; STEPHEN HUNTOON, ESQUIRE, 801 Pennsylvania Avenue, Suite 220, Washington, D.C. 20004; and KENNETH A. HOFFMAN, ESQUIRE, Rutledge, Ecenia, Purnell & Hoffman, P.A., 215 South Monroe Street, Suite 420, P.O. Box 551, Tallahassee, Florida 32302-0551

On behalf of Florida Power & Light Company (FPL).

BOB and JAN M. KRASOWSKI, 1086 Michigan Avenue, Naples, Florida 34103-3857

Appearing pro se (Krasowski).

FREDERICK M. BRYANT and DANIEL B. O'HAGAN, ESQUIRES, 2061-2 Delta Way (32303), P.O. Box 3209, Tallahassee, Florida 32315-3209

On behalf of Florida Municipal Electric Association and Florida Municipal Power Agency (FMEA and FMPA).

BRUCE PAGE, ESQUIRE, 117 West Duval Street, Suite 480, Jacksonville, Florida 32202 and SUZANNE S. BROWNLESS, ESQUIRE, 1975 Buford Blvd., Tallahassee, Florida 32308

On behalf of JEA.

ROY C. YOUNG, ESQUIRE, Young van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida 32301 and ZOILA PUIG EASTERLING, ESQUIRE, Orlando Utilities Commission, 500 South Orange Avenue, Orlando, Florida 32802

On behalf of Orlando Utilities Commission (OUC).

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On behalf of Seminole Electric Cooperative, Inc. (Seminole).

CHARLIE BECK, ESQUIRE, Deputy Public Counsel, c/o The Florida Legislature, 111 W. Madison Street, Room 812, Tallahassee, Florida 32399-1400  
Citizens of the State of Florida.

KATHERINE E. FLEMING, JENNIFER S. BRUBAKER, and CAROLINE KLANCKE, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Florida Public Service Commission (Staff).

## **PREHEARING ORDER**

### **I. CASE BACKGROUND**

On October 16, 2007, Florida Power & Light Company (FPL) filed a petition for a determination of need for proposed nuclear power plants in Dade County, pursuant to Section 403.519, Florida Statutes (F.S.), and Rule 25-22.080, Florida Administrative Code (F.A.C.). The Commission issued a Notice of Commencement of Proceedings to the appropriate agencies, local governments, and interested persons on October 22, 2007. The matter has been scheduled for a formal administrative hearing on January 30 – February 1, 2008.

Intervention was granted to the Office of Public Counsel (OPC)<sup>1</sup> and Bob and Jan Krasowski.<sup>2</sup> Petitions to Intervene have been filed by FMEA, FMPA, JEA, OUC, and Seminole.<sup>3</sup>

### **II. CONDUCT OF PROCEEDINGS**

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

### **III. JURISDICTION**

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapters 120, 366, and 403, Florida Statutes (F.S.). This hearing will be governed by said

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<sup>1</sup> See Order No. PSC-07-0965-PCO-EI, issued December 4, 2007.

<sup>2</sup> See Order No. PSC-07-1019-PCO-EI, issued December 28, 2007.

<sup>3</sup> At the Prehearing Conference, the Prehearing Officer noted that the pending Petitions for Intervention would be granted, and the rulings would be addressed by separate orders.

Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Armando J. Olivera	FPL	1, 2, 8
Rene Silva	FPL	1, 2, 3, 4, 5, 8
J.A. Stall	FPL	1, 2, 8, 9
Steven D. Scroggs	FPL	3, 6, 7, 8, 9
Dr. Nils J. Diaz	FPL	4, 8
Dr. Leonardo E. Green	FPL	1, 8
C. Dennis Brandt	FPL	5, 8
Henrietta G. McBee	FPL	5, 8
Gerard J. Yupp	FPL	2, 6, 8
Claude A. Villard	FPL	2, 4, 6, 8

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Kennard F. Kosky	FPL	3, 4, 6, 8
Hector J. Sanchez	FPL	1, 6, 8
Dr. Steven R. Sim	FPL	1, 2, 3, 4, 5, 6, 8
Kim Ousdahl	FPL	8
John J. Reed	FPL	3, 4, 5, 8, 9

VII. BASIC POSITIONS

**FPL:** Florida continues to be one of the fastest growing states in the nation, and FPL must continue to make significant investments in new infrastructure to keep pace with the increasing demand for adequate, reliable power associated with such growth. While FPL continues to pursue and implement reduced electricity usage and load management techniques through industry-leading conservation efforts and demand side management (“DSM”) programs, and actively cultivates and pursues the development of additional renewable generating capacity within the state, by themselves these efforts are not enough. FPL must also at times construct large, baseload capacity additions. Turkey Point 6 & 7 is intended to help meet FPL’s growing need for additional baseload capacity, while also enhancing the reliability of FPL’s system by reducing reliance on fossil fuels and diversifying the resource mix. Additionally, Turkey Point 6 & 7 will provide this needed fuel-diverse, baseload capacity without emitting carbon dioxide (“CO<sub>2</sub>”) or other greenhouse gases. The Project is essential to effectively address the concerns over climate change illustrated by Governor Crist’s Executive Order No. 07-127.

FPL has evaluated various potential power plant designs for the Project and has determined that two – the General Electric Economic Simplified Boiling Water Reactor (“GE ESBWR”) and the Westinghouse AP1000 – are best positioned to balance technical, commercial and risk management considerations. The two units comprising Turkey Point 6 & 7 will contribute between 2,200 and 3,040 MW of new generation to FPL’s system, depending upon which design FPL ultimately selects. By 2020, FPL expects that it will need approximately 6,200 MW of additional new power supply, *after* taking into account approximately 1,900 MW of additional DSM, all currently committed supply projects, approximately 400 MW of capacity from the recently approved uprates at FPL’s four existing nuclear units, and approximately 300 MW of renewable generation. Accordingly, even with the Project’s addition of 2,200 MW - 3,040 MW of new capacity, there will be a shortfall relative to need during this time period of

approximately 3,120 MW to 3,960 MW, which will have to be filled by other resources, including additional renewable generation.

FPL's economic analysis shows that Turkey Point 6 & 7 is the most economically competitive alternative for addressing FPL's future capacity needs in the 2018 through 2020 time period. It is also the best alternative for promoting fuel diversity and lowering FPL's CO<sub>2</sub> system emissions beginning in 2018. Based on all the information available today, it is clearly desirable to take the steps and make the expenditures necessary to retain the option of new nuclear capacity coming on line in 2018. Because of the extended nature of the development cycle for a new nuclear plant and the process for annual reviews of the projected costs and system economics for such a plant pursuant to the Nuclear Power Plant Cost Recovery Rule ("the NPPCR Rule"), the Commission will have regular opportunities to review progress on Turkey Point 6 & 7 and to evaluate new information that develops over time. Granting FPL's petition will enable FPL to move forward and preserve the ability to deliver the benefits of new nuclear capacity to its customers on the earliest practical deployment schedule.

Given FPL's current and projected fuel mix, a large part of which relies on natural gas, the addition of a non-fossil fueled, emission free source of baseload generation is necessary to maintain system reliability, increase fuel diversity, and reduce dependence on fuel oil and natural gas. New nuclear generation is the most viable single resource option that can contribute to achieving these recent legislative objectives as codified in sections 366.92(1) and 403.519(4), Florida Statutes. Turkey Point 6 & 7 is a cost-effective and environmentally sound means of helping to meet FPL's growing capacity needs with reliable, fuel-diverse, zero-emission baseload generation. Turkey Point 6 & 7 will also have a positive impact on the Southeast Florida load and generation imbalance and provide adequate power at a reasonable cost. In this regard, the Project presents several key advantages to FPL and its customers.

The Commission should clearly articulate its support for the development of nuclear generation and this project in an order granting a determination of need for Turkey Point 6 & 7. This is not a routine determination of need. The scale, complexity and challenges of this project will be enormous. Taking steps now to preserve the option of new nuclear generation involves significant costs and risks that are unique to this type of resource addition. Given the likely challenges that will be faced during the licensing and development process, considering the regulatory risk associated with the last generation of nuclear construction, and to help overcome past perceptions that the risks associated with nuclear investment are too great to warrant moving forward, it is imperative that the Commission in its order indicate strong support for this Project and the manner in which it is being pursued. Starting with the Commission's order in this proceeding, active and consistent governmental and regulatory support will be imperative to the

successful deployment of new nuclear generation and to help bridge challenges that undoubtedly will arise.

FPL expects that it may need to make substantial advance payments to secure a reservation for specific long-lead procurement items in advance of completing the NPPCR Rule review process in 2008. Obtaining these reservations for the specific long lead procurement items is necessary to preserve the potential for 2018-2020 in-service dates for the Project. Advance payments made prior to the completion of the Project's site clearing work are properly characterized as "pre-construction costs," to be recovered pursuant to the mechanism provided in the NPPCR Rule. FPL intends to file Nuclear Filing Requirements by May 1, 2008, in order to support the inclusion, consistent with Rule 25-6.0423(5)(c), for cost recovery purposes as a component of the 2009 Capacity Cost Recovery Factor those pre-construction costs associated with Turkey Point 6 & 7 that the Commission determines are reasonable and prudent.

FPL's petition and supporting testimony inform the Commission of FPL's discussions related to potential ownership participation in Turkey Point 6 & 7 by other electric utilities, as contemplated by Section 403.519(4)(a)(5) and Rule 25-22.081(2)(d), F.A.C.

**OPC:** Although there is uncertainty associated with currently emerging energy policy decisions at the state and federal level, including carbon dioxide emission regulation, the Commission must take into account the very high probability of carbon dioxide emission regulation during the economic lives of the proposed Turkey Point Nuclear Units 6 and 7. The magnitude of carbon and other emission costs affects the determination of whether the proposed plants are cost effective compared to alternatives such as combined cycle gas plants and IGCC plants. The Commission should give greatest weight to the emission costs derived from the medium gas cost, ENV II (ICF expected) scenario for the purpose of determining whether the proposed plants are cost effective.

**KRASOWSKI:** A large variety of efficient resource management as well as power management and generating options are available to the utilities that service the residential, institutional and business energy demands of Florida. In assessing the options for meeting these energy demands we have come to the conclusion that the nuclear project proposed by FP&L for Turkey Point does not represent the best choice available to service FP&L customers. We contend that when compared to other options and strategies the Turkey Point 6&7 proposal poses an extended period of economic risk that is unreasonable and diminishes the economic wellbeing of FPL's Florida customers now and in the future. Therefore, we request that the petition for determination of need for Turkey Point 6&7 be denied.

FP&L's representatives allege that the Turkey Point 6&7 proposed project meets the needs criteria established by the State of Florida in F.S. 403.519(4) in that the

project contributes to FPL's power system's reliability and integrity, its fuel diversity, base load generation capacity, and its effort to deliver adequate electricity at a reasonable cost. That it continues to be a viable option after any renewable energy sources and technologies or conservation measures that may be taken or are reasonably available to FPL that might mitigate the need for the proposed generating units has been considered, while also providing the most cost effective source of power.

It is our belief, based on our research, that the projected cost of this proposal as alleged by FP&L does not represent an accurate assessment of the actual costs of the project. That the cost of managing the waste associated with this nuclear project has not been accurately identified. Future costs attributed to CO2 and other green house gas (GHG) emissions attributed to the mining, milling, and refining of nuclear fuel have not been adequately accounted for. Potential cost charged for radioactive emissions from mining and operations are not mentioned. The availability and cost of water need to be considered.

It is our contention that every dollar of FP&L rate payer money (14 to 24 Billion Dollars) proposed to be spent on the proposed Turkey Point 6&7 nuclear power project could be better spent on efficiency, conservation and renewables; financing programs that may include embellishing existing or creating new DSM programs, leveraging through cost sharing the expansion of net metering / distributive energy programs. The integration of solar thermal and geo thermal applications can mitigate peak load. The more efficient use of the existing base load can eliminate the need for new base load capacity. We also see a slowing of growth in Florida that calls into question the proponent's projection for need. New building design criteria will also reduce the need for new generation.

**FMEA:** FMEA's positions are preliminary and based upon FMEA's current status in the docket and information known at this time. FMEA's final positions will be based on all evidence in the record and may differ from FMEA's preliminary positions articulated in this prehearing statement.

FMEA generally supports FPL's petition for a determination of need for Turkey Point 6 & 7. FMEA supports FPL because joint participation discussions between FPL and certain FMEA members have occurred, and are expected to continue in a meaningful manner as this and other permitting proceedings move forward. FMEA is concerned, however, that FPL has not met its obligation under Florida Statutes and Commission rules to hold discussions, inform the Commission, and provide a summary of those discussions held with other electric utilities regarding ownership of a portion of Turkey Point 6 & 7. See § 403.519, Florida Statutes (2007); Fla. Admin. Code r. 25-22.081 (2007). Therefore, given the importance of nuclear power to the State of Florida in general, and FMEA members in particular, FMEA intends to participate in these proceedings to ensure that all prior discussions and future discussions are adequately and accurately

summarized so the Commission has an accurate record on which to base its determination of whether there is a statewide need for Turkey Point 6 & 7.

**FMPA:** FMPA's positions are preliminary and based upon FMPA's current status in the docket and information known at this time. FMPA's final positions will be based on all evidence in the record and may differ from FMPA's preliminary positions articulated in this prehearing statement.

FMPA generally supports FPL's petition for a determination of need for Turkey Point 6 & 7. FMPA supports FPL because joint participation discussions between FPL and FMPA have occurred, and are expected to continue in a meaningful manner as this and other permitting proceedings move forward. FMPA is concerned, however, that FPL has not met its obligation under Florida Statutes and Commission rules to hold discussions, inform the Commission, and provide a summary of those discussions held with other electric utilities regarding ownership of a portion of Turkey Point 6 & 7. See § 403.519, Florida Statutes (2007); Fla. Admin. Code r. 25-22.081 (2007). Therefore, given the importance of nuclear power to the State of Florida in general, and FMPA in particular, FMPA intends to participate in these proceedings to ensure that all prior discussions and future discussions are adequately and accurately summarized so the Commission has an accurate record on which to base its determination of whether there is a statewide need for Turkey Point 6 & 7.

**JEA:** JEA's substantial interests are affected by this proceeding and thus, JEA has the requisite standing to intervene and participate as a party in this proceeding.

JEA generally supports FPL's need petition. However, FPL is required by statute and Public Service Commission (the "Commission") rule to hold discussions with other electric utilities, and to include in its petition a summary of those discussions regarding the other electric utilities' ownership interest in the proposed nuclear plants.

**OUC:** OUC's substantial interests are affected by this proceeding and thus, OUC has the requisite standing to intervene and participate as a party in this proceeding.

Clearly, OUC, as a generating electric utility in Florida and part of the statewide grid, is impacted in a substantial way by the introduction to the system of possibly two new nuclear plants as proposed by FPL herein. This is reason enough to grant OUC's Petition to Intervene.

OUC generally supports FPL's need petition. However, FPL is required by statute and Public Service Commission (the "Commission") rule to hold discussions with other electric utilities, and to include in its petition a summary of those discussions regarding the other electric utilities' ownership interest in the proposed nuclear plants. OUC is a public agency electric utility, in need of

nuclear base load generation resources. OUC has been actively seeking minority ownership interest in nuclear base load facilities throughout Florida, specifically the proposed FPL nuclear power plants subject to the Commission's determination in this proceeding. While informal, preliminary discussions between FPL and OUC have occurred, those discussions must continue in a meaningful way.

**SEMINOLE:** Seminole supports FPL's request for a determination of need for Turkey Point Nuclear Units 6 and 7. However, FPL's request affects not only FPL and its customers, but also *all* Florida citizens, including Seminole's member systems and the Florida consumers who receive power from such member systems. Seminole must provide adequate, reliable and cost-effective power to its members. Thus, Seminole is vitally affected by FPL's request for a determination of need and the action the Commission takes on such a request.

Seminole has approached FPL regarding beginning discussions of co-ownership of the nuclear plants at issue in this docket; FPL declined such request (see attachments to Seminole's Petition To Intervene). FPL's refusal to discuss co-ownership with Seminole is incompatible with section 403.519(4)(a)(5), Florida Statutes. This section expresses the Legislature's interest in ensuring that co-ownership of nuclear facilities is explored among Florida's utilities when a nuclear plant is proposed. The statute requires FPL to include in its application "[i]nformation on whether there were any discussions with any electric utilities regarding ownership of a portion of a nuclear or integrated gasification combined cycle power plant by such electric utilities." The Commission, in Rule 25-22.081(2)(d), Florida Administrative Code, requires the applicant to provide a summary of such discussions. FPL has failed to comply with these requirements. Further, FPL has failed even to discuss co-ownership with Seminole despite Seminole's request that it do so. The Commission should ensure that FPL engages in meaningful discussions with Seminole (and similarly situated utilities in the State) regarding co-ownership early in the process.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

**ISSUE 1:** Is there a need for the proposed generating units, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519(4), Florida Statutes?

**FPL:** Yes. There is a need for the proposed generating units, taking into account the need for electric system reliability and integrity. FPL determined in its 2006/2007 Integrated Resource Plan (“IRP”) that it would need significant additional resources starting in 2012 to meet its reserve margin criterion. FPL determined it would need a minimum of either 6,156 MW of new supply (power plant construction or power purchase) or approximately 5,130 MW of new DSM to meet its reserve margin requirements by 2020. This anticipated need already accounts for approximately 1,900 MW of additional DSM, all currently committed supply projects, approximately 400 MW of capacity from the recently approved uprates at FPL’s four existing nuclear units, and approximately 300 MW of renewable generation. With Turkey Point 6 & 7, FPL will still need thousands of additional megawatts of generation (renewable or otherwise) or additional DSM in order to maintain its reliability criterion of a 20% reserve margin for those years.

Additionally, the proposed location of new generating capacity at the Turkey Point site will provide overall system benefits and enhance reliability by placing the new generation in close proximity to an area of concentrated load in Southeastern Florida. (Olivera, Silva, Stall, Green, Sanchez, Sim)

**OPC:** No position at this time.

**KRASOWSKI:** No, the current and future power needs of FP&L customers can be met with greater reliability and integrity with the implementation of efficiency/conservation measures, the graduated increased use of renewable technologies and generous net metering / distributive energy programs.

**FMEA:** Yes, however the commission cannot fully consider this issue unless and until it is provided with an adequate and accurate summary of any discussions with other electric utilities regarding ownership opportunities of a portion of Turkey Point 6 & 7 by such electric utilities, as required by section 403.519(4)(a)5., Florida Statutes, and rule 25-22.081(2)(d) of the Florida Administrative Code.

**FMPA:** Yes, however the commission cannot fully consider this issue unless and until it is provided with an adequate and accurate summary of any discussions with other electric utilities regarding ownership opportunities of a portion of Turkey Point 6 & 7 by such electric utilities, as required by section 403.519(4)(a)5., Florida Statutes, and rule 25-22.081(2)(d) of the Florida Administrative Code.

**JEA:** Yes.

**OUC:** Yes.

**SEMINOLE:** Yes.

**STAFF:** No position pending evidence adduced at hearing.

**ISSUE 2:** **Is there a need for the proposed generating units, taking into account the need for fuel diversity, as this criterion is used in Section 403.519(4), Florida Statutes?**

**FPL:** Yes. There is a need for the proposed generating units, taking into account the need for fuel diversity. FPL conducted fuel diversity analyses which focused on the projected annual fuel mixes for three alternate resource plans for the 2018–2021 time period. Those resource plans are designated as the Plan with Nuclear, the Plan without Nuclear – CC, and the Plan without Nuclear – IGCC. The years 2018-2021 were chosen to address the year when the first new nuclear unit is projected to go in-service (2018) through the first year in which both new nuclear units are in-service for a full year (2021).

FPL’s fuel diversity analyses showed that the Plan with Nuclear holds a significant fuel diversity advantage as compared to the Plan without Nuclear – CC, which is the next most economically viable alternative. With the addition of Turkey Point 6 & 7, it is projected that FPL’s system will supply approximately 27% of its energy with nuclear, about 65% with natural gas, and about 7% with coal/petroleum coke. By comparison, the Plan without Nuclear – CC would result in a supply of energy of only approximately 16% from nuclear, about 75% with natural gas, and about 7% with coal/petroleum coke. The primary benefits of the more balanced fuel mix provided by the addition of Turkey Point 6 & 7 are better system reliability and reduced price volatility. (Olivera, Silva, Stall, Yupp, Villard, Sim)

**OPC:** No position at this time.

**KRASOWSKI:** No, distributive generation of thermal and photo voltaic solar with solar and gas capture for agriculture are preferred methods of establishing fuel diversity over nuclear.

**FMEA:** See FMEA position on Issue 1 above.

**FMPA:** See FMPA position on Issue 1 above.

**JEA:** Yes.

**OUC:** Yes.

**SEMINOLE:** Yes.

**STAFF:** No position pending evidence adduced at hearing.

**ISSUE 3:** **Is there a need for the proposed generating units, taking into account the need for base-load generating capacity, as this criterion is used in Section 403.519(4), Florida Statutes?**

**FPL:** Yes. There is a need for the proposed generating units, taking into account the need for baseload generating capacity. The proposed Project is intended to help meet FPL's growing need for additional baseload capacity. Baseload capacity is the essential foundation of any utility's supply portfolio, because baseload plants run around-the-clock to provide the continuous supply of electricity that customers require. Most renewable generation resources cannot provide baseload capacity or be depended upon to be available at the time of system peak. Rather, to the extent they provide capacity, renewable options are better positioned as intermediate and peaking resources that enable a utility to replace its gas and oil-fired generation. Nuclear generation such as Turkey Point 6 & 7 is a baseload capacity option, available at all hours, which is needed to keep pace with the increasing demand for reliable power and the steady growth that the state of Florida continues to experience.

Additionally, new nuclear generation is the only baseload option available in Florida that produces no greenhouse gas emissions. Turkey Point 6 & 7 will therefore provide a significant amount of baseload capacity while emitting no CO<sub>2</sub> or other greenhouse gases. (Silva, Scroggs, Kosky, Sim, Reed)

**OPC:** No position at this time.

**KRASOWSKI:** No, there already exists sufficient base-load. Future base-load and current base-load can incrementally be provided and replaced by efficiency and cleaner new renewable applications. Population decline and greater efficiencies allow current existing base-load capacity to satisfy the need.

**FMEA:** See FMEA position on Issue 1 above.

**FMPA:** See FMPA position on Issue 1 above.

**JEA:** Yes.

**OUC:** Yes.

**SEMINOLE:** Yes.

**STAFF:** No position pending evidence adduced at hearing.

**ISSUE 4:** **Is there a need for the proposed generating units, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519(4), Florida Statutes?**

**FPL:** Yes. There is a need for the proposed generating units, taking into account the need for adequate electricity at a reasonable cost. Based upon extensive quantitative and qualitative evaluations of alternative technologies, FPL selected Turkey Point 6 & 7 as the best choice to provide reliable power at a reasonable cost, including low and stable fuel costs, in order to meet a growing demand for electricity. Nuclear fuel costs have historically been stable and significantly lower than fossil fuels, and FPL expects there to be sufficient supplies to address the nuclear fuel needs for Turkey Point 6 & 7 at reasonable and stable prices.

Additionally, Turkey Point 6 & 7 will reduce air emissions and air emission compliance costs. These reduced compliance costs are reflected in FPL's economic analysis, discussed in Issue 6 below. Compared with natural gas or IGCC generation that might otherwise be installed, over a 40-year period of operation, Turkey Point 6 & 7 will displace between 21,300 to 49,200 tons of NO<sub>2</sub>, approximately 14,200 to 75,400 tons of SO<sub>2</sub>, and about 266 million to 700 million tons of CO<sub>2</sub>. For possible CO<sub>2</sub> compliance costs alone, the cumulative 40-year cost for alternative generation could range from \$6 billion to \$28 billion or more for combined cycle generation, and \$17 billion to \$73 billion or more for IGCC generation. (Silva, Diaz, Villard, Kosky, Sim, Reed)

**OPC:** No position at this time.

**KRASOWSKI:** No, reasonable cost has not been established here. The cost of the waste storage, CO<sub>2</sub> and other greenhouse gases related to fuel assessment are not complete. Water costs remain a question. We already have adequate electricity. The economic costs of insuring the risks associated with an unforeseen event may be limited to FPL but extend to the overall population in the amount of billions and billions of dollars and need to be considered in the cost/risk assessment and in relationship to the other options.

**FMEA:** See FMEA position on Issue 1 above.

**FMPA:** See FMPA position on Issue 1 above.

**JEA:** Yes.

**OUC:** Yes.

**SEMINOLE:** Yes.

**STAFF:** No position pending evidence adduced at hearing.

**ISSUE 5:** **Are there any renewable energy sources and technologies or conservation measures taken by or reasonably available to Florida Power & Light Company which might mitigate the need for the proposed generating units?**

**FPL:** No. Neither renewable resources nor conservation and DSM can mitigate the need for Turkey Point 6 & 7, alone or in combination. FPL is working to develop and purchase as much energy as technically and economically possible from renewable resources and continues to explore the use of emerging technologies, but there simply is not enough renewable resources in Florida to make a meaningful contribution towards achieving a 20% reserve margin criterion. Even if renewable resources and conservation are achieved at levels far greater than expected, FPL's need for Turkey Point 6 & 7 will not be eliminated. Moreover, the addition of Turkey Point 6 & 7 will not displace the potential for increasing the use of these resources, given the scope of FPL's system needs and the anticipated rate of growth. (Silva, Brandt, McBee, Reed, Sim)

**OPC:** No position at this time.

**KRASOWSKI:** Yes, (An assessment of the meaning of the word reasonable is seriously necessary in regard to this issue). Enormous opportunities for efficiency and conservation, distributive energy and clean technologies exist.

**FMEA:** No position.

**FMPA:** No position.

**JEA:** None known to JEA.

**OUC:** None known to OUC.

**SEMINOLE:** No. Seminole is not aware of any such sources, technologies or measures at this time.

**STAFF:** No position pending evidence adduced at hearing.

**ISSUE 6:** Will the proposed generating units provide the most cost-effective source of power, as this criterion is used in Section 403.519(4), Florida Statutes?

**FPL:** Yes. Based on reasonable projections and assumptions regarding future conditions, the proposed generating units are projected to provide the most cost-effective source of power, taking into account all the factors listed in Section 403.519(4). Because it is unlikely that the state can count on energy from renewable resources to meet any large portion of its power supply needs, FPL analyzed alternative resource plans that utilize CC and IGCC technologies.

FPL considered a range of fossil fuel price scenarios and environmental compliance cost scenarios, including a range of CO<sub>2</sub> emission compliance costs. FPL then determined breakeven costs for each of the nuclear scenarios compared with each of the scenarios for the two alternative Plans without Nuclear. Under a wide range of assumptions about fuel and environmental costs, the Plan without Nuclear – CC is less expensive on a Cumulative Present Value Revenue Requirements basis than the Plan without Nuclear – IGCC. FPL therefore focused on a comparison of the Plan with Nuclear and the Plan without Nuclear – CC. The economically viable construction cost range for the Plan without Nuclear – CC is \$3,206 to \$7,281/kW, which compares favorably with FPL's non-binding construction cost estimate of \$3,108 to \$4,540/kW for Turkey Point 6 & 7. As a result, Turkey Point 6 & 7 is currently projected to be the most economically competitive choice. (Scroggs, Yupp, Villard, Kosky, Sanchez, Sim)

**OPC:** Although there is uncertainty associated with currently emerging energy policy decisions at the state and federal level, including carbon dioxide emission regulation, the Commission must take into account the very high probability of carbon dioxide emission regulation during the economic lives of the proposed Turkey Point Nuclear Units 6 and 7. The magnitude of carbon and other emission costs affects the determination of whether the proposed plants are cost effective compared to alternatives such as combined cycle gas plants and IGCC plants. The Commission should give greatest weight to the emission costs derived from the medium gas cost, ENV II (ICF expected) scenario for the purpose of determining whether the proposed plants are cost effective.

**KRASOWSKI:** No, this project's costs must be compared with an equal amount of analysis to a renewable/ efficiency option. The proposed nuclear project time line extends over a period that would allow the monies dedicated to the project to incrementally provide for FPL customer energy needs by the use of efficiency programs, elevated standards of power usage and investments in clean energy technologies, without the costly, problematic issues of long term toxic waste management, among other things.

**FMEA:** See FMEA position on Issue 1 above.

**FMPA:** See FMPA position on Issue 1 above.

**JEA:** Yes.

**OUC:** Based on information available to it, OUC thinks the answer is yes.

**SEMINOLE:** Yes.

**STAFF:** No position pending evidence adduced at hearing.

**ISSUE 7:** Does Florida Power & Light Company's nuclear power plant petition contain a summary of any discussions with other electric utilities regarding ownership of a portion of the plant by such electric utilities, consistent with the requirements of 403.519(4)(a)5., F.S., and Rule 25-22.081, F.A.C.?

**FPL:** Yes. FPL's petition and supporting testimony summarizes its discussions with other electric utilities concerning Turkey Point 6 & 7, as required by the statute and rule. (Scroggs)

**OPC:** No position at this time.

**KRASOWSKI:** No, and the fact that FPL's petition does not contain a summary of any discussions they had with other electric utilities regarding ownership of the portion of the plant should be rectified by FPL amending their original petition to include the required information or, if there have been no preliminary discussions as claimed, and no summary is possible, FPL should be required to withdraw their present petition and submit an accurate correct one starting from square one.

**FMEA:** No. FPL has not summarized in its petition discussions with other electric utilities, namely FMEA members. FPL and certain FMEA members have held preliminary discussions regarding FMEA members' possible ownership of a portion of Turkey Point 6 & 7. FPL has not summarized these discussions, nor any other discussions with other electric utilities, regarding ownership opportunities of the proposed nuclear generating units. The Commission cannot properly determine whether there is a need for Turkey Point 6 & 7 without taking these discussions with FMEA members, and other electric utilities, into consideration.

**FMPA:** No. FPL has not summarized in its petition discussions with other electric utilities, namely FMPA. FPL and FMPA have held preliminary discussions regarding FMPA's possible ownership of a portion of Turkey Point 6 & 7. FPL has not summarized these discussions, nor any other discussions with other electric utilities, regarding ownership opportunities of the proposed nuclear generating units. The Commission cannot properly determine whether there is a

need for Turkey Point 6 & 7 without taking these discussions with FMPA, and other electric utilities, into consideration.

**JEA**: No.

**OUC**: No.

**SEMINOLE**: No. FPL has provided no summary of its discussions.

**STAFF**: No position pending evidence adduced at hearing.

**ISSUE 8**: **Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition to determine the need for the proposed generating units?**

**FPL**: Yes. For the foregoing reasons, and as more fully developed in FPL's prefiled testimony and its petition, the Commission should grant FPL's petition to determine the need for Turkey Point 6 & 7. (Olivera, Silva, Stall, Scroggs, Diaz, Green, Brandt, McBee, Yupp, Villard, Kosky, Sanchez, Sim, Ousdahl, Reed)

**OPC**: No position at this time.

**KRASOWSKI**: No, instead we encourage the Public Service Commission to continue to pursue innovative energy efficiency and conservation strategies, develop programs to increase the use of clean renewable generating options, and develop an aggressive net metering/distributive energy program, etcetera, with a broad consideration for a full range of funding mechanisms.

**FMEA**: Yes, provided that the Commission considers whether FPL has examined sharing the costs, burdens, and benefits of nuclear power plant ownership with other electric utilities in this state by holding meaningful discussions with such other electric utilities.

**FMPA**: Yes, provided that the Commission considers whether FPL has examined sharing the costs, burdens, and benefits of nuclear power plant ownership with other electric utilities in this state by holding meaningful discussions with such other electric utilities.

**JEA**: Yes.

**OUC**: Yes but only after finding that FPL should comply with Rule 25-22.081 and that the discussions should continue.

**SEMINOLE:** Yes; but the Commission should ensure that FPL engages in co-ownership discussions with Seminole as to these units.

**STAFF:** No position pending evidence adduced at hearing.

**ISSUE 9:** **If the Commission grants Florida Power & Light Company's petition to determine the need for the proposed generating units, should FPL commit, prior to the completion of the Rule 25-6.0423 cost recovery proceeding in 2008 (the "2008 NPPCR Proceeding"), to make advance forging reservation payments of approximately \$16 million to Japan Steel Works in order to preserve the potential for 2018-2020 in-service dates for the proposed generating units?**

**FPL:** Yes. Advance payment for long lead procurement items involves reserving manufacturing space and initiates the process to complete the design, purchase and delivery of special heavy forgings and equipment so that they will be prepared and ready to be placed at the appropriate time during the complex construction process. The unique nature (e.g., size, shape, quality requirements) of these forgings requires several years to design, fabricate and deliver them to the site. FPL expects that commitments for some of those purchases will have to be made prior to completion of the 2008 NPPCR Proceeding. To the extent that is the case, the Commission should review and determine the prudence of entering into such commitments in this proceeding, so that FPL may enter into the commitments in time to preserve the potential for 2018-2020 in-service dates. FPL presently expects that the commitments FPL would have to enter into prior to completion of the 2008 NPPCR Proceeding would result in advance payments totaling approximately \$16 million.

FPL is seeking a prudence determination in this proceeding only with respect to the decision to enter into advance payment commitments prior to completion of the 2008 NPPCR Process. The specific contractual terms, including price terms, of those advance payment commitments would remain subject to prudence review in the ordinary course of subsequent NPPCR proceedings. Likewise, the prudence of making advance payment commitments after the completion of the 2008 NPPCR Proceeding, as well as the contractual terms of any such commitments, would be reviewed in the ordinary course of subsequent NPPCR proceedings. (Stall, Scroggs, Reed)

**OPC:** No position at this time.

**KRASOWSKI:** It is our understanding that FP&L does not require a determination in this Docket (070650) to act on making a payment to reserve a cue in the line to secure the forging work they desire. We believe this issue should be addressed as provided for under The Nuclear Power Plant Cost Recovery Rule 25-6.0423 in general and

Rule 25-6.0423 (5) specifically. We say this issue is not appropriately placed in this Docket.

**FMEA:** No position.

**FMPA:** No position.

**JEA:** Yes.

**OUC:** No position.

**SEMINOLE:** Yes.

**STAFF:** No position pending evidence adduced at hearing.

**ISSUE 10:** **Should this docket be closed?**

**FPL:** Yes.

**OPC:** No position at this time.

**KRASOWSKI:** Yes, this docket should be closed and FPL's petition denied due to the lack of adequate analysis of all reasonable options and the extreme risk and inability to project accurate costs which in turn stifles the development and investment in efficiency and new clean technologies.

**FMEA:** No.

**FMPA:** No.

**JEA:** This docket should be closed once any timely motions for reconsideration of the need determination final order issued in this docket have been ruled upon.

**OUC:** No.

**SEMINOLE:** No. The Commission should grant the determination of need, but ensure that FPL engages in co-ownership discussions with Seminole as to these units. The Commission should require FPL to file quarterly reports with the Commission as to its discussions with other utilities regarding co-ownership.

**STAFF:** Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit</u>	<u>Description</u>
<u>Direct</u>			
Armando J. Olivera	FPL	AJO-1	Biographical Information
Rene Silva	FPL	RS-1	Actual Energy Mix 2006
Rene Silva	FPL	RS-2	Projected Energy Mix 2021
Rene Silva	FPL	RS-3	Resource Need
Rene Silva	FPL	RS-4	Economic Analysis Results: Breakeven Cost for Nuclear Capital Costs
J.A. Stall	FPL	JAS-1	WANO Indices
J.A. Stall	FPL	JAS-2	NRC Performance Indicators
Steven D. Scroggs	FPL	SDS-1	Development Process Timeline
Steven D. Scroggs	FPL	SDS-2	Site Selection Study Report
Steven D. Scroggs	FPL	SDS-3	FPL Technology Review
Steven D. Scroggs	FPL	SDS-4	COL Application Content
Steven D. Scroggs	FPL	SDS-5	Estimated Project Milestones
Steven D. Scroggs	FPL	SDS-6	Overnight Cost Estimate Range (2007\$)
Steven D. Scroggs	FPL	SDS-7	Comparison to Economically viable Range (2007\$)
Steven D. Scroggs	FPL	SDS-8	Total Project Cost Estimate Range (Year Spent \$)
Steven D. Scroggs	FPL	SDS-9	Project Cost Expenditure by NPPCRR Category
Dr. Nils J. Diaz	FPL	NJD-1	Summary Resume of Dr. Nils J. Diaz, PhD.

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit</u>	<u>Description</u>
Dr. Nils J. Diaz	FPL	NJD-2	Collective Radiation Exposure of Nuclear Power Plant Personnel
Dr. Nils J. Diaz	FPL	NJD-3	10 Years of NRC's Safety Indicators
Dr. Nils J. Diaz	FPL	NJD-4	WANO Indicators & Weighting Factors
Dr. Nils J. Diaz	FPL	NJD-5	U.S. Nuclear Industry Capacity Factors
Dr. Nils J. Diaz	FPL	NJD-6	License Renewal Impact on Nuclear Power
Dr. Nils J. Diaz	FPL	NJD-7	Expected Power Plant Applications
Dr. Nils J. Diaz	FPL	NJD-8	Design Centered Review Approach
Dr. Leonardo E. Green	FPL	LEG-1	Total Average Customers
Dr. Leonardo E. Green	FPL	LEG-2	Summer Peak Load Per Customer
Dr. Leonardo E. Green	FPL	LEG-3	Summer Peak Load
Dr. Leonardo E. Green	FPL	LEG-4	Winter Peak Load Per Customer
Dr. Leonardo E. Green	FPL	LEG-5	Winter Peak Load
Dr. Leonardo E. Green	FPL	LEG-6	Summer Peak Weather
Dr. Leonardo E. Green	FPL	LEG-7	Florida Real Personal Income
Dr. Leonardo E. Green	FPL	LEG-8	Net Energy for Load Use Per Customer
Dr. Leonardo E. Green	FPL	LEG-9	Net Energy for Load
Dr. Leonardo E. Green	FPL	LEG-10	Non-Agricultural Employment
Dr. Leonardo E. Green	FPL	LEG-11	Real Price of Electricity

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit</u>	<u>Description</u>
Dr. Leonardo E. Green	FPL	LEG-12	Impact of the 2005 Energy Policy Act Adjustment
C. Dennis Brandt	FPL	DB-1	FPL Current FPSC DSM Goals
C. Dennis Brandt	FPL	DB-2	FPL DSM Programs & Measures
Henrietta G. McBee	FPL	HGM-1	Renewables by State
Henrietta G. McBee	FPL	HGM-2	Renewables by State Excluding Hydro and Geothermal
Henrietta G. McBee	FPL	HGM-3	NREL United States Classes of Wind Power Density Map
Henrietta G. McBee	FPL	HGM-4	NREL United States Solar Energy Potential Map
Gerard J. Yupp	FPL	GJY-1	Historical Fuel Prices
Gerard J. Yupp	FPL	GJY-2	Nuclear Fuel Savings
Claude A. Villard	FPL	CAV-1	Description of Nuclear Fuel
Claude A. Villard	FPL	CAV-2	Uranium Projected Prices
Claude A. Villard	FPL	CAV-3	Conversion Services Projected Prices, Dollars per kgU as UF6
Claude A. Villard	FPL	CAV-4	Enrichment Services Projected Prices
Claude A. Villard	FPL	CAV-5	Fabrication Services Projected Prices
Claude A. Villard	FPL	CAV-6	Annual Nuclear Fuel Expense Projection
Kennard F. Kosky	FPL	KFK-1	KFK Curriculum Vitae
Kennard F. Kosky	FPL	KFK-2	Graphical Representation of Turkey Point Site

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit</u>	<u>Description</u>
Kennard F. Kosky	FPL	KFK-3	Fossil Fuel and Air Emissions Displaced by FPL's Nuclear Units Since Initial Operation as of 2006
Kennard F. Kosky	FPL	KFK-4	Florida CO <sub>2</sub> Emissions Avoided by FPL Nuclear Units
Kennard F. Kosky	FPL	KFK-5	Avoided Air Emissions from FPL's Nuclear Generation in 2006
Kennard F. Kosky	FPL	KFK-6	Environmental Benefits of Nuclear Generation
Kennard F. Kosky	FPL	KFK-7	Future Annual CO <sub>2</sub> Emissions Avoided by FPL New Nuclear Generation
Kennard F. Kosky	FPL	KFK-8	Reduction in Annual CO <sub>2</sub> Emissions Achieved by Adding 1,000 MW of Non-Emitting CO <sub>2</sub> Generation Alternatives in Florida
Kennard F. Kosky	FPL	KFK-9	Choosing Nuclear Helps Reduce CO <sub>2</sub> Emissions in the Year 2021 by 76% Toward the Year 2000 Level of 62.6 Million Tons
Hector J. Sanchez	FPL	HJS-1	Summary of Required Facilities for Turkey Point 6 & 7
Dr. Steven R. Sim	FPL	SRS-1	Projection of FPL's 2007 - 2020 Capacity Needs
Dr. Steven R. Sim	FPL	SRS-2	Projected Incremental FPL DSM: 2006 - 2020
Dr. Steven R. Sim	FPL	SRS-3	Projection of FPL's 2007 - 2020 Capacity Needs: with Turkey Point 6 & 7

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit</u>	<u>Description</u>
Dr. Steven R. Sim	FPL	SRS-4	The Three Resource Plans Utilized in the Analyses
Dr. Steven R. Sim	FPL	SRS-5	Economic Analysis Results for One Fuel and Environmental Compliance Cost Scenario
Dr. Steven R. Sim	FPL	SRS-6	Economic Analysis Results: Total Costs and Total Cost Differentials for All Fuel and Environmental Compliance Cost Scenarios
Dr. Steven R. Sim	FPL	SRS-7	Economic Analysis Results: Matrix of Total Cost Differentials for All Fuel and Environmental Compliance Cost Scenarios
Dr. Steven R. Sim	FPL	SRS-8	Economic Analysis Results: Breakeven Cost for Nuclear Capital Costs for All Fuel and Environmental Compliance Cost Scenarios
Dr. Steven R. Sim	FPL	SRS-9	Economic Analysis Results: Projection of Approximate Bill Impacts with Turkey Point 6 & 7: 2009 – 2021
Dr. Steven R. Sim	FPL	SRS-10	Non-Economic Analysis Results: System Fuel Mix Projections by Plan
Dr. Steven R. Sim	FPL	SRS-11	Non-Economic Analysis Results: FPL System CO <sub>2</sub> Emissions
John J. Reed	FPL	JJR-1	Curriculum Vitae of John J. Reed
John J. Reed	FPL	JJR-2	Expert Testimony of John J. Reed
John J. Reed	FPL	JJR-3	CO <sub>2</sub> Reductions by Technology Type

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit</u>	<u>Description</u>
John J. Reed	FPL	JJR-4	2007 U.S. Electricity by Technology Sector vs. 2030 US Electricity by Technology Sector Including Advanced Technologies

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

FPL's Request for Confidential Classification of material provided in response to Staff's Fourth Request for Production of Documents Nos. 16 and 17, filed December 21, 2007.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 100 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 100 words, it must be reduced to no more than 100 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages and shall be filed at the same time.

XIV. RULINGS

Opening statements, if any, shall not exceed ten minutes per party.

It is therefore,

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 24th day of January, 2008.



NATHAN A. SKOP  
Commissioner and Prehearing Officer

( S E A L )

KEF

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; 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 wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, 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.