

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for modification to determination of need for expansion of an existing renewable energy electrical power plant in Palm Beach County by Solid Waste Authority of Palm Beach County and Florida Power & Light Company, and for approval of associated regulatory accounting and purchased power agreement cost recovery.

DOCKET NO. 110018-EU  
ORDER NO. PSC-11-0170-PCO-EU  
ISSUED: March 18, 2011

ORDER ESTABLISHING TENTATIVE ISSUES LIST

This Order is issued pursuant to the authority granted by Rule 28-106.211, F.A.C., which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Section IV of the Order Establishing Procedure for this Docket, Order No. PSC-11-0074-PCO-EU, issued January 27, 2011, as modified by Order No. PSC-11-0146-PCO-EU, issued March 3, 2011, states that a tentative list of issues for this proceeding would be set forth in a subsequent order. I am advised that all parties have participated in two issue identification meetings, and that these discussions resulted in a Tentative Issues List, which is attached hereto as Attachment A.

The Tentative Issues List identifies Issue 1, including alternative language; Issues 2-8; Issues 9, 9A, and 9B; and Issues 10-12. It further provides seven proposed additional issues (PAI 1 – PAI 7) with alternative language for PAI 4. I encourage continued cooperation between all parties and note that final issues are to be concise and material to the pending petition. Tentative issues may be modified up to the time of the Prehearing Conference, at which time there will be opportunity for discussion and refinement, followed by a determination as to the final list of issues to be decided in this proceeding.

Based on the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that the Tentative Issues are established as set forth in Attachment A to this Order. It is further,

ORDERED that Order No. PSC-11-0074-PCO-EU, as modified by Order No. PSC-11-0146-PCO-EU, is reaffirmed in all other respects.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 18th day of  
March, 2011.



LISA POLAK EDGAR  
Commissioner and Prehearing Officer  
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( S E A L )

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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 25-22.0376, 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.

### Tentative Issues List

ISSUE 1: Is Solid Waste Authority of Palm Beach County (SWA) the proper applicant for the requested modification to the determination of need within the meaning of Section 403.519, Florida Statutes?

ALTERNATIVE ISSUE 1: Are the Solid Waste Authority of Palm Beach County (SWA) and Florida Power & Light Company (FPL) the proper applicants within the meaning of Section 403.519, Florida Statutes? (Larsons)

ISSUE 2: Is there a need for the SWA Expanded Facility taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519, Florida Statutes?

ISSUE 3: Is there a need for the SWA Expanded Facility, taking into account the need for adequate electricity at a reasonable cost, as this criterion is used in Section 403.519, Florida Statutes?

ISSUE 4: Is there a need for the SWA Expanded Facility, taking into account the need for fuel diversity and supply reliability, as this criterion is used in Section 403.519, Florida Statutes?

ISSUE 5: Are there any renewable energy sources and technologies, as well as conservation measures, taken by or reasonably available to Florida Power & Light Company (FPL) or SWA which might mitigate the need for the SWA Expanded Facility as this criterion is used in Section 403.519, Florida Statutes?

ISSUE 6: Is the SWA Expanded Facility the most cost-effective alternative available, as this criterion is used in Sections 377.709 and 403.519, Florida Statutes?

ISSUE 7: Is the proposed contract between SWA and FPL reasonable, prudent, and in the best interest of FPL's customers and appropriate and consistent with the provisions of Section 377.709, Florida Statutes?

ISSUE: 8: Is FPL's proposal to recover the advanced capacity payment to SWA through the Energy Conservation Cost Recovery Clause pursuant to Section 377.709, F.S., consistent with Rules 25-17.200 through 25-17.310, F.A.C.?

ISSUE 9: Should the Commission allow FPL to recover from its customers the advanced capacity payment associated with the Expanded Facility's electrical component made to SWA pursuant to and/or resulting from the proposed contract, as well as the carrying costs and administrative costs incurred by FPL, through the Energy Conservation Cost Recovery Clause (ECCR), pursuant to Section 377.709, F.S.?

ISSUE 9A: If yes, what amount should FPL be allowed to recover from its ratepayers?

ISSUE 9B: To the extent FPL incurs firm capacity costs associated with the contract between SWA and FPL that are not recovered through the ECCR, should FPL be allowed to recover those costs through the capacity clause?

ISSUE 10: Should FPL be allowed to recover from its customers all payments for energy made to SWA pursuant to and/or resulting from the proposed contract between SWA and FPL through the Fuel and Purchased Power Cost Recovery Clause?

ISSUE 11: Based on the resolution of the foregoing issues, should the Commission grant the Joint Petition for Modification to Determination of Need by SWA and FPL and for Recovery of Purchased Power Contract Costs?

ISSUE 12: Should this docket be closed?

PROPOSED ADDITIONAL ISSUES:

PAI 1: Was the joint petition complete at the time of submittal? (Larsons)

PAI 2: Should the joint petition be bound by requirements of the 2010 Ten Year Site Plan which did not include the need for the SWA Expanded Facility and was approved by the Commission after the submittal of the joint petition? (Larsons)

PAI 3: Should the joint petition be allowed to incorporate a proposed capacity addition that did not exist at the time the joint petition was filed? (Larsons)

PAI 4: ALTERNATIVE A: Should SWA be allowed to recover an Advanced Capacity Payment from FPL ratepayers that is nearly \$24 million dollars higher than the Advanced Capacity Payment amount that was represented to the SWA Board during its public meeting held on February 9, 2011?? (Sullivan/Wood)

PAI 4: ALTERNATIVE B: Should SWA be allowed to recover an Advanced Capacity Payment from FPL ratepayers that is nearly \$24 million dollars higher than what was represented to the SWA Board during a public meeting held after the filing of the joint petition? (Larsons)

PAI 5: Should the term "design costs of electrical component" be interpreted in a way that requires FPL ratepayers to pay an Advanced Capacity Payment to SWA equal to the total budgeted cost of the power block? (Larsons)

PAI 6: Does the amount of the proposed Advanced Capacity Payment exceed the requirement of Section 377.709(3)(b)(1.) (b.), Florida Statutes? (Larsons)

PAI 7: What is the projected average rate impact that the Advanced Capacity Payment will have on FPL ratepayers? (Sullivan/Wood)