

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | | |
|---------------------------------|---|------------------------|
| In Re: Investigation into |) | DOCKET NO. 860001-EI-G |
| affiliated cost-plus fuel |) | ORDER NO. 25611 |
| supply relationships of Florida |) | ISSUED: 1/21/92 |
| Power Corporation. |) | |
| |) | |

Pursuant to Notice, a Prehearing Conference was held on January 9, 1992, in Tallahassee, Florida, before Commissioner Easley, Prehearing Officer.

A. APPEARANCES:

JAMES A. MCGEE, Esquire, Post Office Box 14042, St. Petersburg, Florida 33733-4042
On behalf of Florida Power Corporation.

JOHN ROGER HOWE, Deputy Public Counsel, The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Office of Public Counsel.

MARY ANNE BIRCHFIELD, Esquire, and DONNA CANZANO, Esquire, 101 East Gaines Street, Suite 216, Tallahassee, Florida 32399-0863
On behalf of the Commission Staff.

PRENTICE PRUITT, Esquire, the Office of the General Counsel, 101 East Gaines Street, Suite 212, Tallahassee, Florida 32399-0861
Counsel to the Commissioners.

PREHEARING ORDERBackground

Prior to the February 1989 hearing in Docket No. 900001-EI, the Office of Public Counsel (OPC) raised the issue of whether it is appropriate for Florida Power Corporation (FPC) to recover fuel procurement costs and a return on equity charged by Electric Fuels Corporation (EFC) or any other affiliates. The hearing on this issue was deferred until the August 1989, hearing in Docket No. 900001-EI. Thereafter, the Commission deferred its decision pending the establishment of a market pricing methodology in Docket No. 860001-EI-G. On January 10, 1990, the Commission issued Order No. 22401, in which it was determined that FPC is entitled to

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recover a reasonable rate of return on the equity investment in its affiliated-owned transportation services. The order further specified that the capital structure of the affiliate would be initially established in a separate hearing, with the appropriate return on equity for the affiliate to be a rate set equal to the midpoint of the utility's allowed range of return, whether set through a rate case, a stipulated agreement, or by Commission order.

Use of Prefiled Testimony

All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and exhibits, unless there is a sustainable objection. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand.

Use of Depositions and Interrogatories

If any party desires to use any portion of a deposition or an interrogatory, at the time the party seeks to introduce that deposition or a portion thereof, the request will be subject to proper objections and the appropriate evidentiary rules will govern. The parties will be free to utilize any exhibits requested at the time of the depositions subject to the same conditions.

B. ORDER OF WITNESSES

In keeping with Commission practice, witnesses will be grouped by the subject matter of their testimony. The witness schedule is set forth below in order of appearance by the witness's name, subject matter, and the issues which will be covered by his or her testimony.

| <u>Witness</u> | <u>Subject Matter</u> | <u>Issues</u> |
|-------------------------|--|---------------|
| <u>Direct Testimony</u> | | |
| <u>FPC</u> | | |
| Karl H. Wieland | Capital structure, allocation of A&G expense, income taxes | 1-4 |

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OPC

| | | |
|------------------|--|-----|
| Hugh Larkin, Jr. | EFC's calculation of income tax expense as a cost of fuel to FPC. | 1-4 |
|------------------|--|-----|

Rebuttal Testimony

FPC

| | | |
|-----------------|--|---|
| Karl H. Wieland | Rebuttal to OPC witness Larkin re: Capital Structure | 1 |
| James I. Warren | Rebuttal to OPC witness Larkin re: Income taxes | 4 |

C. EXHIBIT LIST

| <u>Exhibit Number</u> | <u>Witness</u> | <u>Description</u> |
|-----------------------|----------------|--------------------|
| None. | | |

D. PARTIES' STATEMENT OF BASIC POSITION

FLORIDA POWER CORPORATION (FPC): FPC's basic position is that no material dispute exists between the parties with respect to the equity component of EFC's capital structure for purposes of determining the authorized return on investment in its Florida Power business (FPC Issue 1) and the allocation of EFC's A&G expenses to the cost of coal charged to Florida Power (FPC Issue 2). With respect to the income taxes included in Florida Power's cost of coal (FPC Issue 4), FPC's basic position is that the methodology used by EFC properly allocates the amount of such income taxes necessary for it to earn the rate of return authorized by the Commission on the equity invested in its FPC business.

OFFICE OF PUBLIC COUNSEL (OPC): Prudent A & G expenses incurred by EFC should be considered when base rates are determined for Florida Power Corporation; they should not be included in fuel cost. Also Florida Power Corporation's customers should have to pay only for their proportionate share of taxes actually paid by EFC. Finally, the capital structure used to price coal purchased by FPC should be

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reflective of the risks associated with supplying coal to an affiliated and guaranteed purchaser.

STAFF: None at this time.

E. STATEMENT OF ISSUES AND POSITIONS

ISSUE 1: What capital structure should be assumed for Electric Fuels Corporation (EFC) in calculating the return component of the cost-plus arrangement for recovery as a prudent cost of fuel to Florida Power Corporation (FPC)?

FPC: For purposes of calculating EFC's authorized return on the equity invested in its FPC business, EFC's capital structure should contain an equity component comparable to that of FPC. The procedure used by EFC to calculate its equity return is reasonable and produces a result comparable to the return that would be produced using the equity component in FPC's capital structure. Representatives of both Staff and Public Counsel have reviewed the procedure utilized by EFC and found it acceptable.

OPC: The EFC capital structure used to evaluate the prudence of FPC's coal supply costs should reflect a mixture of capital components commensurate with risks associated with EFC's provision of coal to FPC.

STAFF: No position at this time.

ISSUE 2: Are the methodologies appropriate to determine the Administrative and General expenses incurred by EFC in the procurement of coal for FPC?

FPC: Yes. Representatives of both Staff and Public Counsel have reviewed the methodologies used by EFC to allocate its A&G expenses to the cost of coal charged to FPC and found them to be appropriate.

OPC: Since EFC is not regulated by the Commission, it would not be appropriate to vote on the reasonableness of EFC's methodologies except as it reflects on the prudence of expenses recovered from FPC's customers. The prudence of

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the cost, however, cannot be determined from the method of allocation from EFC to FPC. Therefore, the Commission should decline to pass directly on this issue.

STAFF: No position at this time.

ISSUE 3: Are these Administrative and General expenses reasonable?

FPC: The reasonableness of the A & G expenses charged to FPC by EFC at any given time is dependent on (1) whether EFC's underlying A&G expenses, from which the portion related to FPC business is allocated, are reasonable, and (2) whether the methodologies used for such allocation is reasonable (Issue 2 above). In this proceeding, FPC seeks only an affirmative determination from the Commission on the latter, i.e., that the methodologies currently used by EFC are reasonable. FPC understands that Staff, Public Counsel, or any other party to the fuel adjustment proceeding would retain the right to challenge the underlying A&G expenses incurred by EFC. In such event, FPC would have the burden of proving that such expenses were reasonably incurred, and that they were allocated in accordance with the same methodologies that EFC currently uses.

OPC: Charges for A & G expenses from EFC to FPC are reasonable and appropriately passed on the FPC's customers if they are not, in fact, duplicative of costs already incurred by FPC and do not exceed a prudent level of costs FPC would otherwise incur if it were procuring its own coal supply. FPC must present evidence and meet its burden of proof on this issue, but such costs, if proven, should be recovered through base rates.

STAFF: No position at this time.

ISSUE 4: What amount of income tax expense should FPC be allowed to recover from its customers as a cost properly incurred by EFC in obtaining and delivering coal to FPC?

FPC: The income tax included in the cost of Florida Power's coal is the amount necessary for EFC to earn the rate of return authorized by the Commission on the equity invested in its FPC business.

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OPC: Under a cost-plus arrangement, FPC's customers should only be responsible for prudent costs actually incurred by EFC in providing fuel to FPC plus a return on EFC's investments in FPC-specific assets. FPC's customers should not pay more than FPC's allocated share of actual taxes paid by EFC.

STAFF: No position at this time.

F. PENDING MOTIONS

None.

G. STIPULATED ISSUES

None.

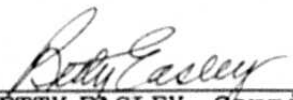
H. MOTIONS

None.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that these proceedings shall be governed by this order unless modified by the Commission.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 21st day of JANUARY, 1992.


BETTY EASLEY, Commissioner
and Prehearing Officer

(S E A L)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Certificate to) DOCKET NO. 911120-TI
 Provide Interexchange Telecommunications) ORDER NO. 25612
 Service by INTERAMERICAN TELEPHONE CO.) ISSUED: 1/21/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CERTIFICATE

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 substantially affected files a petition for formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

InterAmerican Telephone Co. filed an application for an interexchange certificate on November 8, 1991. The application contained the required background information and its proposed tariff. After having considered the application, it appears that the Company is technically capable of providing service. Pursuant to Sections 364.335 and 364.337, Florida Statutes, the Commission may grant a certificate of public convenience and necessity to provide interexchange telecommunications services to a qualified person or other entity. Therefore, we find that it is in the public interest to grant a certificate to InterAmerican Telephone Co., and it is our intention to grant the certificate. Interexchange telephone companies are subject to the provisions of Chapter 364, Florida Statutes, and Rules 25-24.455 through 25-24.495, Florida Administrative Code. Additionally, by Order No. 16804, IXCs are prohibited from constructing facilities to bypass a local exchange company without express prior approval from the Commission.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application of InterAmerican Telephone Co. for a certificate to

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provide intrastate interexchange telecommunications service is granted as set forth in the body of this Order. It is further

ORDERED that the effective date of the certificate shall be the date specified below, if there is no protest to the proposed agency action within the time frame set forth below. It is further

ORDERED that this docket shall be closed if no protest is filed in accordance with the requirements set forth below.

By ORDER of the Florida Public Service Commission, this 21st
day of JANUARY, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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PAK

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

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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 2/11/92.

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.