

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Recovery of Capacity) DOCKET NO. 920887-EI
Costs Associated with Florida) ORDER NO. PSC-92-1334-FOF-EI
Power and Light Company's St.) ISSUED: 11/18/92
Johns River Power Park Contract)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY

ORDER DENYING IN PART AND GRANTING IN PART FLORIDA POWER AND LIGHT COMPANY'S REQUEST TO RECOVER CAPACITY COSTS ASSOCIATED WITH THE ST. JOHNS RIVER POWER PARK CONTRACT

In our August, 1992 fuel proceeding, Florida Power and Light Company requested recovery of the capacity costs associated with its St. Johns River Power Park contract with JEA. We deferred consideration of the request at that time and established a separate docket and hearing date to decide the issue. The hearing was held on October 9, 1992. This final order memorializes the decision we made at the close of that hearing.

The issue presented for our determination was whether the capacity payments associated with St. Johns River Power Park (SJRPP) are appropriate for recovery through the Capacity Cost Recovery Clause, as provided in Order No. 25773 and clarified in Order No. PSC-92-0414-FOF-EQ.

We hold that \$63,975,761 of capacity costs associated with the SJRPP contract are not appropriate for recovery through the capacity cost recovery clause, because that amount was included as part of the company's operating expenses used in the calculation of the rate reduction we ordered in the company's tax savings case, Docket No. 890319. The base rates determined in the tax savings case reflect recovery of those SJRPP costs. We also hold, however, that the incremental amount of the SJRPP costs that the company has incurred above the \$63,975,761 are recoverable through the capacity cost recovery factor, because those amounts are not reflected in base rates and are not being recovered in any manner.

In reaching our decision, we have directed our inquiry to the meaning and intent of Order No. 25773 as it applies to the SJRPP contract and the inclusion of SJRPP capacity costs in the determination of FPL's tax savings refund and permanent rate reduction in 1989 and 1990.

Our Order No. 25773 concluded our investigation in Docket No. 910794-EQ, In Re: Generic investigation of the proper recovery of purchased power capacity costs by investor-owned electric

13565-92

11-18-92

utilities. There we directed investor-owned utilities to implement a capacity cost recovery clause beginning in October, 1992. In the order we described the capacity costs that are appropriate for inclusion in the clause. The capacity costs that are appropriate for recovery fall into two categories. The first category is comprised of those purchased power capacity costs that are already being recovered through the fuel or oil backout factors. By shifting those costs to the capacity cost recovery factor, the costs are allocated to customer classes using a demand allocator, rather than an energy allocator. This reallocation is appropriate because capacity costs are a demand-related cost, and should be assigned on a demand basis, not on an energy basis.

The second category of capacity costs we identified for inclusion in the new clause were costs related to contracts entered into since the utility's last rate case that were not reflected in either fuel or oil backout charges. Those capacity costs were addressed on page five of Order No. 25773 as follows:

We will permit utilities to recover capacity related purchased power costs not currently being recovered through the fuel or oil backout charges in the calculation of a capacity recovery factor for contracts entered into since the utility's last rate case. Purchased power demand costs currently being recovered in base rates are to remain in base rates until the utility's next general rate case.

In the third ordering paragraph of Order No. 25773 we said:

. . . [C]apacity related purchased power costs not currently being recovered in any manner may be included in the capacity recovery factor. Those costs currently being recovered in base rates will remain in base rates until the utility's next general rate case.

Florida Power and Light Company took the position in this case that all SJRPP capacity costs were appropriate for recovery through the capacity cost recovery clause, because the costs were reasonable and prudent, and the SJRPP capacity contract was initiated in 1987, well after FPL's last rate case. FPL contended that the costs had never been "authorized" by the Commission for recovery in base rates. Therefore, FPL argued, the SJRPP capacity costs met the criteria established in Order Nos. 25773 and PSC-92-0414-FOF-EQ. FPL stated that the rate reduction to reflect tax savings in Docket No. 890319-EI simply considered FPL's estimated overall earned rate of return and assumed that, with the rate reduction to reflect tax savings, FPL's overall earned rate of

return would be adequate. FPL argued that that conclusion did not mean that the SJRPP capacity costs were authorized for recovery in base rates. According to FPL's witness, the treatment of the SJRPP costs in the tax savings docket was not made on a "going forward basis" as would have been done in a full rate case, but rather was simply designed to make a specific change in rates to reflect a past event (the 1986 change in the corporate income tax rate). FPL also contended that it relied on Order No. 25773 in making its request to recover the capacity payments for SJRPP through the Capacity Cost Recovery Clause.

FIPUG contended that FPL should not be permitted to include the St. Johns River Power Park (SJRPP) capacity payments in the capacity cost recovery clause because those costs had already been included in FPL's base rates in the 1988 tax savings refund docket. FIPUG's witness testified that FPL's base rates had thus already been adjusted to account for those capacity costs. FIPUG demonstrated that FPL included the SJRPP capacity costs in its operating expenses, and thus the refund FPL gave to customers was lower than it would have been had those costs been excluded. FIPUG also pointed out that the costs were factored into the Commission's consideration of FPL's MFR filing in Docket No. 900038-EI.

Our staff also took the position in the case that it would not be appropriate to include Florida Power and Light Company's SJRPP capacity charges in the capacity cost recovery clause. The staff contended that if FPL were allowed to include the SJRPP capacity costs in the clause, FPL would be recovering those costs twice. Staff's witness also testified that SJRPP capacity costs were included in the tax savings calculation in FPL's tax savings docket. The 1988 tax savings base rate reduction would have increased from \$38,221,633 to \$103,430,238 if the SJRPP capacity costs were excluded from the calculation.

We find no material factual dispute in the evidence in this case. Our staff and FIPUG demonstrated, and Florida Power and Light admitted, that capacity costs of the SJRPP purchased power contract with JEA, in the jurisdictional amount of \$63,975,761, were included in the Commission's determination of the amount of the tax savings refund and the permanent rate reduction established for FPL in the tax savings docket. FPL did not contest the fact that the tax savings refund and the permanent rate reduction in 1988 would have been greater, but for the inclusion of SJRPP capacity costs in the calculation. We are persuaded by the argument that because the SJRPP costs were considered in the tax savings docket we would be permitting double recovery of those costs if we permitted recovery through the capacity cost recovery clause.

As indicated above, Order 25773 states that capacity related purchased power costs not being recovered in any manner may be included in the capacity recovery factor. We believe, however, that the evidence shows that a portion of the St. Johns capacity costs are being recovered in FPL's base rates as a result of the base rate changes we made in the tax savings docket. The St. Johns capacity costs that FPL paid in 1988 directly affected the level of the base rate changes because revenue requirements were considered in the tax docket. In Order 25773 we did state our opinion at that time that the demand related portion of SJRPP contract costs were not being recovered because the contract was initiated since FPL's last rate case. The evidence in this case demonstrates, however, that those costs are reflected, and are being recovered, in FPL's base rates.

To the extent that FPL's SJRPP capacity purchases above the amount considered in the tax savings docket are not in base rates, we believe that incremental amount of capacity costs should be recovered through the capacity cost recovery clause. The SJRPP contract with JEA is a straightforward purchased power contract, and we are readily able to determine that SJRPP capacity costs have increased by \$12,264,918 on a semi-annual basis, subject to true-up in our fuel adjustment proceedings. We are confident that the incremental amount is not currently included in base rates in any manner, and we will permit FPL to recover that amount through the capacity clause.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that, in the manner, and for the reasons, set forth in the body of this order, Florida Power and Light Company's request to recover the capacity costs associated with the St. Johns River Power Park contract is denied in part and granted in part. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 18th day of November, 1992.



STEVE TRUBBLE, Director
Division of Records and Reporting

(S E A L)
MCB:bmi

Commissioner Clark dissents from this order as follows:

I respectfully dissent from the majority's decision in this case. Specifically, I disagree with the decision to allow FPL to recover an increment of the capacity costs associated with St. Johns River Power Park in the capacity cost factor. I believe this allowance is inconsistent with the rationale of Order No. 25773.

Order No. 25773 was the culmination of a generic investigation of the appropriateness of the recovery of capacity costs through the fuel adjustment factor. The end result of that investigation was a conclusion that fuel capacity costs should no longer be recovered through the fuel recovery factor, but rather through a separately identified capacity cost recovery factor, and that in the future all long-term contract capacity costs should be recovered through the factor. At that time, the Commission declined to break out capacity costs that were then being recovered in base rates. The Commission reasoned that a limited proceeding to extract such costs from base rates would likely be difficult and possibly result in other inequities.

Since the issuance of Order No. 25733, two utilities, Gulf Power Company and Florida Power and Light Company, have requested inclusion of costs in the capacity cost recovery factor which, in my opinion, are not eligible for inclusion at this time. They should be handled as part of the utility's next rate case. The unrefuted evidence in this case is that in Docket No. 890319-EI, the proceeding in which FPL's base rates were adjusted to reflect the decrease in the federal income tax rate as a result of the Tax Reform Act of 1986, FPL's operating expenses included capacity charges from the St. Johns River Power Park in the amount of \$63,975,761. The evidence in this proceeding indicates that the rate adjustment necessary in the tax savings docket would have been greater had the St. Johns River Power Park capacity costs not been included in operating expenses. Therefore, the base rates determined in that proceeding reflect recovery of capacity costs associated with the St. Johns River Power Park.

The capacity costs associated with the St. Johns River Power Park have increased since the time that rates were reset in Docket No. 890319-EI, and the majority voted that it would be appropriate to allow recovery through the capacity factor of the incremental amount above the \$63,975,761 included in Docket No. 890319-EI. I believe that it is inappropriate to allow this recovery, as it is contrary to Order No. 25773. Pursuant to that order, where capacity costs were previously included in base rates, any change to a recovery of those costs through a capacity cost recovery factor would be accomplished at the time of the utility's next rate

case. The appropriate time to consider the incremental amount associated with the SJRPP capacity costs, as well as the total capacity cost, would be in FPL's next rate case.

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 the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.