

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for a rate) DOCKET NO. 910890-EI
increase by Florida Power) ORDER NO. PSC-92-0168-FOF-EI
Corporation.) ISSUED: 04/07/92
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER ON MINIMUM FILING REQUIREMENTS

BY THE COMMISSION:

On January 31, 1992, Florida Power Corporation (FPC) filed a petition for rate increase along with Minimum Filing Requirements (MFRs). On February 12, 1992, pursuant to Section 366.06, Florida Statutes, and Rule 25-6.043(2), Florida Administrative Code, the Director of the Division of Electric and Gas issued a statement that FPC was deficient in meeting the minimum filing requirements. Specifically FPC's filings were found to be deficient in that justification for growth in O&M expenses for the years 1984 through 1987 was not included.

On February 28, 1992, FPC filed a protest of MFR deficiency letter, requesting that the Commission enter an order determining that FPC's filings were in compliance with the minimum filing requirements prescribed in Rule 25-6.043, Florida Administrative Code. We granted FPC's request for oral argument, and the parties were given the opportunity to address the Commission on this matter at our March 24, 1992, Agenda Conference. After fully considering the positions of the parties, we deny FPC's request for a ruling that its filings comply with the minimum filing requirements.

FPC's MFRs, as filed, contain O&M benchmark calculations and justification for O&M growth from 1987, the year of its last rate case which was settled by stipulation. We believe the MFRs should contain justification for growth in O&M expenses from 1984, which was the year of FPC's last rate case in which O&M benchmark calculations and justification for O&M growth were considered and voted on by the Commission.

DOCUMENT NUMBER-DATE

03368 APR -7 1992

FPC-RECORDS/REPORTING

FPC argues that our approval of the stipulated settlement in 1987 constituted Commission acceptance of the justification of its 1987 benchmark variances and that FPC should not now be required to justify "the very same variances that were accepted in 1987 as part of the approved settlement." This is not correct. We did not accept FPC's benchmark variances, or its justifications therefore, in the 1987 rate case.

FPC's 1987 rate case was initiated through a complaint filed by Occidental Chemical Corporation which alleged that FPC's annual revenues should be reduced by \$362.6 million. The MFRs filed by FPC would have reduced annual revenues by \$61,679,000 from the rates authorized in FPC's 1984 rate case. The stipulated settlement arrived at by the parties, through "hard fought" negotiations resulted in a total annual revenue reduction of \$121,500,000. In approving the stipulation we voted on this bottom line result. The parties did not stipulate line-by-line to each individual rate-case issue, and in approving the stipulation we did not consider or vote on individual issues such as justification of benchmark variances. The stipulation itself provides that "it shall be deemed to constitute neither an admission by the Parties or FPC, nor a determination by the Commission, with respect to the merits of any issue, allegation or position in Docket No. 870220-EI, and that this stipulation shall have no precedential value in proceedings before the Commission."

Thus, by the terms of the stipulation itself, we made no determination with respect to FPC's justification of benchmark variances in the 1987 rate case.

In 1984, FPC attempted to justify certain O&M benchmark variances on grounds which we specifically rejected. FPC's 1987 MFRs contained O&M expense data which would have required our acceptance of the same benchmark variances we previously rejected in 1984. Because the 1987 rate case was settled, we did not vote on or approve the utility's benchmark variances and thus did not set a new benchmark level.

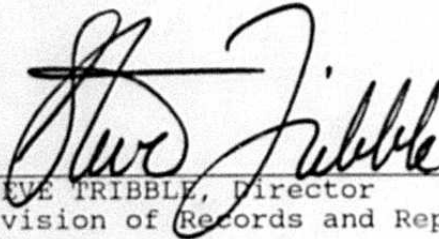
It is clear from the 1987 rate reduction that we neither voted on nor accepted FPC's proposed variances and justifications: had we accepted FPC's 1987 MFRs at face value, FPC would have been required to reduce its rates by only \$61,679,000. However, the utility agreed to reduce its rates by nearly twice that amount -- \$121,500,000 annually -- which is wholly inconsistent with its MFRs as filed. In accepting the stipulated rate reduction, we approved the amount of the reduction only. We did not determine specific components, such as O&M expense, that formed the basis for the reduction.

ORDER NO. PSC-92-0168-FOF-EI
DOCKET NO. 910890-EI
PAGE 3

It is therefore,

ORDERED by the Florida Public Service Commission that the Protest of MFR Deficiency Letter, filed by FPC on February 28, 1992, requesting a determination that FPC's filings are in compliance with the minimum filing requirements prescribed in Rule 25-6.043, Florida Administrative Code, is hereby denied.

By ORDER of the Florida Public Service Commission, this 7th day of APRIL, 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.

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 25-22.038(2), 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,

ORDER NO. PSC-92-0168-FOF-EI
DOCKET NO. 910890-EI
PAGE 4

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.