

ORIGINAL
FILE COPY

**Florida
Power**
CORPORATION

JAMES A. MCGEE
SENIOR COUNSEL

March 21, 1995

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0870

Re: Docket No. ~~940797-BQ~~

Dear Ms. Bayó:

Enclosed for filing in the subject docket are fifteen copies of Florida Power Corporation's Third Supplemental Filing to Petition for Approval, to the Extent Required, of Certain Actions Relating to Approved Cogeneration Contracts.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette containing the above-referenced document in Word Perfect format.

Very truly yours,

James A. McGee

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

JAM/jb
Enclosures

cc: All parties of record

RECEIVED & FILED

mm
EPSC-BUREAU OF RECORDS

GENERAL OFFICE

DOCUMENT NUMBER-DATE

03077 MAR 22 8

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

RECEIVED
FLORIDA PUBLIC SERVICE COMMISSION
1995 MAR 22 PM 2:42
MAIL ROOM

In re: Petition of Florida Power Corporation for Approval, to the Extent Required, of Certain Actions Relating to Approved Cogeneration Contracts.

Docket No.940797-EQ

Submitted for filing:
March 22, 1995

**THIRD SUPPLEMENTAL FILING TO PETITION FOR APPROVAL,
TO THE EXTENT REQUIRED, OF CERTAIN ACTIONS
RELATING TO APPROVED COGENERATION CONTRACTS**

Florida Power Corporation ("FPC") hereby submits the third supplement to its July 28, 1994 petition to the Florida Public Service Commission ("Commission"), which sought approval, to the extent required, with respect to certain actions taken during the course of performance of Commission-approved cogeneration contracts. This third supplementation relates to a certain letter agreement, executed after the filing of Florida Power's petition, between FPC and U.S. Agri-Chemicals Corporation (USAC). FPC hereby supplements its petition to include the following agreement:

1. On February 8, 1995 FPC and USAC entered into a letter agreement to memorialize their understanding with respect to the interpretation and administration of certain provisions of the January 1995 Standard Offer Contract For the Purchase of Firm Capacity and Energy From A Qualifying Facility Less Than 75 MW or a Solid Waste Facility.

2. Accordingly, FPC now supplements its earlier petition in the instant docket to add the above mentioned letter agreement. A copy of this agreement is attached hereto and supplements the Appendix to FPC's Petition. Since the Standard Offer Contract was entered into after the filing of FPC's original petition, a Summary of the clarifications and a divider marked Tab 23 are attached and should be inserted in the original filing.¹

3. As set forth in the petition (at ¶12-14 and 21-22), FPC believes that no further approval of such letter agreements is required. The cogeneration contracts themselves incorporate the Commission's rules, which expressly authorize FPC to modify its purchase power agreements for various reasons, including economic ones. Indeed, by entering into these agreements rather than unilaterally exercising its contract rights, FPC acts to ensure a more orderly and well-planned understanding of the contracts than could otherwise occur.

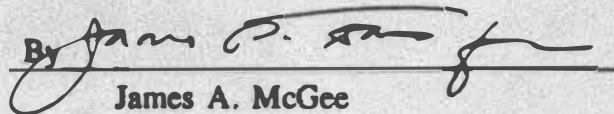
4. Moreover, to the extent that further approval of such agreements is necessary, FPC submits that such approval should issue. As also set forth in the Petition (*id.*), modifications of the agreements such as those referenced here is consistent with the interests of the public and FPC's ratepayers since it avoids possible impairment of the reliability and efficiency of FPC's system.

¹ Also attached is the revised Appendix to be inserted in the original filing.

5. In sum, in supplementing the Petition, FPC restates its view that this Letter Agreement with USAC requires no further Commission approval. However, if the Commission disagrees with that view, the Commission should approve this agreement as in the public interest, the interest of FPC's ratepayers, and the interests of the contracting parties.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL
FLORIDA POWER CORPORATION

By 

James A. McGee
Post Office Box 14042
St. Petersburg, FL 33733-4042
Telephone: (813) 866-5184
Facsimile: (813) 866-4931

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Docket No. 940797-EQ

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Florida Power Corporation's Third Supplemental Filing to Petition for Approval, to the Extent Required, of Certain Actions Relating to Approved Cogeneration Contracts has been served has been served by U.S. Mail on the 22nd day of March, 1995 to the following:

**Orange Cogen Limited
c/o Ark/CSW Development Partnership
23293 South Pointe Drive
Laguna Hills, CA 92653**

**NationsBank of Florida, NA
600 Peachtree Street, NE
Atlanta, GA 30308**

**GECC
1600 Summer Street
Stamford, Connecticut 06927**

**TIFD-C, Inc.
c/o GECC
1600 Summer Street, 6th Floor
Stamford, Connecticut 06927
Attn: Manager, Energy Portfolio Admin**

**Lake Cogen, Ltd.
1551 N. Tustin Avenue, Suite 900
Santa Ana, CA 92701**

**Mr. Macauley Whiting, Jr.
Ridge Generating Station
400 North New York Ave., Suite 101
Winter Park, FL 32789**

**Wheelabrator Ridge Energy
3131 K-Ville Avenue
Auburndale, FL 33823**

**Mr. Jerome L. Glazer
Auburndale Power Partners
12500 Fair Lakes Circle, Suite 420
Fairfax, Virginia 22033**

**Mr. Don Fields
Executive Director
Auburndale Power Partners
1301 Derby Avenue
Auburndale, FL 33823**

**Mr. Roger Fernandez
Cargill Fertilizer, Inc.
8813 Highway 41 South
Riverview, FL 33569**

**Bankers Trust Company
Four Albany Street
New York, New York, 10015
Attn: Corporate Trust & Agency Group**

**The Prudential Insurance Company of
America
Three Gateway Center
Newark, NJ 07102-4077
Attn: Asset Unit/IAU Management**

**Dade Power Incorporated
1551 N. Tustin Avenue, Suite 900
Santa Ana, CA 92701**

**The Prudential Insurance Company of
America
Four Gateway Center
Newark, NJ 07102-4069
Attn: Project Management Team**

**Pasco Cogen, Ltd.
220 East Madison Street, Suite 526
Tampa, FL 33602
Attn: Elliott White**

Tiger Bay Limited Partners
2500 City West Boulevard
Houston, TX 77042

The Fuji Bank and Trust Company
Two World Trade Center
New York, New York 10048

Mr. Dennis Carter
Assistant City Manager
Metro-Dade Center
111 NW 1st Street, 29th Floor
Miami, FL 33128

Mr. Juan Portuando
President
Montenay International
3225 Aviation Avenue, 4th Floor
Coconut Grove, FL 33133

Ms. Gail Fels
County Attorney's Office
Aviation Divison
P.O. Box 592075 AMF
Miami, FL 33159

Polk Power Partner, L.P.
c/o Polk Power GP, Inc.
1125 U.S. 98 South, Ste 100
Lakeland, FL 33801
Attn: Nancy Jones
Vice President & General Mgr.

TIFD VIII-J, Inc.
c/o General Electric Capital Corporation
1600 Summer Street
Stamford, Connecticut 06927
Attn: Manager - Energy Project
Operation

Barrett G. Johnson
Johnson and Associates
315 South Calhoun St., Suite 750
P.O. Box 1308
Tallahassee, FL 32301

Mr. Wayne A Hinman, President
Orlando Cogen Limited, L.P.
c/o Air Products and Chemicals
7201 Hamilton Boulevard
Allentown, PA 18595-1501

The Sumitomo Bank Limited,
International Finance Dept., USA
277 Park Avenue
New York, NY 10172

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Orlando, FL 32802-0231

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2500 CityWest Blvd., Ste 150
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Fairfax, VA 22033

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Palm City, FL 34990

Michael O'Friel
Wheelbrator Environmental
Systems, Inc.
Liberty Lane
Hampton, NH 03842

Patrick K. Wiggins, Esq.
Marsha E. Rule, Esq.
Wiggins & Villacorta, P.A.
Post Office Drawer 1657
Tallahassee, FL 32302

Kelly A. Tomblin, Esq.
Director - Legal and Corporate Affairs
Energy Initiatives, Inc.
One Upper Pond Road
Parsippany, NJ 07054

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Attorney

REVISED APPENDIX

1. BAY RESOURCES MANAGEMENT, INC. (04/29/88 Negotiated Contract)
2. CFR BIO-GEN CORP. (11/19/91 Negotiated Dispatchable contract)
3. DADE COUNTY (03/15/91 Negotiated Contract)
4. ECOPEAT COMPANY, L.P. (03/28/91 Negotiated contract -- EcoPeat Avon Park)
5. EL DORADO ENERGY (03/18/91 Negotiated contract)
6. GENERAL PEAT RESOURCES L.P. (11/30/88 -- three Standard Offer contracts -- GenPeat Units 1, 2 and 3)
7. LAKE COGEN LIMITED (03/13/91 Negotiated contract)
8. MULBERRY ENERGY COMPANY, INC. (03/12/91 Negotiated contract)
9. NRG RECOVERY GROUP (10/12/88 Standard Offer contract -- Lake County)
10. ORLANDO COGEN LIMITED (03/13/91 Negotiated contract)
11. PANDA-KATHLEEN, L.P. (11/25/91 Standard Offer contract)
12. PASCO COGEN LIMITED (03/13/91 Negotiated contract)
13. PASCO COUNTY (03/28/89 Negotiated contract)
14. PINELLAS COUNTY (02/21/89 Amended & Restated Negotiated Contract -- Pinellas Resource Recovery)
15. PINELLAS COUNTY (02/21/89 Negotiated contract -- Pinellas North)

16. RIDGE GENERATING STATION LIMITED PARTNERSHIP (03/08/91 Negotiated contract)
17. ROYSTER PHOSPHATES, INC. (03/06/91 Negotiated contract)
18. SEMINOLE FERTILIZER CORP. (10/30/90 Negotiated Contract)
19. SUN BANK OF TAMPA BAY (04/05/89 Standard Offer contract -- "LFC Jefferson")
20. SUN BANK OF TAMPA BAY (04/05/89 Standard Offer contract -- "LFC Madison")
21. TIMBER ENERGY RESOURCES (12/31/84 Standard Offer contract)
22. TIMBER ENERGY RESOURCES (07/89 Standard Offer contract)
23. U.S. AGRI-CHEMICALS CORPORATION (1/95 Standard Offer contract)

SUMMARY

U.S. Agri-Chemicals Corporation (1/10/95 Standard Offer Contract For the Purchase of Firm Capacity and Energy From A Qualifying Facility Less Than 75 MW or a Solid Waste Facility.

• Clarification

- 02/08/95: Contract formally amended to clarify that, for purposes of the Contract, the "Contract In-Service Date" shall be deemed to be January 1, 1997.
- 02/08/95: USAC has notified FPC that it is ready to conduct the performance test establishing the Commercial In-Service Status of the facility. FPC shall notify USAC within 15 days as to whether or not a performance test will be required.
- 02/08/95: Contract formally amended to clarify that, since USAC has been delivering energy from its facility to FPC for several years, the "written consent" prior to delivery requirement referred to in Section 6.4 of the Contract shall not be applicable.
- 02/08/95: Contract formally amended to clarify that, with above clarifications, the Security Guaranty of Article XIII of the Contract shall not be applicable to USAC.

• Committed Capacity

- 02/08/95: USAC and FPC mutually agree that USAC may exercise its option to increase or decrease the committed capacity by up to 10% at anytime during the calendar year 1997.



REGISTERED PROFESSIONAL ENGINEER
REGISTERED PATENT ATTORNEY

RICHARD A. ZAMBO, P.A.
ATTORNEYS AND COUNSELLORS
598 S.W. HIDDEN RIVER AVENUE
PALM CITY, FLORIDA 34990
(407) 220-9163

**February 8, 1995
VIA FEDERAL EXPRESS**

COGENERATION & ALTERNATIVE ENERGY
ENERGY REGULATORY LAW

**Mr. Robert D. Dolan
Manager, Cogeneration Department
Florida Power Corporation
3201 34th Street South
St. Petersburg, FL 33711**

Re: Standard Offer Contract For The Purchase Of Firm Capacity And Energy From A Qualifying Facility Less Than 75 MW or a Solid Waste Facility Between U.S. Agri-Chemicals Corporation and Florida Power Corporation ("Contract" or "Standard Offer")

Dear Mr. Dolan:

Further to the January 24, 1995 meeting between representatives of Florida Power Corporation (FPC) and U.S. Agri-Chemicals Corporation (USAC) (as well as several subsequent conversations), regarding the referenced Contract, this letter will memorialize the mutual understanding between FPC and USAC with respect to the interpretation and administration of certain provisions of the Contract. As pointed out in USAC's correspondence of November 14, 1994, transmitting the executed Standard Offer to FPC, some provisions of the Contract are rather ambiguous, especially with respect to Commercial In-Service Status and the Contract In-Service Date. Accordingly, in order to avoid any disagreement or misunderstanding in the future, USAC and FPC mutually agree as follows:

- USAC has chosen the "value of deferral payments" option, as set forth in Section 8.2.1 of the Contract, with capacity payments from FPC to USAC to begin after January 1, 1997. For purposes of the Contract, the "Contract In-Service Date" shall be deemed to be January 1, 1997.
- USAC's option to increase or decrease the committed capacity by up to 10%, as provided for in Section 7.2 of the Contract, may be exercised by USAC at any time during calendar year 1997.
- Because USAC is and has been delivering energy from its Facility to FPC for several years, the "written consent" prior to delivery of energy by USAC to FPC, referred to in Section 6.4 of the Contract, shall not be applicable.

Mr. Robert D. Dolan
February 8, 1995
Page 2

- Pursuant to Section 6.4 of the Contract, USAC hereby notifies FPC that it is ready to conduct the performance test establishing the Commercial In-Service Status of the Facility. Meter readings of energy deliveries from USAC's Facility to FPC for periods prior to the date of this letter may be used in lieu of a "performance test" at the option of FPC. FPC will notify USAC within 15 days as to whether or not a performance test will be required.
- The Security Guaranty of ^{Article XIII} Section 13.0 of the Contract shall not be applicable to USAC. *RAZ/PAL*

I believe this accurately reflects the mutual understanding of USAC and FPC with respect to the interpretation and administration of the Contract. To signify FPC's agreement with and acceptance of this understanding, please have this letter countersigned by the appropriate FPC representative.

If you have any questions, please do not hesitate to call.

Sincerely,

Richard A. Zambo
Richard A. Zambo
(For US Agri-Chemical Corporation)

RAZ/ms
xc: Mr. Steve Susick

Agreed to and accepted by Florida Power Corporation

By: *Philip C. Henry*
Name
S.R. Vice President
Title

2/21/95
Date

