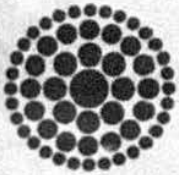


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**Florida
Power**
CORPORATION

James A. McGee
SENIOR COUNSEL

January 22, 1990

Mr. Steven C. Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0870

Re: Docket No. 900004-EU

Dear Mr. Tribble:

- ACK
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG**
- LEG 1
- LIN 6
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

Enclosed for filing in the subject docket are fifteen copies of the Response of Florida Power Corporation to FICA's Motion for Reconsideration.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Thank you for your assistance.

Very truly yours,

James A. McGee

JAM/jkw
Enclosure

cc: Parties of record
RECEIVED & FILED

FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE
00652 JAN 22 1990
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Hearings on Load Forecasts,
Generation Expansion Plans, and
Cogeneration Prices for Peninsular
Florida's Electric Utilities.

Docket No. 900004-EU

Submitted for filing:
January 22, 1990

RESPONSE OF FLORIDA POWER CORPORATION
TO FICA'S MOTION FOR RECONSIDERATION

Florida Power Corporation (FPC) hereby responds to the motion for reconsideration of Order No. 22341 filed by the Florida Industrial Cogeneration Association (FICA) and states as follows:

A. FICA's Motion Attempts To Reargue Matters Already Considered And Disposed Of By The Commission.

FICA's motion for reconsideration fails to offer any basis for designating a coal plant as the avoided unit that has not already been considered by the Commission. FICA has simply restated the same arguments it previously made at hearing and on brief, which were subsequently rejected by the Commission in favor of competing considerations. The purpose of reconsideration is to bring to the Commission's attention matters that have been overlooked or misapprehended in reaching its decision. It is not to provide dissatisfied parties with an additional opportunity to persuade the Commission as to the merits of their position, as FICA's motion attempts to do. FICA seeks reconsideration of the Commission's decision, not because its arguments were overlooked or

DOCUMENT NUMBER-DATE

00652 JAN 22 1990

FLORIDA POWER CORPORATION

FPSC-RECORDS/REPORTING

mistaken, but because they were not accepted. The fact that FICA disagrees with the Commission's disposition of its arguments does not entitle it to a second bite of the apple. FICA's motion for reconsideration is improper argument and should be rejected on that basis alone.

B. FICA's Argument To Set Prices On A Plant Other Than An Avoided Unit Is Inconsistent With PURPA.

FICA argues that if cogenerators do not get enough encouragement in the form of higher avoided cost payments, utilities may actually build the plant that cogeneration has the opportunity to avoid, a result which is supposedly undesirable. Therefore, FICA argues, the Commission should designate as the "avoided unit" something other than the plant to be avoided. This argument must be rejected for several reasons.

First, it assumes that the Commission has made a determination that combined cycle plants should not actually be constructed. The Commission has no such policy.

Second, FICA argues that avoided cost payments should be manipulated higher to prevent utilities from building a combined cycle plant. FICA erroneously presumes that all future load growth should be met by cogeneration. The correct presumption is the reverse. It is the utilities, not the cogenerators, who are statutorily obligated to meet load growth. Utilities have an obligation to build the avoided unit, or contract for capacity, if sufficient cogeneration does not

materialize. The possibility that utilities will have to build the avoided unit is always present. Artificially raising the price to cogenerators based on a false assumption that cogenerators should or will meet all future load is misplaced.

Third, FICA improperly seeks to price cogeneration on a basis other than the unit to be avoided. This is inconsistent with PURPA, which requires that prices paid to cogenerators be based on the utility's avoided cost, not on something else. FICA attempts to divert attention from the law on cogeneration pricing by focusing on the Commission's authority under FEECA. In so doing, FICA fails to address the Commission's obligation to comply with both laws; PURPA as well as FEECA. The Commission is not free to subordinate one statutory charge to another, as FICA invites it to do. In other words, it is not within the Commission's prerogative to abandon avoided cost pricing for cogenerators in order to serve purported goals of FEECA.

C. FICA's Argument That A Coal Plant Should Be Designated As The Avoided Unit Is Contrary To Commission Rule.

The Commission's rules make it clear that the avoided unit to be designated for purposes of pricing QF capacity is a plant being planned by one of the Florida utilities subject to those rules. (See, for example, Rule 25-17.083, sections (3)(a)(3), (3)(b)(2), (5), (6) and (7).) This would be the logical approach in any event, since there would be little benefit in avoiding a unit that no one is planning to build. FICA's avoided unit argument suffers from precisely this illogic.

It would have the Commission designate a coal plant that is not being planned and therefore cannot be avoided (or already has been avoided).

Apart from its conceptual weakness, FICA's avoided unit would frustrate the administration of the Commission's rules. For example, Rule 25-17.083(5) addresses the situation where a utility is obligated to purchase QF capacity that it does not need or is priced higher than its avoided cost. Section (5) provides that the rules are to be applied in a manner which encourages the utility to sell the capacity "to the utility planning the statewide avoided unit." Conversely, it specifies that "(t)he utility which is planning the designated statewide avoided unit is expected to purchase such energy and capacity at the original purchasing utility's cost." Designating FICA's coal plant would not allow identification of the utility planning the unit that could actually be avoided, which is crucial to the objective of seeing that QF capacity ends up where the capacity is needed.

The Commission has correctly applied its rules in selecting the avoided unit designated in Order No. 22341. FICA's argument for designating a coal plant instead would be contrary to those rules, as well as sound practice, and should be rejected.

D. The Commission Has Properly Set Subscription Limit Implementation Issues For Hearing.

FICA offers various conjectural arguments concerning how subscription limits might be administered to its detriment. Order No. 22341 recognizes that

the Commission has not taken evidence on this issue, and therefore correctly set this issue for separate hearing. It is too late for FICA to now try to offer evidence through its motion. In any event, the Commission has given FICA and all other parties adequate opportunity to address this issue. FICA's arguments to the contrary should be rejected.

E. Arguments Seeking Capacity Payments For As-Available Energy Are Inconsistent With Commission Rules And Were Properly Rejected On Other Grounds.

FICA claims both "fairness and the law" require that QFs providing as-available energy be given capacity payments if they have been treated as a capacity resource in a utility's planning study. FICA is wrong. Fairness and the law require the opposite.

Commission Rule 25-17.0825 governs payments to QFs for as-available energy. Subsection (1) establishes the maximum payment for as-available energy:

As-available energy sold by a qualifying facility shall be purchased by the utility at a rate, in cents per kilowatt-hour, not to exceed the utility's avoided energy cost.

Any doubt that could remain regarding the permissibility of capacity payments for as-available energy is eliminated as subsection (1) continues:

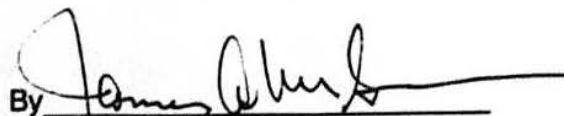
Because of the lack of assurances as to the quantity, time, or reliability of delivery of as-available energy, no capacity payments shall be made to a qualifying facility for the delivery of as-available energy.

The *quid pro quo* for a QF desiring capacity payments is to provide the assurances that the above-quoted rule found to be lacking in as-available energy. These assurances are specified in Rule 25-17.083, Firm Energy and Capacity, and include a contractual commitment to deliver energy and capacity no later than the avoided unit's in-service date, for a period of at least ten years, at a minimum capacity factor of 70 percent.

The "as-available" QFs, who FICA argues are entitled by fairness and the law to capacity payments, have made none of these commitments. Allowing them capacity payments would not only be an unlawful violation of the Commission's rules, but would also be grossly unfair to the QFs who have had to meet the stringent requirements of those rules to be eligible for their capacity payments. FICA's argument for this result is completely without merit and should be flatly rejected.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL
FLORIDA POWER CORPORATION

By 

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**CERTIFICATE OF SERVICE
Docket No. 900004-EU**

I HEREBY CERTIFY that a true copy of Florida Power Corporation's Response to FICA's Motion for Reconsideration has been furnished by mail this 22nd day of January, 1990, to the following:

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Docket No. 900004-EU
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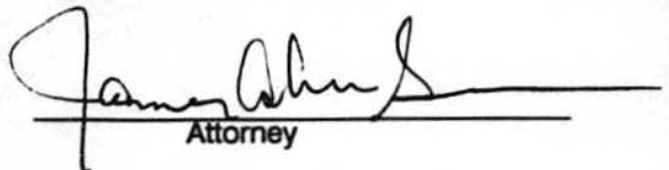
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