

November 6, 1998

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
4075 Esplanade Way, Rm. 110  
Tallahassee, Fl. 32399

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98 NOV -6 PM 2:36

RECORDS AND  
REPORTING

RE: DOCKET NO. 981042-EM

Dear Ms. Bayo:

Enclosed for filling please find an original and fifteen (15) copies of System Council U-4, IBEW's positions on the issues.

Regards,



Terry L. Kammer, COPE Director  
System Council U-4, IBEW

cc: All parties of Record.

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*[Handwritten initials]*  
FPSC BUREAU OF RECORDS

ACK	_____
AFA	<u>2</u>
APP	_____
CAF	_____
CMU	_____
CTR	_____
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RCH	_____
SEC	<u>1</u>
WAS	_____
OTH	_____

DOCUMENT NUMBER=DATE

12534 NOV 6 1998

FPSC-RECORDS/REPORTING

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 ) DOCKET NO. 981042-EM  
Commission, City of New Smyrna )  
Beach, Florida, and Duke Energy )  
New Smyrna Beach Power Company, )  
Ltd., L.L.P. )  
\_\_\_\_\_ )

VII. BASIC POSITIONS

Duke's petition should not be approved because Duke does not meet the basic requirements of section 403. 519. Furthermore Duke has not shown a need for the majority of the capacity of the proposed plant nor do they have a firm contract to sell any of the proposed capacity.

VIII. ISSUES AND POSITIONS

**ISSUE 1:** Is there a need for the proposed power plant, taking into account the need for electric system reliability and integrity, as this criterion is used in Section 403.519?

No- The unregulated plant with no contracts or obligation to serve can sell its capacity to whatever entity it chooses regardless of need or location, inside or outside the state based only on the bottom line profit selling the capacity will bring.

**ISSUE 2:** Does Duke New Smyrna have an agreement in place with the UCNSB, and, if so do its terms meet the UCNSB's needs in accordance with the statute?

IBEW has no position at this time

**ISSUE 3:** Does the Commission have sufficient information to assess the need for the proposed power plant under the criteria set forth in Section 403.519, F.S.

DOCUMENT NUMBER-DATE

12534 NOV-68 000969

FPSC-RECORDS/REPORTING

No the petitioners have shown no need nor do they have firm contracts with other Florida utilities for the capacity.

**ISSUE 4:** Does Duke New Smyrna have a need by 2001 for the 484 MW of capacity (476 MW summer and 548 MW winter less 30 MW) represented by the proposed facility?

IBEW has no position at this time.

**ISSUE 5:** Can or should the capacity of the proposed project be properly included when calculation the reserve margin of an individual Florida utility or the State as a whole?

No - the capacity of the proposed plant should not be included in the reserve margin as there are no firm contracts for this capacity. Duke New Smyrna will be free to sell the capacity outside of Florida to the highest bidder is the economics justify the transaction.

**ISSUE 6:** has been dropped

**ISSUE 7:** What transmission improvements and other facilities are required in conjunction with the construction of the proposed facility, and were their costs adequately considered?

IBEW has no position as this time.

**ISSUE 8:** Is there a need for the proposed power plant, taking into account the need for adequate electricity at a reasonable cost as this criterion is used in Section 403.519?

No - The petition does not show enough factual data to show a determination of need.

**ISSUE 9:** Is the proposed power plant the most cost-effective alternative available, as this criterion is used in Section 403.519?

IBEW has no position at this time>

**ISSUE 10:** Has Duke New Smyrna provided adequate assurances regarding available primary and secondary fuel to serve the proposed power plant on a long- and short-term basis?

IBEW has no position at this time.

**ISSUE 11:** What impact, if any, will the proposed power plant have on natural gas supply or transportation resources on State regulated power producers?

It could divert natural gas from utilities that have an obligation to serve Florida's electric consumers.

**ISSUE 12:** Will the proposed project result in the uneconomic duplication of transmission and generation facilities?

Yes - Utilities existing and planned power plants are capable of meeting the capacity needs of Florida's energy consumers.

**ISSUE 13:** DROPPED

**ISSUE 14:** DROPPED

**ISSUE 15:** DROPPED

**ISSUE 16:** Is the identified need for power of the Utilities Commission, New Smyrna Beach ("UCNSB") which is set forth in the Joint Petition met by the power plant proposed by Florida Municipal Power Association in Docket No. 980802-EM?

IBEW has no position at this time.

**ISSUE 17:** Are there any conservation measures taken by or reasonably available to the petitioners which might mitigate the need for the proposed power plant?

IBEW has no position at this time>

**ISSUE 18:** Does the Florida Public Service Commission have the statutory authority to render a determination of need under Section 403.519, F.S., for a project that consists in whole or in part of a merchant plant (i.e. a plant that does not have as to the merchant component of the project, an agreement in place for the sale of firm capacity and energy to a utility for resale to retail customers in Florida)?

No - The Commission cannot render a determination of need unless it is shown that there is need for the proposed capacity.

**ISSUE 19:** Does the Public Service Commission have jurisdiction under the Power Plant Siting Act, Sections 403.501-403.518, and Section 403.519, F.S., to determine "Applicant" Status?

IBEW has no position at this time.

**ISSUE 20:** As to its project's merchant capacity, does Duke New Smyrna have a statutory or other legally enforceable obligation to meet the need of any electric utility in Peninsular Florida for additional generation capacity?

No

**ISSUE 21:** DROPPED

**ISSUE 22:** As to the Project's merchant capacity, is either Duke New Smyrna or UCNSB an "applicant" or "electric utility" within the meaning of the Siting Act and Section 403.519 Florida Statutes?

IBEW has no position at this time.

**ISSUE 23:** DROPPED

**ISSUE 24:** DROPPED

**ISSUE 25:** If the Commission were to grant an affirmative determination of need to Duke New Smyrna as herein requested, when the utilities in peninsular Florida had plans in place to meet reliability criteria, would the Commission be meeting its responsibility to avoid uneconomic duplication of facilities?

No

**ISSUE 26:** Does the Joint Petition meet the pleading requirements of Rule 25-22.081, Florida Administrative Code?

IBEW has no position at this time.

ISSUE 27: Does the Joint Petition state a cause of action by not alleging that the proposed power plant meets the statutory need criteria and instead alleging that the proposed power plant is "consistent with" Peninsular Florida's need for power?

No

ISSUE 28: DROPPED

ISSUE 29: If the Commission were to permit Duke New Smyrna to demonstrate need on a "Peninsular Florida" basis and not require Duke New Smyrna to have a contract with Purchasing utilities for its merchant plant capacity, would the more demanding requirements on Qfs, other non-utility generators and electric utilities afford Duke New Smyrna a special Status?

Yes - Utilities must show and demonstrate a need for proposed capacity to serve their customers.

ISSUE 30: If Duke New Smyrna premises its determination of need upon Peninsular Florida without contracts from individual purchasing utilities, how would the Commissions's affirmative determination of need affect subsequent determinations of need by utilities petitioning to meet their own need.

It would have an adverse affect on planning for future needs, thus creating uncertainty in the industry, and possible problems suppling reliable service to Florida's electric consumers.

ISSUE 31: STIPULATED TO.

ISSUE 32: Will granting a determination of need as herein requested create a risk that past and future investments made to provide service may not be recovered and thereby increase the overall cost of providing electric service and/or future service reliability?

IBEW has no position at this time.

ISSUE 33: If Duke New Smyrna premises its determination of need upon Peninsular Florida without contracts from individual purchasing utilities, how would the Commission's affirmative determination of need affect subsequent determinations of need by QFs and other non-utility generators petitioning to meet utility specific needs.

IBEW has no position at this time.

ISSUE 34: If the Commission abandons its interpretation that the statutory need criteria are "utility and unit specific, how will the Commission ensure the maintenance of grid reliability and avoid uneconomic duplication of facilities in need determination proceedings?

IBEW has no position at this time.

Issue 35: Will granting a determination of need as herein requested result in electric utilities being authorized to similarly establish need for additional generating capacity by reference to potential additional capacity needs which the electric utility has no statutory or contractual obligation to serve?

IBEW has no position at this time.

ISSUE 36: DROPPED

ISSUE 37: What effect, if any, would granting a determination of need as herein requested have on the level of reasonably achievable cost-effective conservation measures in Florida?

IBEW has no position at this time.

ISSUE 38: Would grating the determination of need requested by the joint petitioners be consistent with the public interest and the best interests of electric customers in Florida?

IBEW has no position at this time>

ISSUE 39: Would granting the determination of need requested by the joint petitioners be consistent with the State's need for a robust competitive wholesale power supply market?

IBEW has no position at this time>

ISSUE 40: Would granting the determination of need requested by the joint petitioners be consistent with state and federal energy policy?

IBEW has no position at this time.

ISSUE 41: Based on the resolution of the foregoing issues, should the petition of the UCNSB and Duke New Smyrna Beach Power Project be granted.

No

ISSUE 42: Should this docket be closed?

Yes.



I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (\*) or by the United States Mail on the this the 6<sup>th</sup> day of November 1998, to the following:

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By:   
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