

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by Florida Power Corporation for authority to establish a regulatory liability to defer 1999 earnings for disposition in 2000.

DOCKET NO. 991695-EI
ORDER NO. PSC-00-1668-PCO-EI
ISSUED: September 18, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER

ORDER GRANTING EXTENSION TO FILE PROPOSAL
FOR DISPOSITION OF DEFERRED 1999 EARNINGS

BY THE COMMISSION:

On November 2, 1999, Florida Power Corporation (FPC) filed a request to defer 1999 earnings for disposition in 2000. By Order No. PSC-99-2437-PAA-EI, issued December 13, 1999, we authorized FPC to create a regulatory liability for the purpose of deferring certain discretionary 1999 revenues. We also required FPC to file a plan for the disposal of these deferred revenues by August 1, 2000. Absent the filing of a plan, FPC was required to immediately apply those deferred earnings, plus interest, to accelerate the amortization of the Tiger Bay regulatory asset.

The Tiger Bay regulatory asset was created pursuant to a stipulation we approved in Order No. PSC-97-0692-S-EQ, issued June 9, 1997, concerning FPC's purchase of the Tiger Bay Limited Partnership cogeneration facility and the termination of the related purchased power contracts. This regulatory asset is being amortized by using the savings realized from the early termination of the contract, although FPC has the discretion to accelerate the amortization when earnings permit.

On August 1, 2000, FPC filed a motion for an extension of time to file a proposal for the disposition of the deferred 1999 earnings, which, as of July 31, 2000, totaled \$46,038,073, including interest. We have jurisdiction over this matter pursuant

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to several provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05 and 366.06.

In its motion, FPC stated that it is currently engaged in negotiations with several potential intervenors regarding the disposition of the deferred 1999 earnings. FPC further stated that it believes that a successful conclusion of the negotiations could result in enhancement of the benefits that customers would otherwise receive from the deferred earnings. FPC also asserts that despite the best efforts of the participants to conclude the negotiations and file a joint proposal, they were unable to do so by the August 1, 2000, deadline imposed in Order No. PSC-99-2437-PAA-EI. FPC claims that its request for a two-month extension to file a proposal has the support of the unnamed participants in the negotiations.

We note that FPC, in its November 9, 1999, request to defer 1999 earnings, asked that we allow FPC to file a proposal anytime before October 1, 2000. We denied this request, stating in Order No. PSC-99-2437-PAA-EI that an October 1, 2000, filing date "may not provide adequate time for this Commission or potential intervenors to evaluate the proposal, conduct any required discovery, and be prepared to have this matter decided prior to the end of 2000." We ordered FPC to file its proposal, if any, by August 1, 2000, to provide adequate time for preparation of the proposal and evaluation of the proposal.

Since our original decision in this docket, FPC has had eight months to formulate a proposal for the disposition of the deferred 1999 earnings. However, we agree that if an extension of time allows the pending negotiations to be concluded successfully, the possibility of an adversarial proceeding would be minimized. Further, we agree with FPC's assertion that a further delay until October 2, 2000, will not have any adverse effects on the ratepayers because the deferred earnings will continue to accrue interest until their final disposition is determined by this Commission. Therefore, we believe that FPC's request for a two-month extension of time to file a proposal for the disposition of the deferred 1999 earnings is reasonable and should be granted. If a proposal is not filed by October 2, 2000, FPC shall immediately apply the deferred 1999 earnings, plus interest, to the Tiger Bay regulatory asset, and this docket should be administratively closed.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power Corporation's motion for an extension of time to file a proposal for the disposition of its deferred 1999 earnings is granted. It is further

ORDERED that Florida Power Corporation shall file a proposal concerning the disposition of its deferred 1999 earnings by October 2, 2000, in this docket. If Florida Power Corporation does not file such a proposal by October 2, 2000, it shall immediately apply all 1999 deferred earnings, plus interest, toward amortization of the Tiger Bay regulatory asset. It is further

ORDERED that this docket shall remain open pending the review of any proposal timely filed by Florida Power Corporation concerning the final disposition of its 1999 deferred earnings. If Florida Power Corporation does not file such a proposal by October 2, 2000, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 18th day of September, 2000.



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 120.569(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, 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.