

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light

Docket No. 000824-EI

Submitted for filing:
October 23, 2001

RESPONSE TO CITIZENS FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO FPC

Pursuant to § 350.0611(1), Fla. Stat. (2000), Fla. Admin. Code R. 28-106.206, and Fla. R. Civ. P. 1.350, Florida Power Corporation, ("FPC") responds to Florida's Citizens ("Citizens") First Set of Requests for Production and states as follows:

GENERAL OBJECTIONS

FPC objects to the request that documents be produced at the Office of Public Counsel, Claude Pepper Building, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400. FPC is required only to produce documents at a reasonable time, place and manner.

FPC objects to any request that calls for the production of documents protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time the response is first made to these requests or is later determined to be applicable based on the discovery of documents, investigation or analysis. FPC in no way intends to waive any such privilege or protection.

In certain circumstances, FPC may determine upon investigation and analysis that documents that respond to certain requests to which objections are not otherwise asserted are

confidential and proprietary and should be produced only under an appropriate confidentiality agreement and protective order, if at all. By agreeing to produce documents in response to this request, FPC is not waiving its right to insist upon appropriate protection of confidentiality by means of a confidentiality agreement and protective order. FPC hereby asserts its right to require such protection of any and all documents that may qualify for protection under the Florida Rules of Civil Procedure and other applicable statutes, rules and legal principles.

FPC further objects to these requests and any definitions or instructions that purport to expand FPC's obligations under applicable law.

FPC objects to any request that requires the production of "all" or "each" as it cannot give assurances, even after a good faith and reasonably diligent attempt, that "all" or "each" responsive document will be found. Indeed, it may well be impossible to assure compliance with the exercise of reasonable diligence.

FPC incorporates by reference all of the foregoing general objections into each of its specific objections set forth below as though pleaded therein.

SPECIFIC OBJECTIONS

Definitions

FPC objects to the definition of "FPC", "you", "your" or the "Company" as including Florida Progress Corporation, Progress Energy, Inc., and Progress Energy Service Company, LLC. FPC does not have an obligation under the rules to produce materials in the hands of these companies, but FPC agrees to do so in any event to expedite discovery, to the extent such documents are relevant to the issues in this case. FPC reserves the right to decline to produce any materials that are not pertinent to the issues in the case. FPC further objects to the definition

of "FPC", "you", "your" or the "Company" to the extent it includes third parties whose documents are not within its possession, custody, or control.

FPC objects to the definition of the term "management" or "manager" as overbroad and ambiguous. FPC will attribute the usual and customary meaning of this word to its use in these requests.

Instructions

FPC objects to the instructions calling upon FPC to provide designated information regarding any documents withheld from production. FPC will comply with its obligations under applicable rules of procedure.

FPC objects to the instruction to produce "originals" to the extent it purports to expand FPC's obligations under the Uniform Rules and Florida Rule of Civil Procedure 1.350. FPC will comply with all applicable rules.

Documents Requested

1. Please provide all work papers in your possession, custody or control underlying schedules B-1 through B-30 (i.e. all schedules in section B), schedules C-1 through C-66 (i.e. all schedules in section C), and schedule F-17 of your minimum filing requirements, and all documents in your possession, custody or control commenting on, analyzing or evaluating any of these schedules.

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

2. Please provide each document in your possession custody or control showing, analyzing, discussing, or evaluating projected revenues, expenses, income, budgets, return on equity, return on capital, or plant additions for Florida Power Corporation during all or part of the years 2001, 2002, 2003, 2004 and 2005. This request includes all such

documents created by, or provided to, any manager at FPC, but excludes documents neither created by or nor provided to any manager. The request also includes all documents showing, analyzing, discussing, or evaluating any assumptions underlying the projections.

FPC objects to this request to the extent it seek materials pre-dating the 2000 test year as irrelevant, immaterial, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

3. Please provide each document in your possession custody or control showing, discussing or analyzing variances between actual and projected expenses, revenues, or income during the years 2000 and 2001. This request includes, but is not limited to, all monthly, quarterly, or year end variance reports of any sort that are reviewed by or provided to management.

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

4. Please provide each document in your possession custody or control evaluating, forecasting or discussing projected or actual expense savings or expense increases resulting from the merger. This request includes, but is not limited to, comparisons of actual or projected expenses with and without the merger.

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

5. Please provide each document in your possession custody or control evaluating, forecasting or discussing projected or actual expense savings or expense increases that would or might have occurred had the merger not taken place.

FPC does not believe it has any documents responsive to this request.

6. Please provide the review of business practices mentioned in the prefiled testimony of Mr. Myers at page 22, line 15, and please provide each document in your possession, custody or control discussing, evaluating, or following up on that review of business practices.

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

7. Please provide each document in your possession, custody or control distinguishing, discussing, or evaluating which costs or cost savings related to the merger are recurring and which costs or cost savings related to the merger are non-recurring.

Documents being produced in response to these discovery requests address ongoing synergy savings arising out of the merger.

8. Please provide each document in your possession, custody or control related to the cost savings realized or expected from the merger for any of the businesses mentioned in the prefiled direct testimony of Dr. Vander Weide at page 4, line 22, through page 5, line 10.

FPC objects to this request as irrelevant, immaterial, overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. FPC has provided the total gross cost savings figures anticipated by the collective companies identified by Dr. Vander Weide. FPC has also provided a detailed analysis of the cost-savings that will be derived from FPC and broken it down by source in Mr. Myers pre-filed testimony at page 15. The remainder of the cost savings that are not attributable to FPC are irrelevant to this proceeding as it occurs in connection with non-regulated entities or CP&L, which is not regulated by this Commission.

9. Please provide each document in your possession, custody or control discussing, analyzing or evaluating the allocation of actual or expected cost savings from the merger among or between any of the companies affiliated or related to Progress Energy, Inc.

FPC will produce documents responsive to this request for FPC by making them available at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties. As to the other non-regulated companies affiliated or related to Progress Energy, Inc., FPC objects to this request as irrelevant, immaterial, overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. FPC has provided the total gross cost savings figures anticipated by the companies related to Progress Energy Inc. FPC has also provided a detailed analysis of the cost-savings that will be derived from FPC and broken it down by source in Mr. Myers pre-filed testimony at page 15.

10. Please provide all work papers underlying the factors and allocators used in your September 14, 2001 filing to allocate expenses between the wholesale and retail

jurisdiction, and please provide each document in your possession, custody or control discussing, analyzing, evaluating, questioning or critiquing the factors and allocators used in the filing.

Documents responsive to this request were filed with the Public Service Commission on September 14, 2001.

11. Please provide all budget and financial forecast instructions, budget and financial directives, and budget and financial forecast manuals in your possession, custody or control. This request includes, but is not limited to, documents pertaining to budget and financial forecast procedures, policies, assumptions.

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

12. Please provide all management, performance, and internal audits of Florida Power Corporation, and the reports of the audits related to Florida Power Corporation, that were completed or conducted in whole or part since January 1, 1999.

FPC objects to this request as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, FPC will produce a list of internal audits and make such audits as might reasonably be identified and relevant available for review at the at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

13. Please provide all manuals and other documents in your possession, custody or control relating to the allocation of costs between your affiliated companies, and please provide all manuals and other documents related to the treatment and accounting for inter-company transactions. This request is intended to produce all such documents that relate generally to your affiliated companies, as well as all such documents specifically relating to the calendar years 2000, 2001, or 2002.

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

14. Please provide the most recent outside audit of Florida Power Corporation and the audit for calendar year 2000, along with the auditor's work papers for these audits. Please also provide each prepared by client (PBC) document or work paper prepared at the request of or for your outside auditors for these audits, as well as all correspondence and memoranda regarding the preparation, responsibility, accuracy, or adequacy of the PBC documents or work papers.

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties to the extent they are in FPC's possession, custody and control.

15. Please provide each unadjusted or preliminary run of the year-end trial balance for Florida Power Corporation, all adjustments thereto, and the resulting adjusted post closing trial balance for the years 1999, 2000, and 2001.

FPC objects to this request's incorporation of 1999 which is not a test-year and the rates for which are not a subject of this proceeding. Without waving this objection, FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

16. Please provide each document in your possession, custody or control discussing, evaluating, analyzing, or commenting on the way your electric utility business may be regulated in the future. This includes, but is not limited to, all short term and long term analyzes of the type of rate regulation to which you may be subject in the future, all analyzes of possible earnings sharing mechanisms to which you might be subject, and all analyzes relating possible changes in regulation contained in your long term strategic or other plans.

FPC objects to this request. The future of electric utility rate regulation in the State of Florida is speculative, at best, and wholly irrelevant and clearly outside the scope of this case, which is a proceeding concerning FPC's rates in the context of the current statutory and regulatory scheme.

17. Please provide each document in your possession, custody or control discussing or analyzing the treatment of merger related costs or savings by public utility commissions. For the purpose of this request the term "merger" is used in its general sense, rather than in the sense of the specific merger related to FPC.

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

18. Please provide each document in your possession, custody or control provided to any member of the North Carolina Utilities Commission, its staff, or the public staff related to the merger.

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties.

19. Please provide each document in your possession, custody or control discussing or evaluating the policy of the Florida Public Service Commission regarding acquisition adjustments.

FPC will make documents responsive to this request available for review at the offices of Carlton Fields in St. Petersburg, Florida at a time convenient to the parties. FPC also refers OPC to its response to request number 17 above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of foregoing has been furnished via U.S. Mail to the following this __ day of October, 2001.

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