

FLORIDA PUBLIC SERVICE COMMISSION

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M E M O R A N D U M

February 23, 1995

TO : DIRECTOR, DIVISION OF RECORDS & REPORTING

FROM: DIVISION OF ELECTRIC & GAS (MEETER) *WJ*
DIVISION OF LEGAL SERVICES (ERSTLING) *JE* *JDJ*

RE : DOCKET NO. 950121-EI - PETITION FOR APPROVAL OF REVISED
TERMS FOR ITS RATE SCHEDULE BY FLORIDA POWER CORPORATION

AGENDA: MARCH 7, 1995 - REGULAR AGENDA - TARIFF FILING -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 60-DAY SUSPENSION DATE: WAIVED

SPECIAL INSTRUCTIONS: I:\PSC\EAG\WP\950121.RCM

On January 27 Florida Power Corporation (FPC) filed a petition for approval of revisions to its rate schedules which include recovery of right-of-way utilization fees when such fees are not imposed under a traditional franchise fee arrangement. The other requested revisions primarily clarify language and correct certain technical terms and abbreviations and service classifications to conform to current approved usage and practice. The revisions also address the application of state sales tax to the charges for electric service and equipment rental as provided for by state sales tax laws.

In the petition Florida Power stipulates to the Commission's suspension of the revised tariff sheets and waives its right pursuant to Section 366.06(4), Florida Statutes, to place these revised tariff sheets into effect if not suspended within sixty days of their filing.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve Florida Power Corporation's (FPC) request to revise the provision for application of a franchise fee on Rate Schedule BA-1 to a provision for application of a right-of-way utilization fee?

RECOMMENDATION: Yes.

DOCUMENT NUMBER-DATE

02142 FEB 23 95

FPSC-RECORDS/REPORTING

STAFF ANALYSIS: The rate schedule for Billing Adjustments, BA-1, currently provides for the application of a franchise fee to the charges for electric service provided to customers within the jurisdictional limits of each municipal or other governmental body requiring the payment of a fee pursuant to a franchise ordinance. The company's petition states on pages 1 and 2 that the franchise fee is basically a charge by the city or other governing body to permit the company's use of the rights-of-way within the jurisdiction. As currently phrased, the provision for the recovery of franchise fees applies for the recovery of fees imposed only by franchise agreements. Limited or special purpose units of local government, such as Community Development Districts, exist in the State of Florida. These special purpose governmental units may own rights-of-way but may not have the authority under Florida law to grant franchises. The company, however, needs to be able to use the rights-of-way within the jurisdictional limits of these local governments to provide electric service to customers located inside the jurisdictional limits. The proposed revision to the franchise fee provision addresses only the recovery of rights-of-way fees imposed by rights-of-way utilization agreements, not the company's right to enter into rights-of-way utilization agreements.

Staff recommends that the proposed change be approved because we agree with the company that fees paid pursuant to rights-of-way utilization agreements other than franchise agreements are virtually identical to the franchise fees addressed in Rate Schedule BA-1. Under Commission policy, if the company is to be able to recover rights-of-way utilization fees collected pursuant to rights-of-way utilization agreements other than franchise agreements, the language on the rate schedule must be revised as proposed by the company. In Docket 750361-CI, the Commission determined that franchise fees would be disallowed as an operating expense and would instead be stated as a separate item on the bills of those customers residing within the jurisdiction of the governmental body. The Commission's reason for this decision was that

"We view the utility as nothing more than a conduit through which it collects the fees and pays them to the governmental body. We do not perceive any benefits being derived by ratepayers residing in an area outside the jurisdiction of the governmental body which imposes the fees. Conversely, it is clear that the fees collected are utilized for services rendered to residents within the jurisdiction of the governmental body, and it is they who should bear the incidence of such fees. (Order No. 6752, issued June 26, 1975, in Docket No. 750361-CI on the general investigation of the treatment of franchise fees for ratemaking purposes.)

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ISSUE 2: Should the revisions which address the application of the state sales tax to the charges for electric service and equipment rental be approved?

RECOMMENDATION: Yes.

STAFF ANALYSIS: The company has added proposed language to a number of rate schedules (Attachments A and B to the Petition) that provides for a billing adjustment for a state sales tax to be applied to the charges for electric service and equipment rental unless a qualified sales tax exemption status has been provided to the utility. The company states that the state sales tax will be determined according to state sales tax law.

Staff recommends that these revisions be approved as the company already is applying the state sales tax as required by state law. Adding the proposed language will make the customer aware that the state sales will be collected and that it is the customer's responsibility to provide the documentation for a sales tax exemption.

ISSUE 3: Should the revisions that correct certain technical terms and abbreviations and service classifications to conform to current approved usage and practice be approved?

RECOMMENDATION: Yes.

STAFF ANALYSIS: The company has proposed modifications and the addition of new definitions of technical terms and abbreviations on Sheet No. 3.1. The stated intent of these modifications and added definitions is to make the information on this sheet conform to current practice.

The proposed revisions on Sheet Nos. 4.010 and 4.011 update the classifications of service to conform with the rate redesign approved by the Commission in Docket No. 910890-EI and the addition of the Residential Load Management (RSL-1) and Residential Time of Use (RST-1) rate schedules in the 1980's.

Staff recommends these proposed modifications because they conform with current practice and rate design. The staff would have approved the revisions addressed in Issues 2 and 3 administratively if they had not been included in the petition.

ISSUE 4: Should the Commission approve the proposed revisions that correct the penalty percentage from 115 percent to 125 percent on

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Rate Schedule SS-3, Curtailable Standby Service, and provide for the inclusion of Standby Service in the types of service not permitted under the Limitation of Service provisions of the GSDT, IST-1, GST-1 and RST-1?

RECOMMENDATION: Yes

STAFF ANALYSIS: On March 4, 1993, FPC filed a petition to revise the applicability and penalty clauses of its curtailable rate schedules (CS-1 and CST-1) to remedy rate design flaws in the two rate schedules. (For a discussion of the rate design flaws, see Order No. PSC-93-0756-FOF-TI, issued May 19, 1993, in Docket No. 930229-EI.) The requested change in the penalty clause was to increase the penalty percentage from 115 percent to 125 percent. The Commission approved FPC's request to revise both the applicability and penalty clauses in Docket No. 930229-EI.

The company inadvertently did not include the curtailable standby service rate schedule in its petition in Docket 930229-EI. The company is now requesting that the penalty provision on that rate schedule be changed to the 125 percent approved in the aforementioned docket. In Docket 930229-EI, the Commission found that the two changes were reasonable remedies for the existing flaws in the rate schedule. Staff, therefore recommends that the penalty on SS-3 be increased so as to be consistent with the Commission's earlier decision.

The company has also proposed including standby service in the types of service not permitted under the Limitation of Service provisions of GSDT-1, IST-1, GST-1 and RST-1. Standby service is not permitted under the Limitation of Service provisions of the companion nontime of use rate schedules, GSD-1, IS-1, GS-1 and RS-1. In Docket 850673-EU, Generic Investigation of Standby Rates for Electric Utilities, the Commission determined that the standby service rate schedules resulting from that proceeding shall be mandatory for all self-generating customers unless there is evidence to demonstrate that their load characteristics resemble those of normal full requirements customers. (Page 6 of Order No. 17159, issued February 6, 1987, in Docket 850673-EU) Therefore, this exclusion should be added to the four rate schedules. Staff, thus, recommends approval of this request.

ISSUE 5: If approved, what should the effective date of the revised rate schedules be?

RECOMMENDATION: The rate schedules should become effective upon Commission vote at agenda.

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STAFF ANALYSIS: Since no retroactive ratemaking can occur with the proposed rate schedule changes, staff recommends that the rate schedules become effective upon Commission vote at agenda.

ISSUE 6: Should this docket be closed?

RECOMMENDATION: Yes, if no timely protests are filed.