

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of) DOCKET NO. 920825-EI
Amendment No. 2 to agreement for) ORDER NO. PSC-92-1345-FOF-EI
purchase of firm capacity and) ISSUED: 11/23/92
energy between Indiantown)
Cogeneration, L.P. and Florida)
Power and Light Company.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING AMENDMENT TO POWER SALES AGREEMENT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

In Order No. 24269-A, issued April 5, 1991, the Commission approved the power sales agreement between Florida Power and Light (FPL) and Indiantown Cogeneration, L.P. (ICL). On August 14, 1992, FPL filed a Petition for Approval of Amendment No. 2 of this agreement. On September 18, both FPL and ICL filed Memoranda of Law supporting the revisions to the contract.

In its Petition, FPL has requested four modifications. The first revision is a limit to the time ICL and its suppliers must maintain records concerning fuel, transportation and ash disposal. The proposed revision changes the retention requirement from up to 32 years to 7 years of historic records. This seems to be a realistic reduction of retention requirements.

Section 21.2 of the Agreement has also been amended to allow ICL to obtain direct pay letter(s) of credit in lieu of cash deposits to a reserve fund in order to maintain Qualifying Facility (QF) status. This is a common practice in power sales agreements.

The third revision is to the Unit Energy Cost calculation contained in Appendix I. This Appendix has been replaced in its entirety to change the methodology used to escalate the Unit Energy Cost. Originally, the energy payments to ICL were to be based on the weighted average price in \$/Ton of Domestic Spot coal delivered

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to St. Johns River Power Park (SJRPP), provided that the total quantity of domestic spot purchases accounted for at least 20 % of the total quantity of coal delivered to SJRPP. Beginning with the fourth quarter of 1990, the level of domestic spot purchases at SJRPP have continued to remain below the 20% minimum threshold. This prompted the parties to amend the methodology in an effort to circumvent future administrative difficulties. The proposed amendment uses a "bidders list" for domestic spot coal delivered to SJRPP as a proxy to achieve the 20% threshold. For example, if SJRPP had 15% domestic spot deliveries, the "bidders list" would be employed to develop a price for the remaining 5% which would then be used to calculate a weighted average cost for the entire 20%.

Finally, Sections 3.5.2 and 3.5.8 of the Agreement have been revised to acknowledge that a market price index will be used to require ICL to obtain price reopeners in its fuel contracts.


We find that Amendment No. 2 to the FPL/ICL Power Sales Agreement is appropriate.

It is therefore

ORDERED that Amendment No. 2 to the Power Sales Agreement between Florida Power and Light Company and Indiantown Cogeneration, L.P., as filed August 17, 1992, is hereby approved. It is further

ORDERED that this Order shall become final and the docket closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission, this 23rd day of November, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MAP: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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on December 14, 1992.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.