

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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|---------------------------------|----------------------|
| Re: Petition for approval of) | DOCKET NO. 900478-EI |
| "Tax Savings" refund for 1989) | ORDER NO. 23349 |
| by Florida Power & Light) | ISSUED: 8-13-90 |
| Company.) | |
| _____) | |

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 FRANK S. MESSERSMITH

NOTICE OF PROPOSED AGENCY ACTION
ORDER REQUIRING INITIAL REFUND

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.

The Federal Tax Reform Act of 1986 reduced the maximum federal corporate income tax rate from 46% to 34%, effective July 1, 1987. Rule 25-14.003, Florida Administrative Code, requires refunds of tax savings when a utility earns a rate of return at or above the midpoint of its authorized range of return.

On May 15, 1990, Florida Power & Light Company (FPL) filed a petition pursuant to Rule 25-14.003, Florida Administrative Code, requesting approval of a tax savings refund which it calculated to be in the amount of \$39,553,605 plus interest of \$4,465,565, for a total refund of \$44,010,170. In accordance

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with Order No. 20451, issued in Docket No. 881139-EI, FPL calculated its proposed refund using a 13.6% return on equity midpoint. FPL proposed to implement the refund through a KWH credit on each current customer's bill. Rather than beginning the refund immediately, FPL proposed to begin April 1, 1991, continuing over a six-month period in order to help offset an anticipated increase in fuel costs when the utility removes its Turkey Point Nuclear Units Nos. 3 and 4 from service during 1990 and 1991 in order to install emergency diesel generators and perform other maintenance.

Pending a complete review and audit of the calculations and underlying data supporting FPL's petition, we hereby order FPL to refund tax savings in the amount of \$39,553,605, plus interest. Pursuant to Rule 25-14.003, Florida Administrative Code, the refund shall be made as an equal cents per KWH credit on each customer's bill. The refund shall be indicated to customers through a line item on each bill entitled "Refund Ordered by FPSC for 1989 Tax Savings."

We reject the utility's proposal to delay the refund until April 1991. The overearnings occurred in 1989. FPL's proposal would result in a delay of almost two years between the time overearnings occurred and the refund is completed. Further, a prompt refund is more likely to be returned to those customers from whom overearnings were collected. Finally, we believe that use of the refund to offset an increase in fuel expenses would send an inappropriate price signal to customers: a higher energy cost is more accurate and therefore more appropriate.

In calculating interest due, FPL shall use the 30-day commercial paper rates as provided by Rule 25-6.109(4)(a) Florida Administrative Code, and shall assume that the refundable revenues were earned evenly throughout 1989, beginning on January 1, 1989. Although not included in the approved interest amount of \$4,465,565, interest shall continue to accrue on the unrefunded balance until the refund is completed.

Pending completion of Staff's investigation, this docket shall remain open subject to further proceedings and true-up of the tax savings refund amount, if necessary.

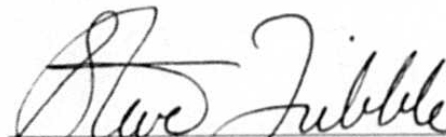
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In consideration of the above, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company shall refund tax savings of \$39,553,605, plus interest, in the manner described herein. It is further

ORDERED that this docket shall remain open.

BY ORDER of the Florida Public Service Commission,
this 13th day of AUGUST, 1990.



STEVE TRIBBLE Director
Division of Records and Reporting

(S E A L)

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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 September 4, 1990.

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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.

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.