

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Approval of)	DOCKET NO.	900478-EI
"Tax Savings" Refund for 1989 by)		
Florida Power and Light Company)	ORDER NO.	24644
)		
)	ISSUED:	6/10/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 GERALD L. GUNTER
 MICHAEL McK. WILSON

NOTICE OF PROPOSED AGENCY ACTIONORDER DETERMINING TAX SAVINGS REFUND FOR 1989

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.

On May 15, 1990, Florida Power and Light Company (FPL) filed a petition pursuant to Rule 25-14.003, Florida Administrative Code, requesting our approval of a 1989 tax savings refund in the amount of \$39,553,605, plus interest of \$4,456,565, for a total of \$44,010,170. FPL proposed to implement the refund through a KWH credit on each current customer's bill.

On August 13, 1990, in Order No. 23349, we authorized FPL to make the proposed initial refund of \$39,553,605, plus interest, pending a complete review and audit of the calculations and underlying data supporting FPL's petition. Staff has completed its review and has recommended that a true-up of the tax savings refund amount is necessary.

I. SUMMARY OF DECISION

We find that an additional refund is appropriate here. On the basis of the specific findings discussed below we find that FPL's total 1989 tax savings is \$42,389,072, plus interest. FPL has

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already refunded \$39,553,605, plus interest. Therefore, an additional refund of \$2,835,466 is due, plus interest, to be implemented in the manner delineated below.

II. ADJUSTMENTS TO RATE BASE

A. Pole Attachment Rental Expense

FPL included in working capital an accrued liability for pole attachment rental expense in the amount of \$4,102,227. This amount should be excluded from working capital and the company's rate base should be increased by that amount. In the company's last rate case, the Commission determined that the pole attachment receivables and payables should be excluded from working capital, because the pole attachment receivables and payables are accrued monthly on an annual basis and collected or paid in arrears. In this case, FPL made an adjustment removing the receivables from working capital but failed to make a related adjustment to remove the liability from working capital. We will make that adjustment here and remove the liability from working capital, thereby increasing rate base \$4,102,227.

B. Accumulated Provision for Uncollectible Accounts

In FPL's 1988 tax savings docket, Docket No. 890319-EI, we reduced FPL's level of bad debt expense \$3,665,000. Thereafter, in September 1990, the Company made an adjustment to the Accumulated Provision for Uncollectibles to reflect our action. Because the Company's adjustment was made in 1990, the actual Accumulated Provision account for 1989 was overstated. We will therefore reduce this account by \$3,665,000 and increase working capital by the corresponding amount.

C. Level of Rate Base for 1989

After adjustments increasing working capital \$7,767,227 as discussed above, we find that the appropriate rate base from which the company's 1989 tax savings will be determined is \$7,550,561,513.

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II. ADJUSTMENTS TO NET OPERATING INCOME

A. Operating and Maintenance Adjustments

1. Rent expense

FPL's 1989 rent expense reflects \$752,433 allocated from FPL Group, Inc. The \$752,433 covers thirteen months of expenses (January 1989 - January 1990). In order to reflect 12 months of jurisdictional expenses, we will reduce rent expense by \$54,018.

2. Customer Accounts Expense

FPL's 1989 Customer Accounts Expense of \$109,311,000 is reasonable, and no adjustment is necessary. In its response to Staff's Interrogatories, FPL calculated its benchmark variances by functional group of O&M expenses. See Schedule 4, appendix 1 of this order. According to that schedule, the company recorded \$109.3 million in jurisdictional Customer Accounts Expense compared to a benchmark level of \$114.5 million, which results in a negative variance of \$5.2 million. It would appear therefore that the 1989 actual level of expense is reasonable.

Also, the company's estimated bad debt expense of \$15,949,231 appears reasonable when compared to \$15,893,539 in actual net write-offs for 1989. No adjustments are necessary for this expense either.

3. Customer Service Expense

We find that Customer Service Expense should be reduced by \$2,140,669, consistent with our treatment of certain expenses in FPL's 1988 tax savings docket. In that docket, in Order No. 23727, we disallowed all expenses for the Leased Lighting and Watt Wise Plus programs, because we found that those programs promoted the increased use of electricity. We also disallowed certain advertising expenses for Advantage Lighting, Night Beautiful and promotion of the Orange Bowl Classic, because the advertisements either promoted the increased use of electricity or were purely promotional in nature.

We approve the same disallowances in this docket. The expenses, which are 100% jurisdictional, are as follows:

Leased Lighting	\$1,304,339
Watt Wise Plus	723,147

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Advertising:

Advantage Lighting	82,684
Night Beautiful	25,428
Orange Bowl Classic	5,071
	<u>\$2,140,669</u>

4. Administrative & General Expenses for 1989

We find that FPL's Administrative & General Expenses for 1989, in the amount of \$285,391,000, appears reasonable, and no adjustment is necessary. In its response to Staff's Interrogatories, FPL filed its calculation of benchmark variances by functional group of O&M expenses as shown on Schedule 4. According to that schedule, FPL recorded \$286.1 million in jurisdictional Administrative & General Expenses, compared to a benchmark level of \$295.7 million, which amounts to a negative variance of \$9.6 million.

We have made other specific adjustments to Administrative and General Expenses amounting to \$751,000. When those adjustments are deducted from the Company's recorded expenses the negative variance becomes \$10.3 million less than the benchmark level. We will therefore make no further adjustments to FPL's Administrative and General Expenses for 1989.

5. Monthly QIP Orientation Seminars

We disallow expenses in the amount of \$16,039 for the monthly QIP orientation seminars. In 1989, FPL spent approximately \$16,039 to present its Quality Improvement Program (QIP) to attendees. The seminars were instituted to satisfy inquiries about QIP in a cost-effective manner and to disseminate information about QIP.

In the 1988 tax savings docket, we disallowed 1988 expenditures related to QIP seminars, because we believed that the cost of dissemination of QIP information should not be borne by the ratepayers. FPL began charging \$100 for the QIP seminars in 1990, and the attendance fees should be enough to cover the Company's costs.

Similarly, we will disallow the 1989 expenses associated with the monthly QIP seminars. We still believe that QIP information is not a cost that should be borne by the ratepayers.

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6. The Deming Competition

In FPL's 1988 tax savings docket, we disallowed 25% of the Company's expenses in seeking the Deming award. During the 1989 tax savings period, FPL incurred \$2,450,022 in expenses related to its quest for the Deming Award. We will disallow 25% of those expenses, as we did for the 1988 tax period, because we believe that part of the purpose of pursuing the Deming prize was to enhance the Company's image. The total disallowance of FPL's 1989 expenses related to the Deming Prize is \$604,727.

7. "Energizing for Excellence"

We disallow \$10,740 in expenses associated with the magazine "Energizing for Excellence", as we did in FPL's 1988 Tax Savings docket. The magazine provides a history and overview of FPL's management system, the Quality Improvement Program. We find again that the publication is promotional, image-enhancing, and unnecessary for the provision of electric service.

8. Quality Consultants

We disallow the expenses incurred for FPL's retention of certain quality consultants and counselors. Consistent with our treatment of these expenses in FPL's 1988 Tax Savings docket we find that \$32,786 in expenses related to the retention of quality consultants and counselors to assist in implementation of the Quality Improvement Program should be disallowed.

FPL identified \$375,032 in 1989 expenses. These included:

Consultant Fees	\$307,681
Airfare	33,364
Hotels	30,135
Lunches	<u>3,851</u>
	<u>\$375,032</u>

As we specifically found in the 1988 tax savings docket, the costs for first class airfare, hotel suites, and for lunches ranging up to \$18 per seminar participant are excessive and are not cost effective. While we will allow full recovery of the consultant fees, we will disallow one half of the airfare costs associated with first class tickets, amounting to \$16,682 (\$16,896 system). We will also disallow \$14,585 in hotel rates. We find

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that the reasonable and appropriate amount of hotel rate expense is \$15,550. (\$15,750 - system) We calculated the appropriate amount of hotel expense as 105 nights at \$150, the average of the rates at the Miami Hyatt Regency. In addition we disallow \$1,518. for participant lunches as a result of our previous finding that \$8.50 per meal is a reasonable amount relative to the \$6.00 meal allowance for lunch for state employees.

9. Employee Trips to Japan

During 1989, some FPL employees were sent to Japan to observe the application of Total Quality Control. The total costs incurred by the utility for these trips to Japan were \$399,918. Approximately 33% of that, or \$133,492, was related to the Deming Challenge. In accordance with our treatment of Deming expenses in the 1988 tax savings docket and in this docket, we will disallow \$32,949, 25% of the travel costs associated with the trips to Japan that were related to the Deming prize.

10. Non-Fuel/Conservation Operating and Maintenance Expenses

In FPL's 1988 tax savings docket, we made specific adjustments to O&M expense categories. We made no adjustments simply because expenses exceeded the O&M benchmark. In this docket, FPL recorded \$1,174,578,000 in jurisdictional O&M expenses for 1989. After making specific adjustments in other areas that total \$3,752,000, the Company's adjusted O&M expenses for 1989 are \$1,170,826,000. This results in an overall negative benchmark variance of \$17,973,000. FPL's expenses are below the O&M benchmark because we are using the 1988 expense level that we approved in the 1988 tax savings docket as the base year for calculating the benchmark.

By functional category, FPL is above the benchmark by \$13,833,000 for nuclear. The variance may not track inflation because of the post-Three Mile Island requirements imposed by the NRC for maintenance and plant design/modification.

FPL is also above the benchmark by \$668,000 for transmission. FPL identified two programs which comprise the benchmark variance, the Transmission 500 KV Right-Of-Way Clear Cutting (\$596,000) and Pole Climbing Inspection (\$156,000). These expenses are similar to those approved in the 1988 tax savings docket, and we approve them here as well.

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We find that FPL's 1989 overall Operating and Maintenance expenses of \$1,170,826,000 are reasonable and will be allowed.

11. Sales Expenses

FPL's Sales Expenses for 1989 exceed the benchmark by \$860,000. The expenses, which are 100% jurisdictional, are as follows:

Sales Programs	\$606,000
Sales Training	10,000
Customer Alternate Energy Study	<u>244,000</u>
	<u>\$860,000</u>

a. Sales Programs and Sales training

The Sales program and Sales Training Program expenses are primarily related to the promotion of night lighting programs. The programs promote off-peak energy usage with some increase in on-peak usage. The sales program has not been approved by this Commission in either a permanent rate case proceeding or the 1988 tax savings docket.

We believe that the Sales Programs and Sales Training program promotes the increased use of electricity in off-peak periods without a corresponding on-peak demand reduction. The sales programs use cash incentives to increase the use of electricity in off-peak and on-peak periods. This practice may be contrary to the provisions of the Florida Energy Efficiency and Conservation Act (FEECA). The increased use of KWH appears inconsistent with Rule 25-17.001, Florida Administrative Code, that implements the FEECA Statute and our Order No. 23536, where we disallowed expenses of a similar outdoor lighting program. As we said in Order 23536:

While we do not intend to make a policy statement as to the intent of Sections 366.80-.85, Florida Statutes, the Florida Energy Efficiency and Conservation Act, we are concerned about the promotion of off-peak load which does not result in a reduction of peak demand.

b. Customer Alternate Energy Study

FPL maintains that the Customer Alternate Energy Studies provide information services to major large energy-using customers regarding the economic and effective use of their end-use equipment. It appears, however, that the program is in fact a load

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retention program to address the needs and concerns of potential cogenerators such as hospitals, shopping centers, industrial facilities, governmental/military installations, and other large energy using customers.

In any event, the Customer Alternate Energy Study was not included as an approved program in FPL's 1988 tax savings proceedings, or in the benchmark base year, as determined in the Company's last permanent rate proceeding. Further, some of the program services appear to duplicate the services offered in the Company's Cogeneration and Small Power Production program. In 1989 FPL recovered approximately \$785,739 in direct energy conservation cost recovery for the Commission approved Cogeneration and Small Power Production program. We believe it would be inappropriate for the Company to recover expenses for duplicative services. We therefore disallow \$244,000 of the Customer Alternate Energy Study expenses.

B. Tax Adjustments

As a result of adjustments to expenses discussed above, FPL's income tax expense must be increased by \$1,411,851, which will be partially offset by an interest reconciliation adjustment in the amount of \$110,329. The total net adjustment to income tax expense is \$1,301,522.

III. Refund of Tax Savings

On the basis of the adjustments made to expenses discussed above, we find that the appropriate amount of Net Operating Income for 1989, for purposes of calculating FPL's tax savings refund, is \$721,344,936.

We find that the total tax savings refund for FPL is \$42,389,072, plus interest. Of this amount, FPL has already refunded \$39,553,605, plus interest. The additional refund required for 1989 is \$2,835,466, plus interest calculated using the 30-day commercial paper rate as provided by Rule 25-6.109, Florida Administrative Code. Interest should continue to accrue until the refund is completed, and should be calculated assuming that the tax savings revenues were received in equal increments throughout 1989.

The additional tax refund should be refunded to customers on an equal cents per KWH basis, as required by Rule 25-14.003, Florida Administrative Code, and should be identified as a refund of tax savings on each customer's bill. Also, we agree with the Company's suggestion that this refund should be combined with the amount remaining to be refunded from the company's tax savings in

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1988. We approve the company's request to refund the remaining tax savings based on projected sales. This method is less costly than a method of refunding based on actual sales to the customer of record, and is appropriate here, because the amount to be refunded is relatively small. This combined one-time refund should be made, with an additional one month's interest, during the first billing cycle in September, 1991.

Any over-refunded or under-refunded amounts will be included in the fuel true-up provision for over or under recovery balance.

If no protest to this order is filed within the time allowed, this docket will be closed after FPL submits verification that it has completed the refund in compliance with this order.

It is therefore,

ORDERED by the Florida Public Service Commission that Florida Power and Light Company shall refund additional tax savings of \$2,835,466, plus interest, in the manner set forth in the body of this order. It is further

ORDERED that this Order shall become final 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. It is further

ORDERED that this docket shall be closed after FPL has completed the refund in compliance with this order, and if no petition for formal proceeding or notice of appeal is timely filed herein.

By ORDER of the Florida Public Service Commission, this 10th
day of JUNE, 1991.



STEVE TRIBBLE, 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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on July 1, 1991.

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 sewer 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.

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SCHEDULE 1

FILENAME: FPLTAX

FLORIDA POWER & LIGHT COMPANY
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 CALCULATION OF ADDITIONAL TAX SAVINGS REFUND

	GROSS	TAXES @ 37.63%	NET
NET OPERATING INCOME PER TAX FILING			\$718,894,530
ADJUSTMENTS:			
O&M (TOTAL)	\$3,751,928	(\$1,411,851)	\$2,340,077
INTEREST RECONCILIATION		110,329	110,329
	-----	-----	-----
TOTAL ADJUSTMENTS	\$3,751,928	(\$1,301,522)	\$2,450,406
	-----	-----	-----
ADJUSTED NET OPERATING INCOME			\$721,344,936

ADJUSTED RATE BASE PER TAX FILING			\$7,542,794,286
STAFF ADJUSTMENTS			7,767,227

STAFF ADJUSTED RATE BASE			\$7,550,561,513

OVERALL RATE OF RETURN			9.55%
OVERALL RATE OF RETURN @ 13.60% ROE			9.21%

DIFFERENCE			0.34%
STAFF ADJUSTED RATE BASE			\$7,550,561,513

NET OPERATING INCOME EXCESS			\$25,938,221
REVENUE EXPANSION FACTOR			1.634232

TOTAL TAX SAVINGS REFUND			\$42,389,071
AMOUNT PREVIOUSLY REFUNDED			39,553,605

ADDITIONAL AMOUNT TO BE REFUNDED (EXCLUDING INTEREST)			\$2,835,466

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SCHEDULE 2

FLORIDA POWER AND LIGHT COMPANY TAX SAVINGS
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 RATE BASE ADJUSTMENTS

EXPLANATION -----	JURISDICTIONAL -----
PLANT -----	
TOTAL	----- 0 -----
WORKING CAPITAL -----	
ACCRUED LIABILITY-POLE ATTACHMENT	\$4,102,227
RENTAL EXPENSE	3,665,000
PROVISION FOR UNCOLLECTIBLES	-----
TOTAL	\$7,767,227
TOTAL RATE BASE ADJUSTMENTS	----- \$7,767,227 -----

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SCHEDULE 3

FLORIDA POWER & LIGHT COMPANY TAX SAVINGS
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 EXPENSE ADJUSTMENTS

<u>EXPLANATION</u>	<u>JURISDICTIONAL</u>
<u>O&M ADJUSTMENTS</u>	
ENERGIZING FOR EXCELLENCE	(\$10,740)
OIP ORIENTATION SEMINARS	(16,039)
DEMING PRIZE	(604,727)
QUALITY CONSULTANTS	(32,786)
TRIPS TO JAPAN	(32,949)
RENT EXPENSE	(54,018)
SALES	(860,000)
CUSTOMER SERVICE	(2,140,669)
TOTAL	(\$3,751,928)
<u>INCOME TAXES</u>	
TAX EFFECT OF ADJUSTMENTS	\$1,411,851
INTEREST RECONCILIATION	(110,329)
TOTAL	\$1,301,522
TOTAL EXPENSE ADJUSTMENTS	(\$2,450,406)

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FLORIDA POWER & LIGHT COMPANY
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 O & M BENCHMARK VARIANCE BY FUNCTION
 1989

SCHEDULE 4

	Steam Production (000)	Nuclear Production (000)	Other Production (000)	Other Power Supply (000)	Transmission (000)	Distribution (000)	Customer Accounts (000)	Customer Service (000)	Sales (000)	Admin. & General (000)	Total (000)
1988 FPSC Allowed O&M System	\$161,927	\$206,342	\$18,025	\$3,829	\$39,103	\$216,803	\$105,965	\$16,280	\$0	\$275,660	\$1,123,734
Compound Multiplier	1.0482	1.0482	1.0482	1.0482	1.0875	1.0875	1.0875	1.0875	1.0875	1.0875	
1989 O&M Benchmark - System	169,732	300,144	18,894	4,014	42,525	235,773	115,237	17,705	0	299,543	1,203,565
1989 Jur'ls. Separation Factors	0.98330	0.98160	0.97800	0.98720	0.97800	0.99770	0.99410	1.00000	1.00000	0.98720	
1989 O&M Benchmark - Jur'ls.	166,897	294,421	18,478	3,942	41,589	235,231	114,557	17,705	0	295,736	1,188,799
1989 Actual O&M - Jur'ls.	166,082	306,454	16,330	3,238	42,261	223,525	109,311	16,375	660	286,142	1,174,578
Benchmark Variance	(815)	13,833	(2,148)	(724)	672	(11,706)	(5,246)	671	660	(9,616)	(14,221)
Specific Adjustments-Jur'ls.	0	0	0	0	0	0	0	(2,141)	(860)	(751)	(3,752)
Adjusted Variance-Jur'ls.	(815)	13,833	(2,148)	(724)	672	(11,706)	(5,246)	671	660	(9,616)	(14,221)