

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Recovery of Fuel Costs) DOCKET NO. 910925-EI
Associated with Florida Power) ORDER NO. PSC-92-0675-FOF-EI
Corporation's Crystal River 3) ISSUED: 07/21/92
Outages in 8/89 and 10/90.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
BETTY EASLEY

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

In Order No. PSC-92-0289-FOF-EI, issued March 5, 1992, we allowed Florida Power Corporation (FPC) to recover replacement fuel costs associated with two unplanned outages at its Crystal River 3 nuclear generating facility. One outage occurred in August of 1989 and involved the failure of the rotating assembly of one of the plant's seawater pumps. The other outage occurred in October of 1990 and involved a lubricating oil leak. We found, after a hearing held on February 12 and 13, 1992, that neither outage occurred as a result of imprudent management on FPC's part. With respect to the August 1989 seawater pump outage we stated:

We will permit Florida Power Corporation to recover all replacement fuel costs associated with the August, 1989 seawater pump outage. The events that led to the outage were not the result of imprudent management by FPC. The outage occurred because the sole-source supplier of spare impellers for the seawater pumps delivered a mismanufactured impeller to FPC that FPC installed in the pump. The supplier considered the drawings of its pumps to be proprietary in nature and had not shared the design specifications with FPC. FPC was entitled to rely on the quality assurances of the supplier and could not reasonably have known or discovered that the spare impeller was mismanufactured.

Order No. PSC-92-0289-FOF-EI, page 5.

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On May 20, 1992, the Office of Public Counsel timely filed a motion for reconsideration of that order. Florida Power Corporation was granted an extension of time to file its response to Public Counsel's motion for reconsideration, and that response was filed on June 4, 1992.

We deny Public Counsel's motion. It does not provide any material factual or legal ground we did not previously consider that would require a different decision in this case. Our order does not contain any material mistake of fact or law that if corrected would lead to a different outcome.

The purpose of a motion for reconsideration is to bring to the attention of the Commission some material and relevant point of fact or law which was overlooked, or which it failed to consider when it rendered the order in the first instance. See Diamond Cab Co. v. King, 146 So.2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (Fla. DCA 1981). It is not an appropriate avenue for rehashing matters which were already considered, or for raising immaterial matters which even if adopted would not materially change the outcome of the case.

Public Counsel bases his request for reconsideration on two grounds. As his first ground, Public Counsel argues that our final order in this case is factually incorrect in its statements that Bingham, the manufacturer of the Raw Water Pumps, informed Florida Power Corporation that the impeller fabricated in 1981 was suitable for use in RWP-2B. In footnote 1, page 1 of his motion, to support his contention that the Commission made such statements, Public Counsel says;

In the Order, at page 2, the Commission states that "FPC. . . had no reason to suspect that it could not rely upon the manufacturer's representation that the part was suitable for use in the pump RWP-2B." At page 4, the Commission said: "The record shows that FPC was reasonably entitled to rely on the representations of the supplier that the impeller was suited for installation in the RWP-2B pump.

Public Counsel points out that Mr. Boldt revised his direct testimony, by supplemental testimony and during cross-examination, to indicate that the manufacturer did not explicitly state to FPC that the spare impeller was suitable for use in pump RW2B. Instead, Mr. Boldt testified that Florida Power Corporation inferred from Bingham's representations regarding the appropriate

impeller trim dimensions (diameter) required for pump 2WB, and from its own measurement of the spare impeller's external dimensions, that it was the right one for that pump. Public Counsel argues that this "factual mistake" is reason for the Commission to reconsider its order and deny recovery of the replacement fuel costs.

We will not reconsider our order for this reason. Public Counsel has interpreted the language in that order so narrowly that he has misunderstood its meaning. The language in the order refers to the material fact that FPC was entitled to rely on the implied assurance from a Quality Assurance Supplier that all parts delivered for use at Crystal River 3 were properly manufactured for the purpose for which they were intended.

Public Counsel's second ground for reconsideration of Order No. PSC-92-0289-FOF-EI is that we "failed to rule explicitly" on several of his proposed findings of fact. Although we provided specific, individual responses to each of his proposed findings, Public Counsel argues that the responses were not "explicit" because they were not "unequivocal". Because we took some exception to the implications of Public Counsel's proposed findings, Public Counsel contends that the order should be reconsidered.

We will not reconsider our order for this reason, either. Public Counsel's suggestion that the responses to his proposed findings are insufficient because they are not "unequivocal" far exceeds the requirements established in the Administrative Procedure Act for responding to proposed findings of fact.

Public Counsel's objections to the final order in this case do not contain a single material point of fact or law that we overlooked or failed to consider, let alone one that would in any way alter the decision we made in this case. Public Counsel's substantive arguments have all been made before, and we fully considered and rejected them. There is nothing new in this motion that is material to the ultimate decision we made. Even if we agreed to make the changes to the factual findings in the order Public Counsel demands, it would change nothing. Public Counsel has been more than adequately informed of the factual and legal bases for our decision. Public Counsel just doesn't agree with them. That is not sufficient reason to reconsider the final order. It is therefore,

ORDERED that, for the reasons stated above, Public Counsel's Motion for Reconsideration is denied. It is further,

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ORDERED that this docket should be closed.

By Order of the Florida Public Service Commission this 21st
day of July, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Flynn
Chief, Bureau of Records

MCB:bmi

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.