

RUTLEDGE, ECENIA, PURNELL & HOFFMAN

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

ORIGINAL

STEPHEN A. ECENIA
JOHN R. ELLIS
KENNETH A. HOFFMAN
THOMAS W. KONRAD
MICHAEL G. MAIDA

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788
TELECOPIER (850) 681-6515

J. STEPHEN MENTON
R. DAVID PRESCOTT
HAROLD F. X. PURNELL
GARY R. RUTLEDGE
GOVERNMENTAL CONSULTANTS
M. LANE STEPHENS

February 23, 2001

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, Florida 32399-0850

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RECORDS AND
REPORTING

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Re: Petition of Florida Power & Light Company for a waiver of certain requirements of Rule 25-6.0436, F.A.C. as they apply to the filing of Florida Power & Light Company's Depreciation Study

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Florida Power & Light Company ("FPL) are the original and fifteen copies of FPL's Petition for a Waiver.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

Sincerely,

Martin P. McDonnell

Martin P. McDonnell

MPM/rl
Enclosures
Trib.3

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

02556 FEB 23 01

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition of Florida Power & Light Company)
for a waiver of certain requirements of Rule)
25-6.0436, F.A.C. as they apply to the filing of)
Florida Power & Light Company's Depreciation)
Study.)
_____)

Docket No. 02556

Filed: February 23, 2001

**FLORIDA POWER & LIGHT COMPANY'S
PETITION FOR A WAIVER**

Pursuant to Section 120.542, Florida Statutes (1999) and Rules 28-104.002 and 25-6.0436, Florida Administrative Code, Florida Power & Light Company ("FPL") hereby petitions the Florida Public Service Commission ("Commission" or "PSC") for a waiver of certain requirements of Rule 25-6.0436, Florida Administrative Code, as they apply to FPL's requirement to file a study for each category of its depreciable property for Commission review within four years from the submission date of the previous study unless otherwise required by the Commission. Specifically, FPL petitions for a waiver of the requirement set forth in paragraph 8(a) of Rule 25-6.0436 to file the comprehensive depreciation study within four years from the last filing, and requests that the Commission allow FPL to file its depreciation study as mandated by Rule 25-6.0436 on or before April 30, 2002, rather than on or before December 26, 2001. For the reasons stated herein, requiring FPL to file the depreciation study within four years of the filing of the previous depreciation study would create a financial hardship and would violate principles of fairness. FPL notes that it intends to comply with all other filing requirements of paragraph (6) of Rule 25-6.0436, as it has in the past.

In support of this Petition, FPL states as follows:

DOCUMENT NUMBER-DATE

02556 FEB 23 01

FPSC-REGS/REPORTING

1. The Petitioner's name, address, telephone number and facsimile number are:

Florida Power & Light Company
9250 West Flagler Street
Miami, Florida 33174
(305) 552-4790 (Telephone)
(305) 552-2031 (Facsimile)

2. All pleadings, notices, staff recommendations, orders or other documents required to be served, filed by any party or issued by the Commission in this proceeding shall be forwarded to the following individuals:

W. G. Walker, III
Vice President, Regulatory Affairs Dept.
Florida Power & Light Company
215 South Monroe Street
Suite 800
Tallahassee, Florida 32301-1859
(850) 224-7517 (Telephone)
(850) 224-7197 (Facsimile)

Kenneth A. Hoffman, Esq.
Martin P. McDonnell, Esq.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
P. O. Box 551
Tallahassee, Florida 32302
(850) 681-6788 (Telephone)
(850) 681-6515 (Facsimile)

A. BACKGROUND

3. Rule 25-6.0436(6), F.A.C. requires every investor-owned utility in Florida to file depreciation studies. Pursuant to the rule, each comprehensive depreciation study shall include:

- (a) A comparison of current and proposed depreciation rates and components for each category of depreciable plant. Current rates shall be identified as to the effective date and proposed rates as to the proposed effective date.

- (b) A comparison of annual depreciation expense as of the proposed effective date, resulting from current rates with those produced by the proposed rates for each category of depreciable plant. The plant balances may involve estimates. Submitted data including plant and reserve balances or company planning involving estimates shall be brought to the effective date of

the proposed rates.

(c) Each recovery and amortization schedule currently in effect should be included with any new filing showing total amount amortized, effective date, length of schedule, annual amount amortized and reason for the schedule.

(d) A comparison of the accumulated book reserve to the prospective theoretical reserve based on proposed rates and components for each category of depreciable plant to which depreciation rates are to be applied.

(e) A general narrative describing the service environment of the applicant company and the factors, e.g., growth, technology, physical conditions, necessitating a revision in rates.

(f) An explanation and justification for each study category of depreciable plant defining the specific factors that justify the life and salvage components and rates being proposed. Each explanation and justification shall include substantiating factors utilized by the utility in the design of depreciation rates for the specific category, e.g., company planning, growth, technology, physical conditions, trends. The explanation and justification shall discuss any proposed transfers of reserve between categories or accounts intended to correct deficient or surplus reserve balances. It should also state any statistical or mathematical methods of analysis or calculation used in design of the category rate.

(g) The filing shall contain all calculations, analysis and numerical basic data used in the design of the depreciation rate for each category of depreciable plant. Numerical data shall include plant activity (gross additions, adjustments, retirements and plant balance at end of year) as well as reserve activity (retirements, accruals for depreciation expense, salvage, cost of removal, adjustments, transfers and reclassifications and reserve balance at end of year) for each year of

activity from the date of the last submitted study to the date of the present study. To the degree possible, data involving retirements should be aged.

(h) The mortality and salvage data used by the company in the depreciation rate design must agree with activity booked by the utility. Unusual transactions not included in life or salvage studies, e.g., sales or extraordinary retirements, must be specifically enumerated and explained.

4. In compliance with paragraph (6) of Rule 25-6.0436, FPL filed its last comprehensive depreciation study on December 26, 1997. Because FPL's fiscal year coincides with the calendar year, the depreciation study filed on December 26, 1997 contained FPL's estimates of additions and retirements closed to plant-in-service and depreciation reserve as of December 31, 1997. Subsequently, on March 31, 1998, FPL again filed a comprehensive depreciation study, identical in most respects to the comprehensive depreciation study filed in December of 1997, except the study filed on March 31, 1998 contained actual additions and retirements closed to plant-in-service and depreciation reserve for calendar year 1997.

5. On January 8, 1999, in Order No. PSC-99-0073-FOF-EI, the PSC issued its Notice of Proposed Agency Action Order approving Final Depreciation Rates for FPL. The Order approved the final depreciation rates for FPL based upon the depreciation studies filed above.

6. Rule 25-6.0436(8)(a), F.A.C. states:

Each company shall file a study for each category of depreciable property for Commission review at least once every four years from the submission date of the previous study unless otherwise required by the Commission.

Pursuant to paragraph (8)(a), a comprehensive depreciation study must be filed, in the absence of a waiver, by FPL on or before December 26, 2001.

B. SPECIFIC FACTS JUSTIFYING A WAIVER OF THE REQUIREMENTS OF RULE 25-6.0436(8)(A) OBLIGATING FPL TO FILE ITS DEPRECIATION STUDY WITHIN FOUR YEARS OF DECEMBER 26, 1997

7. On December 26, 1997, FPL filed its comprehensive depreciation study with the Commission in accordance with Rule 25-6.0436. The filing included depreciation studies for all of FPL's power plant sites which consisted of forty-one (41) separate individual depreciation studies for the generating units, including the related common facilities. Also included in the depreciation filings were 34 studies supporting rates at the plant account level for transmission, distribution, and general plant assets. The studies contained the following information pertaining to each power plant unit and plant account: a calculation of annual accrual, a calculation of annualized depreciation, a calculation of theoretical reserves/reserve allocation, a summary forecast analysis, a detailed forecast analysis, and an interim cost of removal and salvage analysis. The filing, in all respects, complied with all Commission rules and regulations. However, all depreciation studies filed on December 26, 1997 used estimated plant-in-service and reserve balances for 1997 because FPL's fiscal year ended December 31, 1997. Therefore, actual 1997 plant-in-service and reserve balances had not been determined by the time of the mandatory filing of the comprehensive depreciation study. The depreciation study filed on December 26, 1997 contained approximately 24,000 pages of documents (16 copies of approximately 1500 pages of depreciation studies).

8. On March 31, 1998, FPL again filed a complete comprehensive depreciation study essentially mirroring the study filed on December 26, 1997. The March 1998 filing contained actual plant-in-service and depreciation reserve balances as opposed to estimates.

9. As the Commission held in Order No. PSC-99-0073-FOF-EI, depreciation studies filed by FPL in December 1997 and March 1998, taken together, fully complied with Rule 25-

6.0436.

10. FPL respectfully asserts that the filing of two comprehensive depreciation studies for the calendar year 1997, one containing estimated depreciation data and one containing actual depreciation data, resulted in significant and unnecessary duplication of effort, and caused significant and unnecessary duplicative labor costs.

C. THE REQUESTED WAIVER MEETS THE REQUIREMENTS OF SECTION 120.542(2), FLORIDA STATUTES

Section 120.542(2), Florida Statutes (1999), provides:

(2) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and one application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

D. THE REQUESTED WAIVER SERVES THE PURPOSES OF THE UNDERLYING STATUTES

11. Rule 25-6.0436, Florida Administrative Code, implements a number of Florida Statutes including sections 350.115 and 366.06(1). Section 350.115 authorizes the Commission to "prescribe by rule uniform systems and classifications of accounts for each type of regulated company and approve or establish adequate fair and reasonable depreciation rates and charges." Section 366.06(1) authorizes the Commission to "investigate and determine the actual legitimate costs of the property of each utility company, actually used and useful in the public service, and to keep a current record of the net investment of each public utility company and such property which

value, as determined by the Commission, shall be used for ratemaking purposes and shall be the money honestly and prudently invested by the public utility company in such property used and useful in serving the public, less accrued depreciation and shall not include any good will or going concern value or franchise value in excess of the payment made therefor."

12. Rule 25-6.0436(6) implements the above-referenced statutory authority and requirements. The waiver sought by FPL pursuant to this Petition serves the purposes of the underlying statutes by providing the data required by the Commission rule which is necessary to meet the requirements of the Rule on a cost effective basis. The granting of the waiver requested herein would allow for a more economic and cost effective filing of the depreciation study mandated by the Rule. In addition, the granting of the waiver requested herein may lessen the work load on Commission staff.

13. FPL is seeking the granting of a waiver on a one time basis only. If the Commission grants this waiver, FPL will be able to comply with the four year requirement in the future in a timely, cost-effective and accurate manner in accordance with its accounting methods and actual fiscal year. For example, if the Commission were to grant a waiver of the filing of the comprehensive depreciation study until April 30, 2002, FPL's actual data filed for the fiscal year would allow FPL to comply with paragraph 8(a) by filing a single complete and accurate depreciation study by April 30, 2006.

E. FAILURE TO GRANT THE REQUESTED WAIVER WOULD CREATE A SUBSTANTIAL ECONOMIC HARDSHIP

14. As demonstrated above, the failure to grant the requested waiver would create a substantial economic hardship for FPL and its ratepayers by requiring FPL to incur the significant

additional expenses of filing a proposed depreciation study on or before December 26, 2001, using estimated plant-in-service and depreciation reserve data, and a second, almost duplicative depreciation study using actual 2001 data, in April 2002. Apart from the economic hardship demonstrated herein, a strict application of Rule 25-6.0436(8)(a) would force FPL to continue to engage in needless duplicative efforts to file two full sets of a depreciation study.

F. FAILURE TO GRANT THE REQUESTED WAIVER WOULD VIOLATE PRINCIPLES OF FAIRNESS

15. As an investor-owned utility, FPL must and does fully comply with all regulatory rules promulgated by the Commission. As stated above, to force FPL to continuously comply with Rule 25-6.0436(8)(a) would essentially force FPL to continue to needlessly expend monies and manpower for the unnecessary duplication of filing two separate depreciation studies every four years, although the rule only mandates one single depreciation study.

16. Filing two comprehensive depreciation studies causes economic hardship to FPL and forces FPL to unnecessarily pass on additional costs to its customers.

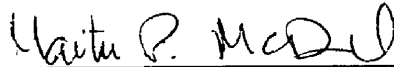
WHEREFORE, FPL respectfully requests the Commission:

A. To grant a waiver of the above-specified requirements of Rule 25-6.0436(8)(a), Florida Administrative Code;

B. Authorize FPL to file with the Commission a depreciation study in compliance with Rule 25-6.0436(6) no later than April 30, 2002;

C. Order, in the granting of the waiver, that FPL comply with the four-year reporting requirement of Rule 25-6.0436(8)(a), Florida Administrative Code, in all future years.

Respectfully submitted,



MARTIN P. MCDONNELL, ESQ.
Rutledge, Ecenia, Purnell & Hoffman, P.A.
215 South Monroe Street, Suite 420
Tallahassee, FL 32301
(850) 681-6788 (telephone)
(850) 681-6515 (telecopier)

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