

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power Corporation for approval of a negotiated cogeneration contract with Pasco County.)	DOCKET NO. 890598-EQ
)	ORDER NO. 21866
)	ISSUED: 9-11-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING NEGOTIATED COGENERATION CONTRACT
BETWEEN FLORIDA POWER CORPORATION
AND PASCO COUNTY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On April 28, 1989, Florida Power Corporation (FPC) filed a petition requesting approval for cost recovery purposes of a negotiated contract for the purchase of capacity and energy from Pasco County. The proposed contract arises as a result of Pasco County's plans to build, operate and maintain a solid waste facility which would be a Qualifying Facility (QF) pursuant to Rule 25-17.08, Florida Administrative Code. The proposed facility is to have an installed capacity of 30 megawatts of which Pasco intends to sell 23 megawatts to FPC. Pasco County was granted a determination of need for this facility on June 26, 1987. In re: Petition of Pasco Co. for the determination of need for a solid waste-fired cogeneration power plant, Order No. 17752, issued on June 26, 1987.

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FPSC-RECORDS/REPORTING

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Since the solid waste facility will be owned by Pasco County, the county will be entitled to the favorable treatment afforded by Rule 25-17.091, Florida Administrative Code, which contains special provisions re solid waste facilities. These special provisions allow for removal of the 20% risk factor, levelization of capacity payments, and removal of a surety bond requirement for early capacity payments.

Although the negotiated contract is equal to the statewide standard offer, absent the risk factor, it's total present worth value is approximately \$4.9 million greater than FPC's own avoided cost. This is due to the fact that the statewide avoided unit is based on a coal unit with relatively high capital costs and low fuel costs while FPC is currently planning to construct combustion turbine units with low capital costs but higher fuel costs. On the other hand, the contract conforms with Commission Rules 25-17.080 through 25-17.091. Rule 25-17.083(2), Florida Administrative Code, sets forth the general requirements for the approval of negotiated contracts. This rule provides that a negotiated contract will be approved for cost recovery if 1) the purchase can be expected to economically defer capacity construction from a statewide perspective; 2) the contract has a present value at or below the present value of the statewide standard offer contract; and 3) there are adequate security provisions in place to repay the utility in case of default when early payments above the standard offer are paid in any year.

Requirements 1 and 3 of the rule are satisfied by the proposed contract due to its 30-year term and the fact that it contains no early capacity payment provisions. In addition, the proposed contract has incorporated the removal of the 20% risk factor in developing the capacity payment stream. This means that the net present value of the payments to the County would be equal to the net present value of FPC's Standard Offer Contract with the risk factor removed in accordance with Rule 25-17.091. Rule 25-17.083(2)(b), Florida Administrative Code, provides that negotiated contracts will generally be approved for cost recovery purposes if "the cumulative present worth of firm energy and capacity payments made to the qualifying facility over the term of the contract are to be no greater than the cumulative present worth of the value of a year-by-year deferral of the statewide avoided unit over the

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term of the contract." Therefore, this provision of Rule 25-17.083 is satisfied by the proposed contract.

Because the proposed contractual price exceeds FPC's own avoided costs, subsection (5) of Rule 25-17.083 comes into play. This section states provides

"(T)o the extent that firm energy and capacity purchased from a qualifying facility by a utility pursuant to the utility's standard offer is not needed by the purchasing utility or that the avoided energy and capacity costs associated with the statewide avoided unit exceed the purchasing utility's avoided energy and capacity cost, these rules shall be construed to encourage the purchasing utility to sell all or part of the energy and capacity purchased from a qualifying facility to the utility planning the statewide avoided unit. The utility which is planning the designated statewide avoided unit is expected to purchase such energy and capacity at the original purchasing utility's cost."

The intent of this section is to protect the purchasing utility's ratepayers from paying more than avoided cost for cogenerated power. We expect FPC to comply with the rule by diligently pursuing resale of power purchased under the proposed contract.

While it does not appear to be cost-effective the negotiated contract between Pasco County and FPC satisfies the criteria outlined in Rule 25-17.083(2), Florida Administrative Code.

In consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that the negotiated cogeneration contract between Florida Power Corporation and Pasco County, filed April 28, 1989, is hereby approved for cost recovery purposes.

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By ORDER of the Florida Public Service Commission,
this 11th day of SEPTEMBER, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MAP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 2, 1989.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

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Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.