

**MEMORANDUM**

**JANUARY 27, 1997**

**RECEIVED**

JAN 27 1997

11:40

FPSC-RECORDS/REPORTS

**TO: DIVISION OF RECORDS AND REPORTING**

**FROM: DIVISION OF LEGAL SERVICES (WAGNER) LW RVE**

**RE: DOCKET NO. 961184-BQ - PETITION FOR APPROVAL OF EARLY  
TERMINATION AMENDMENT TO NEGOTIATED QUALIFYING FACILITY  
CONTRACT WITH ORLANDO COGEN LIMITED, LTD. BY FLORIDA  
POWER CORPORATION.**

**DOCKET NO. 970002-BG - ENERGY CONSERVATION COST RECOVERY**

0086-FOF

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**Attached is an Order DENYING PETITION FOR APPROVAL OF EARLY  
TERMINATION AMENDMENT to be issued in the above-referenced docket.  
(Number of pages in Order - 8)**

**LN/js**

**Attachment**

**cc: Division of Electric and Gas (Harlow, Dudley, Tew, Wheeler,  
Draper)  
Division of Auditing and Financial Analysis (Stallcup,  
Moriega)**

**I:961184or.lw**

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of ) DOCKET NO. 961184-EQ  
early termination amendment to )  
negotiated qualifying facility )  
contract with Orlando Cogen )  
Limited, Ltd. by Florida Power )  
Corporation. )  

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In Re: Energy Conservation Cost ) DOCKET NO. 970002-EG  
Recovery Clause. ) ORDER NO. PSC-97-0086-FOF-EQ  

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ISSUED: January 27, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
JOE GARCIA  
DIANE K. KIESLING

**NOTICE OF PROPOSED AGENCY ACTION**  
**ORDER DENYING PETITION**  
**FOR APPROVAL OF EARLY TERMINATION AMENDMENT**

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 substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

**CASE BACKGROUND**

On October 1, 1996, Florida Power Corporation (FPC) filed a petition for approval of an early termination amendment (Amendment) to a Negotiated Contract (Contract) with Orlando Cogen Limited, Ltd. (OCL), a qualifying facility (QF). The Contract was entered into on March 13, 1991. The term of the Contract is 30 years, beginning on January 1, 1994, and expiring December 31, 2023. Committed capacity under the Contract is 79.2 megawatts, with capacity payments based on a 1991 pulverized coal-fired avoided unit. The Amendment terminates the last ten years of the Contract.

DOCUMENT NUMBER DATE

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FPSC-RECORDS/REPORTING

FPC also requests authorization to recover the buyout costs through the Capacity Cost Recovery clause.

We encouraged FPC and other utilities to negotiate contracts with QFs in lieu of accepting standard offer contracts. The Negotiated Contract between FPC and OCL was originally approved for cost recovery in Order No. 24734, issued July 1, 1991, Docket No. 910401-EQ. Later we approved an amendment to the Contract pursuant to a Settlement Agreement between OCL and FPC in Order No. PSC-96-0898-AS-EQ, issued July 12, 1996, Docket No. 960193-EQ.

On March 12, 1996, we issued Order No. PSC-96-0352-POF-EG in Docket No. 960002-EQ, approving FPC's request to defer crediting a 1995 over-recovery of \$17.7 million associated with its residential revenue decoupling experiment. The purpose of the deferral was to allow FPC to conduct a "reverse auction" which would seek QF capacity payment reductions over time in exchange for an up-front payment. The decoupling over-recovery funds possibly could be used to offset these payments if we believed it was beneficial to the residential ratepayers.

On May 2, 1996, FPC issued a Solicitation for Reverse Auction Bids to its operating QFs with firm capacity and energy payments. FPC indicated in the Solicitation that buydown proposals based on higher discount rates and those which provided net benefits to customers sooner rather than later would be preferred. FPC also stated that bids that result in a near term increase in capacity payments may be limited to an aggregate net present value rate impact of \$17.7 million. However, FPC stated, "in the event that highly attractive bids exceed the \$17.7 million limit, FPC may choose to pursue ways with the FPSC to implement such proposals on behalf of its customers."

FPC accepted two of the three bids which were submitted prior to the deadline. However, one bid was subsequently withdrawn when the bidder was unable to obtain lender approval. Negotiations with OCL, the remaining bidder, resulted in the Contract Amendment contained in FPC's petition.

The Amendment provides for a payment to OCL of \$49,405,000 at a rate of \$10.40 per kW-month, in exchange for terminating the last ten years of the Contract. This results in an estimated five year payout period, depending on OCL's performance. FPC requests that cost recovery of the early termination payments be implemented through the Capacity Cost Recovery clause (CCR) beginning in April

1997, as part of the 970002-EQ Docket. FPC also requests that the rate impact to residential customers be mitigated by crediting the Energy Conservation Cost Recovery (ECCR) factor with the 1995 revenue decoupling over-recovery balance plus accumulated interest in the 970002-EQ Docket.

### **DECISION**

The Amendment to the Contract between Florida Power Corporation (FPC) and Orlando Cogen Limited, Ltd. (OCL) for cost recovery is denied based on the reasons set forth below.

The Amendment contradicts the objectives of the reverse auction bid solicitation and has negative effects on intergenerational equity due to the lengthy payback period. FPC's petition requests approval to recover \$49.4 million from its current ratepayers over the next five years to receive a net benefit of \$32.9 million. However, FPC's ratepayers will not see this benefit until the year 2019, or 22 years from today.

Also, the benefit of FPC's proposal appears to be noticeably sensitive to the assumptions used in its cost-effectiveness analysis. We are concerned with the level of risk being placed on FPC's ratepayers should FPC's projections of future conditions not prove to be inaccurate.

#### **Payback Period**

FPC's reverse auction bid solicitation indicated two primary objectives that would be considered when evaluating proposals. They were:

- 1) Bids that provide net benefits (revenue requirement reductions) to customers sooner rather than later will be given a preference, and
- 2) Bids that result in a near term increase of capacity payments may be limited to an aggregate net present value rate impact of \$17.7 million, the amount of the 1995 over-recovery from the revenue decoupling experiment.

FPC's petition does not meet either of these two objectives. Specifically, FPC's proposed buyout will cost current ratepayers \$49.4 million but will not provide net benefits until 22 years in the future. In fact, the earliest possible benefits could not

begin before the year 2014 when the Contract terminates and FPC begins replacing it with replacement power. This results in FPC's current ratepayers funding the buyout in hopes that they will remain customers a minimum of 17 years from now when they might begin to see a benefit. This violates the regulatory goal of intergenerational fairness. While we have considered such a long payback period in the past, the paybacks were generally matched with gradual benefits that started closer to the time that costs were incurred. This close matching of cost to benefit helps to reduce the risk and uncertainty of future benefits actually materializing.

#### **Sensitivity to Assumptions**

Several analyses were performed in order to determine the buyout's sensitivities to the input assumptions. These analyses varied inputs associated with the assumed discount rate, inflation rate and projected fuel prices.

Based on these analyses, the cost-effectiveness of the buyout appears to be overly sensitive to both fuel price projections and inflationary impacts. The net savings from the buyout, based on FPC's recent fuel price forecasts, fluctuates as much as \$30 million. Adding the effects of FPC's historic cost of capital or the effects of a higher rate of inflation results in negative savings.

#### **CONCLUSION**

We deny FPC's petition because the buyout is inconsistent with the objectives of the reverse auction bid solicitation and will not produce net savings before the year 2019. It is not appropriate to subject FPC's current customers to this additional \$49.4 million expense in hopes that they might receive a benefit as much as 26 years in the future. Furthermore, the buyout's cost-effectiveness appears to be unduly sensitive to fluctuations in fuel price projections and inflationary assumptions.

#### **Decoupling**

Although we approved FPC's request to defer crediting the 1995 revenue decoupling balance to allow FPC to conduct the reverse auction for QF buyouts, the refund of the decoupling balance is a separate issue and is unrelated to the merits of the Contract buyout. Therefore, the Energy Conservation Cost Recovery (ECCR) factor should be credited with the 1995 revenue decoupling balance and accumulated interest to residential customers only with a one year amortization period as a part of the 970002-EQ Docket.

ORDER NO. PSC-97-0086-POF-EQ  
DOCKETS NOS. 961184-EQ, 970002-EG  
PAGE 5

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power Corporation's petition for approval of an early termination Amendment to a negotiated qualifying facility contract with Orlando Cogen Limited, Ltd., as discussed in the body of this Order, be denied. It is further

ORDERED that the Energy Conservation Cost Recovery factor should be credited with the 1995 revenue decoupling balance and accumulated interest to residential customers only with a one year amortization period as a part of the 970002-EG Docket. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 27th day of January, 1997.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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**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, 3540 Stumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 17, 1997.

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 substantially 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.