

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida) DOCKET NO. 910890-EI
Power Corporation for author-) ORDER NO. PSC-92-1057-PCO-EI
ity to increase its rates and) ISSUED: 09/23/92
charges)

ORDER DENYING MOTION TO STRIKE

BY THE COMMISSION:

On August 18, 1992, Florida Consumer Action Network (FCAN) filed its brief in Docket No. 910890-EI - Petition for a rate increase by Florida Power Corporation (FPC). FPC filed a Motion to Strike Portions of FCAN's brief on August 21, 1992. FCAN filed its Reply to FPC's Motion on August 31, 1992.

FPC argued that the portions of FCAN's brief, on pages 4-7, that cite and discuss exhibits 128 and 138 should be struck because these exhibits were identified as late-filed exhibits at the hearing. Exhibits 128 and 138 were identified as late-filed exhibits at the hearing. (TR 1485-1486, 1504, 1507) However, they were identified as late-filed exhibits to give FPC, or any other party, the opportunity to evaluate and study the exhibits so that written objections could be filed. (TR 1486) FPC never filed an objection to the use of these documents at hearing, although the company specifically asked that it be allowed:

in our response of a late-filed exhibit, not merely to redact [sic] to the data, but also to characterizations in the text, and, basically, the mathematics involved. If they are double-county things, for example, I would like to be able to comment on that.

(TR 1486)

Because FPC never filed a written objection stating that late-filed exhibits 128 and 138 should not be admitted into evidence, FPC's motion to strike is denied.

It is, therefore,

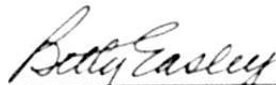
ORDERED by Commissioner Betty Easley, as Prehearing Officer, that Florida Power Corporation's Motion to Strike Portions of Post-Hearing Statement of Florida Consumer Action Network is hereby denied.

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By ORDER of Commissioner Betty Easley, as Prehearing Officer,
this 23rd day of September, 1992.



BETTY EASLEY, Commissioner
and Prehearing Officer

(S E A L)

MAB:bmi

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), 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 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.