

FLORIDA PUBLIC SERVICE COMMISSION
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Tallahassee, Florida 32399-0850

MEMORANDUM

JUNE 25, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF ELECTRIC & GAS (BASS, BALLINGER, BOHRMANN, BREMAN)^{Get} Tb
DIVISION OF AUDITING & FINANCIAL ANALYSIS (MAUREY, SLEMKEWICZ)^{APC 1972}
DIVISION OF RESEARCH & REGULATORY REVIEW (HARVEY, VINSON)^{ew}
DIVISION OF LEGAL SERVICES (ELIAS, JOHNSON, PAUGH)^{RVE}

RE: DOCKET NO. 970261-EI - FLORIDA POWER CORPORATION - REVIEW OF NUCLEAR OUTAGE AT FLORIDA POWER CORPORATION'S CRYSTAL RIVER UNIT 3

AGENDA: JUNE 26, 1997 - SCHEDULED HEARING DATE - DECISIONS ON STIPULATION PRIOR TO HEARING - PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\EAG\WP\970261EI.RCM

CASE BACKGROUND

At the February 19, 1997 hearing in Docket No. 970001-EI, the Commission voted to allow Florida Power Corporation (FPC) to recover, on an interim basis, a portion of the replacement fuel costs associated with the extended outage at FPC's Crystal River 3 nuclear generating unit. The interim recovery is subject to refund, with interest, pending the results of the investigation of the causes of the outage. This docket was opened to investigate the outage at FPC's Crystal River Unit 3 nuclear generating unit, including the specific actions and circumstances that led to the shut-down of the unit on September 2, 1996, and the reasons FPC determined it was necessary to keep the unit down for an extended outage. This docket was set for hearing on June 26 and 27, 1997. Prior to the prehearing scheduled in this docket, the Office of Public Counsel, the Florida Industrial Power Users Group, Attorney General Robert A. Butterworth, the Florida Consumers Action Network, the Lake Dora Harbour Homeowners Association were granted intervention in this docket. At the prehearing conference on June 17, 1997, the intervenors requested that the prehearing be continued to June 19, 1997 to allow additional time for settlement

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negotiations. The prehearing officer granted the request. At the start of the prehearing conference on June 19, 1997, the prehearing officer approved the intervention requests of Senator Charlie Crist and the American Association of Retired Persons. The parties then presented a Stipulation to the prehearing officer. Consideration of the Stipulation by the full Commission was scheduled for June 26, 1997, prior to the hearing. This is staff's recommendation on the Stipulation in this docket.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Stipulation (Attachment A) proposed by Florida Power Corporation, the Office of Public Counsel, the Florida Industrial Power Users Group, the Office of the Attorney General, Senator Charlie Crist, the Florida Consumers Action Network, the Lake Dora Harbour Homeowners Association, Inc. and the American Association of Retired Persons be approved?

RECOMMENDATION: Yes, the Stipulation resolving the issues related to the nuclear outage at Florida Power Corporation's Crystal River Unit 3 should be approved. Overall, the Stipulation achieves a reasonable balance between stockholder and ratepayer interests. The Commission should also direct Florida Power Corporation to file its next fossil-fueled plant dismantlement study by January 1, 2001.

STAFF ANALYSIS: Following is a summary of the proposed Stipulation:

Beginning with the first billing cycle in July 1997 or as soon thereafter as authorized by the Commission, Florida Power Corporation will cease collection of the currently authorized replacement fuel costs. In addition, FPC will at the same time refund with interest, as a one-time credit, the replacement fuel costs already collected. This amount is estimated to be approximately \$16.4 million. At the time the Crystal River Unit 3 is returned to service, FPC will begin recovering \$33.8 million in replacement fuel costs over a one-year period.

FPC will not be able to seek any increase in its base rates for four years, nor will other parties be able to petition for or support a reduction in base rates during that time. FPC will be allowed to establish a "regulatory asset" for the unrecovered replacement fuel costs and to amortize the "regulatory asset" on its books over four years.

FPC will be allowed to suspend its fossil dismantlement accruals for four years and apply the amount of such suspended accruals toward the amortization of the "regulatory asset". If the "regulatory asset" has been fully amortized, then the suspended accrual amounts will be used toward the amortization of the Tiger Bay Regulatory Asset established by the Commission in Docket No. 970097-EI.

FPC will be allowed to exclude the effects of the Stipulation in representing the company's capital structure in its

surveillance reports. The investment and operating expenses of Hines Unit 1 will also be reflected in the company's surveillance reports after that unit begins service.

Collectively, there are nine specific provisions included in the Stipulation. Following is staff's analysis of each section:

1. Termination of collections and provision for refunds. This section provides for the cessation of further recovery of replacement power costs, including accrued interest, associated with the current extended outage of Crystal River Unit 3 (CR3). This provision will be effective with the cycle 1 billings for the month of July 1997 or as soon thereafter as approval of the Stipulation is received. Additionally, as of such effective date, FPC will refund, through a one-time credit on its customers bills, all CR3 replacement power costs and related interest previously collected through the fuel adjustment clause. Thereafter, FPC shall exclude such replacement power costs from its fuel clause calculations by simulating the operation of its system as though CR3 were operational with a normal availability until the current extended outage has concluded.

It is staff's understanding that the replacement energy costs will be calculated using PROMOD-IV, which is a production cost model widely used throughout the electric utility industry. The proposed methodology includes a form of post-analysis while allowing an economic dispatch of the FPC system. Actual loads, plant maintenance, co-generation power, energy transactions, and fuel prices will be included in the analysis. A base study case with CR3 in its outage will be compared to a change case with CR3 on-line. The difference between the two study cases will determine the amount of replacement power costs that will be excluded from fuel cost recovery. Staff believes this is a reasonable approach to simulating the operation of FPC's system for determining the replacement fuel costs of CR3. However, staff notes that this calculation will need to be continually reviewed through fuel adjustment clause surveillance to ensure the reasonableness of the assumptions used by FPC to model the CR3 "normal operations" case.

2. Replacement power cost recovery established and postponed. This section provides for recovery through the fuel adjustment clause of \$33,791,000, plus accrued interest, for replacement power costs incurred in the months of September, October and November 1996. This amount will be collected over a 12-month period beginning with cycle 1 billings for the first month following the conclusion of the current extended outage.

Staff believes the postponement of the collection of these replacement fuel costs benefits FPC's ratepayers. Having the customers pay replacement fuel costs during a period of time when CR3 is on-line and system fuel costs are lower, mitigates the potential overall rate impact.

3. Four-year rate freeze. This section of the Stipulation provides for base rates to remain at their current levels during the four-year Amortization Period. It also provides that the other Parties will neither seek nor support any reduction in FPC's base rates or the authorized return on equity used for surveillance reporting purposes. Staff believes that this section of the Stipulation limits the actions that the Parties may take in the future, but does not limit the action which this Commission may take on its own motion. If the cost of equity declines or if earnings increase significantly, the Commission will still be able to take any appropriate action.

4. Establishment and amortization of regulatory asset. This section establishes a regulatory asset for the CR3 Replacement Power Costs. It also states that the Regulatory Asset will be amortized over a period of four years, "the Amortization Period". However, Florida Power may amortize the Regulatory Asset in less than four years, at its option. Several other sections of the Stipulation refer to the Amortization Period. We believe that the Amortization Period should be interpreted as a four year period, regardless of the actual length of time over which the Regulatory Asset is amortized.

5. Suspension of fossil dismantlement accruals. This portion of the Stipulation calls for a four year suspension of accruals to the reserve for the dismantlement of fossil-fueled generating stations. The four year suspension coincides with the amortization period of the CR3 Regulatory Asset and will begin with the July billing cycle. The \$17 million currently approved annual system dismantlement accrual (total of \$68 million on a system basis for a four year period) will instead be applied to the amortization of the CR3 Regulatory Asset. Once the asset is amortized, FPC will then apply the accrual dollars to the amortization of the Tiger Bay Regulatory Asset approved in Order No. PSC-97-0652-POF-EI. As a clarification, the minimum annual amortization amount FPC will record in each year of the amortization period is \$17 million, the amount of the suspended dismantlement accrual.

The Stipulation further defers FPC's next fossil dismantlement study from November, 1997 until the end of the amortization period and base rate freeze. In order for a new

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accrual to be approved for implementation on July 1, 2001, staff recommends that FPC be directed to file its next dismantlement study by January 1, 2001.

Also, the Stipulation prohibits any reserve deficiency attributed to the estimated \$68 million dismantlement accrual suspension from being included in any future base rate proceeding initiated by FPC. It is staff's understanding, however, that any such amount will be included for surveillance purposes. Furthermore, if another party initiates a base rate proceeding, recovery of the deficiency in base rates is not precluded.

The Commission should also be aware that there remains a question as to the mechanics that will be used in determining the existence of any such reserve deficiency. Regardless, this concern does not have to be addressed at this time, but will be addressed as part of the Company's next submitted dismantlement study. The Company did not have a specific method to calculate a deficiency. Rather, this provision is considered a consumer safeguard at a conceptual level. The Company stated that the 1997 study will be the predominant factor in determining whether a deficiency exists. The determination of a deficiency, if any, may be subject to dispute.

6. Adjustment to reported capital structure. This provision states the effect of the amortization of the CR3 Regulatory Asset, as well as the write-off of the additional operating and maintenance expenses associated with the current extended outage of CR3, on FPC's capital structure shall be excluded in calculating its common equity capitalization ratios used for purposes of surveillance reporting pursuant to Rule 25-6.1352, F.A.C. The full amortization of the CR3 regulatory asset and additional operating and maintenance expense serves to reduce equity by about \$106 million. However, it should be pointed out that the Company has other means to increase equity including reduction of dividends, parent equity infusion and future earnings.

Basically, the adjustment discussed in section 6 will allow FPC to adjust the balance of common equity in its capital structure to produce the same level that existed prior to the Stipulation. In other words, for surveillance purposes the equity balance will be adjusted to reverse the incremental change in net income resulting from the write-off and charges embodied in the Stipulation. The method was not addressed in the Stipulation. The Company provided staff an analysis that essentially would impute not only equity but all sources of capital to a pre-Stipulation basis.

Section 6 is also silent with respect to how long this adjustment will be made. The parties indicate it is contemplated within the Stipulation that this adjustment may continue beyond the four year amortization period. The only two events mentioned by the Company which would trigger an end to this adjustment after the conclusion of the four year amortization period would be a rate proceeding or a change in the law ordering industry restructuring. Staff believes the Commission should be aware that under the Stipulation, this adjustment may continue for a number of years after the four year amortization period has concluded.

Because of this adjustment, the Company's actual return on equity (ROE) will be higher than the return reported for surveillance purposes. For this reason, it is possible that the Company could earn above the authorized ROE of 13% on an actual basis even though the return reported for surveillance purposes does not exceed the top of the allowed range. This provision indirectly increases the Company's authorized ROE by approximately 20 basis points with a revenue requirement effect of about \$5.3 million.

7. Hines 1 costs and surveillance reports. This section provides that capital costs and operating and maintenance expenses associated with Hines 1, when placed in service, shall be considered legitimate utility costs for purposes of surveillance reporting. It is staff's understanding that the prudence of the capital costs and operating and maintenance expenses associated with Hines 1 will be determined at such time that FPC seeks to include them for rate base recovery.

8. Resolution of disputed regulatory issues. This section states that the Stipulation resolves all present and future disputed issues between the Parties regarding the current extended outage of CR3.

9. Dismissal of pending litigation. This section provides that upon approval of the Stipulation, Senator Charlie Crist shall promptly take all appropriate steps and file all appropriate pleadings to effectuate a dismissal of his complaints pending before the Sixth Judicial Circuit and the Supreme Court of Florida.

Conclusion

This Stipulation will probably have an effect on implementation of the Tiger Bay settlement in Docket No. 970096-EI. That settlement provided the Company an opportunity to accelerate the write off of the Tiger Bay regulatory asset. The increased downward pressure on earnings associated with the CR3 Stipulation

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may induce the Company to not accelerate the Tiger Bay amortization which would defer the rate reduction anticipated with its full amortization.

In summary, staff believes the CR3 Stipulation is in the public interest. Consumers will realize about a \$135 million savings in the fuel adjustment clause. There may be some negative effects associated with the imputed equity ratio, deferred dismantlement costs and interaction with the Tiger Bay surcharges. It appears, however, that the known benefits outweigh any potential negative effects. The Company has assumed responsibility for a significant share of the CR3 costs.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes.

STAFF ANALYSIS: The Stipulation resolves all issues in this docket. Therefore, the docket should be closed.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of nuclear outage
at Florida Power Corporation's
Crystal River Unit No. 3.

Docket No. 970261-EI

STIPULATION

This Stipulation is entered into as of June 19, 1997 between Florida Power Corporation ("Florida Power"), the Attorney General of the State of Florida, Charlie Crist, the Office of Public Counsel, the Florida Consumers Action Network, the Lake Dora Harbour Homeowners Association, Inc., the American Association of Retired Persons, and the Florida Industrial Power Users Group (collectively, "the Parties").

PREAMBLE

WHEREAS, the current extended outage of the Crystal River 3 nuclear plant (CR3) will result in replacement fuel costs of approximately \$170 million plus accrued interest through the end of 1997 when the unit is expected to return to service, which Florida Power contends it is entitled to recover from customers through its Retail Fuel and Purchased Power Cost Recovery Clause ("Fuel Clause") and which the other Parties dispute;

WHEREAS, Florida Power estimates that it will incur additional operating and maintenance expenses associated with the extended outage of CR3 of between \$80 to \$100 million and additional capital costs of between \$30 to \$45 million, all or portions of which Florida Power may assert the right to recover through increased base rate charges;

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WHEREAS, based on the above, current estimates indicate that the extended outage of CR3 will result in total expenditures by Florida Power of between \$280 to \$315 million if the unit returns to service when expected, which could substantially and adversely affect the rates paid by customers whose interests are represented by the other Parties;

WHEREAS, the Parties desire to maintain Florida Power's existing base rates at their existing levels for a period of at least four years (without limiting Florida Power's ability to seek a base rate reduction), even as its new natural gas-fired combined cycle generating unit, Unit 1 of the Hines Energy Complex in Polk County ("Hines 1"), with an estimated construction cost of \$292 million and an annual revenue requirement of approximately \$59 million, is expected to begin commercial operation in October 1998; and

WHEREAS, in view of the magnitude of the costs associated with CR3's current outage and the potential impact of these costs on the rates of Florida Power's customers, the Parties desire to mitigate this potential rate impact by agreeing to an arrangement that limits Florida Power's recovery of costs associated with the current extended outage of CR3, through either Fuel Clause or base rate increases, to \$33.8 million plus accrued interest, while affording Florida Power the ability to absorb the remainder of these costs, as well as the risk that CR3 will not return to service as scheduled, through its existing base rates in a manner that provides opportunities to protect its financial integrity.

NOW THEREFORE, in consideration of the foregoing and the mutual promises and covenants below, the Parties hereby stipulate and agree as follows:

1. **Termination of collections and provision for refunds.** Effective with cycle 1 billings for the month of July 1997 or as soon thereafter as approval of this Stipulation is received, Florida Power shall cease any further recovery through its Fuel Clause of the replacement power costs, including accrued interest, associated with the current extended outage of CR3 ("the CR3 Replacement Power Costs"), except as set forth in paragraph 2 below. As of such effective date Florida Power shall also refund, through a one-time credit on its customers' bills, all CR3 Replacement Power Costs and related interest previously recovered through the Fuel Clause. Thereafter, Florida Power shall exclude such replacement power costs from its Fuel Clause calculations by simulating the operation of its system as though CR3 were operational with a normal availability until the current extended outage has concluded. For purposes of this Stipulation, the outage shall be deemed concluded when the unit has completed 14 continuous days of full power operations; provided, however, that if CR3 should experience a forced outage prior to the completion of 14 days of continuous full power operations, Florida Power shall have the opportunity and the burden of proof to demonstrate that the forced outage occurred for reasons independent of the activities undertaken during the current extended outage, in which case the extended outage shall be deemed concluded immediately prior to the forced outage.

2. **Replacement power cost recovery established and postponed.** Effective with cycle 1 billings for the first month following the conclusion of the current extended outage, Florida Power shall be entitled to recover through its Fuel Clause over a 12-month period the portion of the CR3 Replacement Power

Costs attributable to the months of September, October and November 1996 in the amount of \$33,791,000, plus accrued interest, which shall be deemed reasonable and prudent for Fuel Clause purposes.

3. **Four-year rate freeze.** The existing base rates of Florida Power shall remain at their current levels during the four-year Amortization Period, as defined in paragraph 4 below. Furthermore, during the Amortization Period Florida Power will not seek to increase its various cost recovery clauses factors to recover (1) the capital costs and non-fuel operating and maintenance expenses of Hines 1, or (2) the additional capital costs and non-fuel operating and maintenance expenses associated with the current extended outage of CR3. The other Parties will neither seek nor support any reduction in Florida Power's base rates or the authorized range of its return on equity used for surveillance reporting purposes during this same time period unless such reduction is sought by Florida Power. After the expiration of the Amortization Period, any of the Parties shall be free to seek changes in Florida Power's base rates or return on equity range, except that CR3's additional capital costs and non-fuel operating and maintenance expenses referred to above shall not be included as an investment or expense in any future proceeding initiated by Florida Power to establish base rates; however, such additional costs and expenses shall be included for purposes of surveillance reporting pursuant to Rule 25-6.1352, F.A.C.

4. **Establishment and amortization of regulatory asset.** The CR3 Replacement Power Costs, except those recovered pursuant to paragraph 2 above, shall constitute a regulatory asset ("the CR3 Regulatory Asset") and shall be recorded in Account 182.3, *Other Regulatory Assets*. The CR3 Regulatory

Asset shall be amortized over a period of four years beginning with the date when recovery of the CR3 Replacement Power Costs ceases pursuant to paragraph 1 above ("the Amortization Period"). Florida Power may, at its option, accelerate the write-off of the CR3 Regulatory Asset. Both the amortization expense and the unamortized balance of the CR3 Regulatory Asset in accordance with this Stipulation shall be included for purposes of surveillance reporting pursuant to Rule 25-6.1352, F.A.C.

5. Suspension of fossil dismantlement accruals. In order to fund a portion of the amortization of the CR3 Regulatory Asset, Florida Power shall temporarily suspend accruals to its retail reserve for fossil plant dismantlement costs during the Amortization Period and apply the amount of such suspended accruals toward the amortization of the CR3 Regulatory Asset or, if fully amortized, then toward the amortization of the Tiger Bay Regulatory Asset established by the Commission in Docket No. 970097-EI. In lieu of the fossil plant dismantlement cost study due in 1997, Florida Power shall submit to the Commission an updated dismantlement study prior to the end of the Amortization Period for use by the Commission in establishing a revised accrual to the fossil dismantlement reserve for application after the Amortization Period. Any increase in either rate base or in the revised accrual due to a deficiency in the fossil dismantlement reserve resulting from the suspension of the accrual shall not be included as an investment or expense in any future proceeding initiated by Florida Power to establish base rates.

6. Adjustment to reported capital structure. In order that Florida Power's financial performance not be distorted in the future, the effect of the

amortization of the CR3 Regulatory Asset, as well as the write-off of the additional operating and maintenance expenses associated with the current extended outage of CR3, on Florida Power's capital structure shall be excluded in calculating its common equity capitalization ratios used for purposes of surveillance reporting pursuant to Rule 25-6.1352, F.A.C.

7. **Hines 1 costs and surveillance reports.** The retail portion of the capital costs and operating and maintenance expenses associated with Hines 1, including all site development costs, shall be considered legitimate utility costs for purposes of surveillance reporting pursuant to Rule 25-6.1352, F.A.C. when the related assets are placed in service.

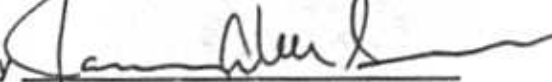
8. **Resolution of disputed regulatory issues.** This Stipulation resolves all present and future disputed issues between the Parties regarding the current extended outage of CR3.

9. **Dismissal of pending litigation.** In consideration of the benefits derived by the customers of Florida Power, upon approval of this Stipulation, Charlie Crist shall promptly take all appropriate steps and file all appropriate pleadings to effectuate a dismissal with prejudice of his complaint in the matter of *Charlie Crist vs. Florida Power Corporation*, Case No. 97-2251-CI-013, pending before the Sixth Judicial Circuit, and his petition in the matter of *Charlie Crist, Jr. vs. Julia L. Johnson, et al.*, Case No. 90,346, pending before the Supreme Court of Florida.

10. **Commission approval.** This Stipulation is contingent on the entry of an order by the Commission approving the Stipulation in its entirety and authorizing the fuel cost recovery and regulatory treatment set forth herein.

11. **Execution.** This Stipulation may be executed in counterpart originals. A facsimile of an original signature shall be deemed an original.

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