

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Discontinuance of)	DOCKET NO. 900935-EI
Monthly Billing Credit by Florida Power)	
Corporation)	ORDER NO. 23910
_____)	ISSUED: 12-21-90

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 ACTIONORDER DISCONTINUING BILLING CREDIT

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.

By Order No. 18627, issued on January 4, 1988 in Docket No. 870220-EI, we approved a billing credit to Florida Power Corporation's ("FPC's") ratepayers. The credit was originally the product of a stipulation between FPC, the Office of Public Counsel, Occidental Chemical Corporation, the Coalition of Local Governments and the Florida Industrial Power Users Group, which provided that unprotected excess deferred income taxes be refunded to ratepayers via a credit to customer bills during 1988. In Order No. 20632, issued on January 20, 1989, we continued the billing credit through 1989 in order to refund additional unprotected excess deferred taxes.

By the terms of Order No. 20632, the billing credit was to expire on December 31, 1989. However, on January 22, 1990, in Order No. 22437, we proposed to order FPC to continue the billing credit. The utility did not protest the order. At that time, all unprotected excess deferred income taxes had been refunded, but we were concerned that the utility's earnings appeared to meet or exceed the approved 13.6% return on equity. FPC had previously been ordered to file a Modified Minimum Filing Requirements report

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("MMFRs"), which was due on March 30, 1990. It was anticipated that a rate review proceeding would follow. At the time we voted to continue the billing credit, it appeared that discontinuance of the credit would have increased over-earnings:

It may be true that FPC's earnings are being enhanced by the unusually warm weather experienced so far in 1989 and will soon decline. However, at this time FPC continues to earn a slightly higher return than the 13.6% agreed to and approved by this body. Removing the credit, as scheduled on December 31, 1989, will only exacerbate any potential over-earnings FPC is experiencing. (Order No. 22437 at 2)

Accordingly, we ordered the billing credit continued in order to prevent overearnings. The credit was to remain in effect "until the base rates of Florida Power Corporation are changed as a result of a proceeding before this Commission in which there has been a hearing." (Order No. 22437 at 3)

FPC filed its Modified Minimum Filing Requirement Report as ordered. Our review of the MMFRs shows a potential for underearning, rather than overearnings. Based on the MMFRs, the 1990 projected return on equity (ROE) is 11.89%, which is 71 basis points below the minimum of FPC's authorized range of 13.6% - 12.6%. In addition, for the past six months, March through October 1990, FPC's surveillance reports show that its ROE has hovered around the 12.6% low end of the range. Further, in a recommendation filed on December 6, 1990, in Docket No. 891335-EI, Commission Staff recommended a permanent increase in FPC's annual depreciation expense above the \$17.2 million increase included by FPC in its MMFRs and surveillance reports. This would cause the utility to further underearn if the billing credit were continued. Thus, the circumstances which justified continuance of the billing credit no longer exist.

The billing credit was continued beyond 1989 in order to prevent overearnings. It has accomplished its purpose. Further continuation of the credit would be unreasonable, in that the basis for its continuance is no longer valid. At the time Order No. 22437 was issued, we fully anticipated that a rate review proceeding would be held, at which time the utility's rates would be adjusted to correct for overearnings. We therefore ordered the billing credit to continue until that time. Based on FPC's MMFRs and surveillance reports, we do not feel that a rate review proceeding for FPC would be appropriate at this time. We will therefore grant FPC's petition for discontinuance of the billing credit, effective January 1, 1991.

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It is therefore

ORDERED by the Florida Public Service Commission that the billing credit currently given by Florida Power Corporation to its ratepayers as ordered in Order No. 22437 shall be discontinued effective January 1, 1991.

ORDERED that this docket be closed if no petition for formal proceeding is timely filed herein.

By ORDER of the Florida Public Service Commission, this 21st
day of DECEMBER, 1990.



STEVE TRIBBLE Director
Division of Records and Reporting

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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 January 14, 1991.

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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.

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.