BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power Recovery Clause and Generating Performance Incentive Factor.	)	DOCKET NO. 920001-EI ORDER NO. PSC-92-0015-FOF-EI ISSUED: 03/09/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON
BETTY EASLEY

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

On October 1, 1991, we issued our Order No. 25148 in the Fuel and Purchased Power Cost Recovery Docket, Docket No. 910001-EI. In that order we permitted Tampa Electric Company to recover all costs associated with coal purchases from TECO's Gatliff Coal Company affiliate.

Order No. 25148 stated that TECO's Gatliff coal costs that exceeded the benchmark were justified by the company and should be recovered.

> [A]lthough we are not happy with the manner in which the issue was addressed in this hearing, we find that the evidence submitted to us supports the finding that TECO's excess Gatliff coal costs were justified, and no evidence was submitted or developed at the hearing to contravene that finding. (Order No. 25148, p. 10)

We based our finding on the following evidence submitted on the record: Gatliff is the only eastern supplier of low sulfur, low ash-fusion coal with sufficient reserves to meet TECO's long-term coal needs; Gatliff's delivered coal prices for the particular coal required by TECO's Gannon Station units are lower, if the cost of transportation is considered in determining the price, than low sulfur, low ash-fusion coal mined in the west; the increase in production capacity for compliance coal has driven prices for compliance coal down to the point that today many coal suppliers are selling coal at their variable costs and are failing to recover their fixed costs; TECO's long term needs for low sulfur, low ash-fusion coal can not be adequately protected by the purchase of coal from suppliers selling at variable costs, because of the risk that those suppliers would not remain in business for the duration of

the contracts designed to supply TECO's long term needs, and; thus there really are no viable alternatives for acquisition of low sulfur, low ash-fusion coal available to TECO other than Gatliff coal.

On October 16, 1991, the Office of Public Counsel filed a Motion for Reconsideration of Order No. 25148, to the extent that it approved the prices paid for coal purchased by TECO from Gatliff Coal Company. Public Counsel's Motion requested that we: (1) abide by the stipulation approved in Order No. 20298, issued November 10, 1988, specifying a methodology for implementing a market pricing standard for electric utility coal purchases from an affiliate; (2) set aside it's denial of Citizens Motion to strike the testimony of William N. Cantrell as irrelevant to the issues in the fuel adjustment docket, or, in the alternative, find that Mr. Cantrell's testimony and exhibits did not satisfy the utility's burden of proof; and, (3) order Tampa Electric to refund costs recovered above the benchmark because it failed to justify such amounts.

Tampa Electric Company filed a response to Public Counsel's Motion and argued that: (1) the motion merely reargues points raised during the August 1991 fuel adjustment hearing and thus should be denied; (2) the testimony presented by TECO showed that the benchmark had been abnormally suppressed and this evidence supported the reasonableness and prudence of the amounts requested for cost recovery; (3) the Commission did adhere to the stipulation it approved in Order No. 20298, and; (4) the motion simply reiterated Public Counsel's disagreement with the import of Mr. Cantrell's testimony on justification of recovery of fuel costs above the benchmark.

We see no legal or factual reason to reconsider the decision we made in the August fuel hearings. Public Counsel has not presented anything in its motion for reconsideration that was not considered by us when we made our original decision. We did not violate the stipulation we approved in Order No. 20298 in TECO's cost-plus docket. In fact, Order No. 25148 specifically states that the benchmark established in the stipulation will be used in future fuel adjustment hearings (Order No. 25148, p. 10). The testimony presented by TECO at the hearing was not irrelevant to justify recovery of the excess costs over the benchmark. Our review of the record demonstrates to us that TECO adequately justified recovery of the excess costs over the benchmark, and that we fully considered Public Counsel's position when we made our decision.

It is, therefore

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration is hereby denied.

By ORDER of the Florida Public Service Commission, this 9th day of MARCH, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF 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.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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.