

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposal to extend plan
for recording of certain
expenses for years 1998 and 1999
for Florida Power & Light
Company.

DOCKET NO. 970410-EI
ORDER NO. PSC-97-1457-PHO-EI
ISSUED: November 19, 1997

Pursuant to Notice, a Prehearing Conference was held on Monday, November 17, 1997, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

MATTHEW M. CHILDS, Esquire, Steel Hector & Davis, 215 South Monroe Street, Suite 601, Tallahassee, Florida 32301
On behalf of Florida Power & Light Company.

PETER J.P. BRICKFIELD, Esquire and JAMES W. BREW, Esquire, Brickfield, Burchette & Ritts, 1025 Thomas Jefferson Street, N.W., Suite 800 - West, Washington, DC 20007, and RICHARD SALEM, Esquire and MARIAN RUSH, Esquire, Salem Saxon & Nielson, One Barnett Plaza, 101 E. Kennedy Boulevard, Suite 3200, Tampa, Florida 33602
On behalf of AmeriSteel Corporation.

ROBERT V. ELIAS, Esquire, WM. COCHRAN KEATING, Esquire, and JORGE CRUZ-BUSTILLO, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission Staff.

PREHEARING ORDER

I. CASE BACKGROUND

In Docket No. 950359-EI, the Commission approved a proposal by Florida Power & Light Company (FPL) that resolved all of the identified issues regarding FPL's petition to establish a nuclear amortization schedule. By Order No. PSC-96-0461-FOF-EI, issued April 2, 1996, FPL was required (1) to book additional 1995 depreciation expense to the reserve deficiency in nuclear production; (2) to record, commencing in 1996, an annual \$30

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million in nuclear amortization, subject to final determination by the Commission as to the accounts to which it is to be booked; and (3) to record an additional expense in 1996 and 1997 based on differences between actual and forecasted revenues, to be applied to specific items in a specific order.

In the instant case, FPL, the Office of Public Counsel, and the Commission staff met to discuss a continuation of the plan approved in Docket No. 950359-EI. AmeriSteel, Inc., an FPL customer, also participated in the review of the plan as an interested person. This docket was opened to consider an extension of and modification to the plan to allow the recording of additional expenses in 1998 and 1999.

By Proposed Agency Action Order No. PSC-97-0499-FOF-EI, issued April 29, 1997, in this docket, the Commission approved the extension and modification of the plan. A listing of the specific provisions of the plan is included in the Prehearing Order as Attachment 1. On May 20, 1997, AmeriSteel Corporation (hereinafter "AmeriSteel") timely filed a protest of the Proposed Agency Action. On June 10, 1997, FPL filed a Motion to Deny and Dismiss the Protest of AmeriSteel. FPL's motion was denied at the August 18, 1997 agenda conference. This matter is currently set for hearing on November 25 and 26, 1997.

In general, the proposal extends the currently approved plan for 1996 and 1997 for an additional two years through 1999. Essentially, FPL would continue to record additional retail expense equal to 100% of the base rate revenues produced by actual retail sales between its "low band" and "most likely sales forecast" and at least 50% of the base rate revenues produced by actual retail sales above FPL's "most likely sales forecast" forecasted for 1996 as filed in Docket No. 950359-EI. This provision remains the same.

However, there are some differences between the items to which the additional expense will be applied as well as a modification of their priority. The first priority will be to correct any depreciation reserve deficiency quantified in an approved depreciation study order. Previously, the correction of the nuclear depreciation reserve deficiency had been given the first priority. The priority of the other items in the previously approved plan remains the same.

Several additional items have been added to the list. Item 4 involves the correction of any reserve deficiency in FPL's fossil dismantlement reserves. Item 5 is the correction of any reserve

deficiency in FPL's nuclear decommissioning reserves. In the event that any revenues remain to be disposed of, they are to be recorded as an expense in an unspecified depreciation reserve account for production plant to be allocated to specific accounts at a later date by the Commission.

Although it is not specifically addressed in the proposal, FPL is still obligated to record an additional \$30 million annually in nuclear amortization until such time as the Commission orders otherwise per the terms of the plan approved in Order No. PSC-96-0461-FOF-EI. In addition, all amounts remain subject to review and audit by the Commission. This plan neither precludes an earnings review nor a review of the plan during the context of a proceeding to reset base rates. In the event that any legislative, administrative, or judicial action authorizing retail wheeling or deregulating the retail electric market is approved for Florida, the terms of this proposal may be altered or terminated upon the Commission's own motion or by the approval of a petition filed with the Commission.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with paragraph (1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's

position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. 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 associated exhibits. 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. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

IV. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issue #</u>
<u>Direct</u>		
Hugh A. Gower	FP&L	1 - 6
Mark A. Cicchetti	AmeriSteel	1 - 6
<u>Rebuttal</u>		
Hugh A. Gower	FP&L	1 - 6
Mark A. Cicchetti	AmeriSteel	1 - 6
*Thomas DeWard	AmeriSteel	1 - 6

*witness will testify on Tuesday, November 25, 1997.

V. BASIC POSITIONS

FP&L: The Commission should approve the proposal to extend the plan for FPL to record certain expenses for years 1998 and 1999 per its Order No. PSC-97-0499-FOF-EI issued April 29, 1997.

In support of its position FPL submits that:

- (1) It is appropriate and in the best interest of its customers to correct depreciation, fossil dismantlement and nuclear decommissioning reserve deficiencies as proposed. The Commission endorsed this policy in Order No. PSC-97-0499-FOF-EI by stating "We believe that this plan is appropriate because it mitigates past deficiencies with Commission prescribed depreciation, dismantlement, and nuclear decommissioning accruals."
- (2) The amount of reserve deficiencies are significant. The nuclear decommissioning reserve alone is calculated to be \$484 million deficient at December 31, 1996 based on the last study supporting the accrual approved by the Commission. Delaying correction of the deficiencies can only increase the long-run total revenue requirements to FPL's customers and increase the risk of recovery.

- (3) From 1984 - 1996, FPL has reacquired higher interest rate debt which has resulted in cumulative net interest cost savings of more than \$500 million (after considering all related costs on reacquired debt). To achieve these interest cost savings FPL was required to pay a premium and other related costs, which is referred to as a cost on reacquired debt, in order to reacquire the higher interest rate debt issues. Accelerating the write-off of Unamortized Loss on Reacquired Debt is appropriate since it will lower FPL's overall cost of capital and will allow recovery of this cost more in line with the savings already being achieved which will be beneficial to FPL's customers in the long term. The accelerated write-off of Unamortized Loss On Reacquired Debt is the same Commission directive contained in Order No. PSC-96-0461-FOF-EI that became effective January 1, 1995.
- (4) The proposal will have a positive impact on rate stability because the prior cost underrecoveries will be corrected without affecting rates.

AMERISTEEL: During the period 1995-97 pursuant to the Original Plan approved in Docket No. 950359-EI, all of the depreciation related under-recoveries and most of the regulatory assets identified in the original plan have been written off. There is no basis for extending the Plan for the years 1998 and 1999 as proposed in the PAA because there is no identified need to "catch up" on any of the expense items addressed in the Original Plan.

As Staff readily acknowledged in its August recommendation memorandum to the Commission, absent a continuation of the Plan, FPL's revenue growth above the 1996 base rate revenue forecast will place FPL in a significant excess earnings situation. This circumstance is further complicated, again as Staff has observed, by the unusual fact that FPL has not requested the accounting directives proposed in PAA but has simply acquiesced in the Plan extension for 1998 and 1999 it negotiated with Staff. Thus, there is neither a need for the Plan extension nor an offer by the utility to supply a reason for it.

Because there are no remaining under-recoveries of known and verified costs, the modifications to the Plan proposed for 1998 and 1999 turn to accelerated recovery of regulatory assets and correction of perceived deficiencies in the reserves for nuclear decommissioning and fossil dismantlement. Any decommissioning or dismantlement will not actually occur for fifteen years or more

from now in most cases. These accelerated recoveries actions fly in the face of established ratemaking practice long observed by the Florida PSC and other regulatory bodies. There is no policy or factual justification for those accelerated write-downs. The Plan extension cannot be justified on the basis of the reasons cited in the PAA or by reference to the expense items identified in attachment A to the PAA.

- a. The Commission has not begun to address competitiveness issues in the electric industry and there is no record support either to explain what is meant by "...establishing a level accounting playing field between FPL and possible non-regulated competition" or to justify the Plan based upon that vaguely described notion.
- b. The proposal to "correct" perceived deficiencies in the reserve for future decommissioning activities is unreasonable. In its 1995 order approving significant changes in FPL's annual accruals, the Commission provided for full recovery of nuclear decommissioning costs over the remaining lives of the units. There is no reasoned basis for a huge one-time charge to add to the decommissioning reserve.

Reduced to its basics, the Plan serves to postpone needed rate reductions for two years. There is no consumer benefit in this in the short term because, as Staff noted in its August recommendation memo to the Commission, absent approval of the Plan, the Commission would need to take other actions (e.g., temporary rates, a reverse make whole proceeding) to safeguard ratepayer interests against excess earnings. Since FPL's financial parameters disclose no need for a rate increase in the foreseeable future, the "long term benefits" claimed by FPL are far too remote and speculative to justify approval of the Plan.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VI. ISSUES AND POSITIONS

ISSUE 1: What is the appropriate revenue forecast to be used to determine the level of additional expenses allocated to this Plan?

POSITIONS

FP&L: FPL's 1996 base rate revenues forecast is an appropriate reference point or benchmark for purposes of determining the amount of additional expenses to be recorded pursuant to this docket, just as it was in Docket No. 950359-EI.

Revenues are used to simply quantify the amount of additional expenses. The key factor in the calculation is based on 100% of the difference between the "low band" and "most likely" revenue amounts plus at least 50% of the actual revenues above the "most likely" amount. Thus, given adequate sales, the Commission established a quantifiable floor for the amount of revenues to be used.

The use of the 1996 revenue forecast provides a greater degree of earnings risk to FPL. This provides additional incentive to FPL management to control costs but the Company believes it is important to correct the cost underrecoveries. (Gower)

AMERISTEEL: Additional expenses should be based on verified costs and a demonstrated need for recovery rather than an authorized "pool" of added expense dollars designed to offset revenue growth. (Cicchetti)

STAFF: No position at this time.

ISSUE 2: Should the Commission defer a decision to allow any additional decommissioning or dismantlement expense until there has been a full examination of FPL's nuclear decommissioning and fossil plant dismantlement studies?

POSITIONS

FP&L: No. There is no logical reason for the Commission to defer approving this action which is consistent with its policy of mitigating past deficiencies. It is clear that reserve deficiencies exist since the nuclear decommissioning reserve alone

is calculated to be \$484 million deficient at December 31, 1996. The Commission will determine the final amount of reserve deficiencies which will be the basis for any amounts recorded by FPL to correct such deficiencies after 1997. Furthermore, the exact amount of deficiencies is irrelevant because the Commission has, and will continue to maintain, jurisdiction over any unallocated amounts (see Issue No. 5). (Gower)

AMERISTEEL: See Statement No. 1, above.

The Commission has provided adequate annual accruals for nuclear decommissioning. In its 1995 Order in Docket No. 94-1350-EI, the Commission established revised annual accruals for nuclear decommissioning designed to provide for full recovery of then estimated decommissioning costs over the remaining lives of FPL's nuclear units.

The expense proposed in the Plan places a hugely disproportionate burden on ratepayers served by FPL in 1998 and 1999. Given the uncertainties regarding decommissioning technologies, estimation methods, and the inherent difficulties of projecting costs many years into the future, the proposed treatment in the Plan is fundamentally flawed and unfair. It also represents inappropriate accounting from a regulatory perspective and is contrary to prior practice. The Commission should defer a decision regarding additional decommissioning and dismantlement expenses until there has been a full review of the next comprehensive studies. (Cicchetti, DeWard)

STAFF: No position at this time.

ISSUE 3: Should the Commission consider whether FPL has reserve depreciation surplus balances for any of its plant accounts to offset depreciation reserve deficiencies?

POSITIONS

FP&L: No. Reserve surpluses and deficiencies within an account reflect the results of what individual customers have paid for the particular service they received. Transfers can affect the future prices for an individual customer if this relationship is altered. Thus, transfers between functions, and even within certain functions, have the potential to create cross-subsidies between different customers who take different types of services.

In addition, the FERC proscribes such depreciation reserve transfers. (Gower)

AMERISTEEL: Yes. Single issue ratemaking is not in the public interest. Before authorizing additional charges against excess earnings, the Commission should consider offsetting over-collections in prior periods resulting in reserve surpluses and cost reductions in other areas that have not been reflected in base rates. (Cicchetti)

STAFF: No position at this time.

ISSUE 4: Should FPL be authorized to accelerate the write-off of Unamortized Loss on Reacquired Debt?

POSITIONS

FP&L: Yes. Moreover, FPL has projected that its interest savings from reacquisitions of higher cost debt for the year 1998 will be greater than its Unamortized Loss on Reacquired Debt balance at January 1, 1998. Given that investors can currently recover their invested capital from the savings achieved by the reacquisitions, it makes sense to offset the cost incurred to achieve those savings with the actual benefits as soon as possible. (Gower)

AMERISTEEL: No. Accelerated recovery of unamortized premiums and other costs to FPL of reacquiring and refinancing debt is not related to depreciation reserve deficiencies. The accepted ratemaking treatment of these costs is to amortize them over the original life of the retired debt or the life of new debt issued if it is a refinancing. There is no basis for accelerated recovery of such regulatory assets from a traditional ratemaking perspective and the Commission has not articulated a policy or conducted a proceeding to address whether accelerated write-downs are justified based on competitiveness concerns. Recovery of over \$280 million of such unamortized costs over a two year period (1997 and 1998) is unwarranted, unfair to ratepayers, and exacerbates the already serious intergenerational inequity of the Plan. (Cicchetti, DeWard)

STAFF: No position at this time.

ISSUE 5: Should FPL be authorized to record, in an unspecified depreciation reserve, an expense amount greater than the amounts to correct any depreciation reserve deficiency, write off the Unamortized Loss on Reacquired Debt, correct any fossil dismantlement reserve deficiency, and correct any nuclear decommissioning reserve deficiency?

POSITIONS

FP&L: Yes. As a result of this provision, the Commission maintains jurisdiction over any additional expenses recorded by FPL that are not transferred to a specifically identified account, pursuant to this docket, as of the end of 1999. As stated in the Commission's Order No. PSC-97-0499-FOF-EI, "In the event that any revenues remain to be disposed of, they are to be recorded as an expense in an unspecified depreciation reserve account for production plant to be allocated to specific accounts at a later date by the Commission." (*Emphasis added*) (Gower)

AMERISTEEL: No. Because there are no remaining identified depreciation reserve deficiencies, there is no basis for adding additional expense to an unspecified depreciation reserve. To the extent that the Commission authorizes additional expense for known and verified costs, any additional amounts above that level should be refunded to ratepayers rather than charged as an additional unspecified expense. (Cicchetti, DeWard)

STAFF: No position at this time.

ISSUE 6: Should the Plan be extended for 1998 and 1999 as set forth in Order No. PSC-97-0499-FOF-EI?

POSITIONS

FP&L: Yes. See FPL's Statement of Basic Position and its positions as set forth in Issues 1 through 5 above. (Gower)

AMERISTEEL: No, the magnitude of the added expense authorized by the Plan, up to \$842 million over the two years, far exceeds any prior Commission approval of accelerated recovery. This dramatically illustrates the enormity of the intergenerational inequity of the Plan and the excessive cost burden that would be imposed on FPL ratepayers in 1998 and 1999. That amount also

indicates the severity of FPL's excess earnings situation in those years.

The Plan constitutes a change from the prior ratemaking treatment for each of the expense items listed in the PAA that have not been rendered moot by write-offs in preceding years. The existing treatment of these costs follows the Uniform System of Accounts and the Commission's rules and established practice, and appropriately matches the recovery of costs with the benefits provided to consumers over time. The accounting directives in the Plan extension significantly deviate from that accepted practice and have not been justified by FPL and are not justified. The Plan should not be approved because its proponents have failed to demonstrate that it is in the public interest.

Single issue ratemaking is not in the public interest. There is a short term detriment to current ratepayers in the avoidance of an excess earnings review that should lead to rate reductions. The alleged long term cost reduction benefits are remote and speculative because FPL is not likely to seek a base rate increase in the foreseeable future whether the Plan is approved or denied.

a. There is no reason to extend the Plan because all depreciation related reserve deficiencies have already been corrected.

b. Accelerated recovery of regulatory assets is inappropriate accounting for ratemaking purposes because it creates intergenerational equity concerns. It is premature to authorize such accelerated recovery for competitive reasons because the Commission has not established rules or policy regarding competition in the electric industry.

c. One time recovery through the Plan of perceived deficiencies in nuclear decommissioning and fossil dismantlement reserves is inappropriate. Changes in any of the major inputs into decommissioning and fossil dismantlement cost estimates could radically alter, or eliminate altogether, the perceived deficiency claimed in this docket. Because estimation methods and inputs are subject to future revision, particularly as the industry gains more experience in such matters, a one-time write-down of a perceived deficiency at any given time represents an ill-considered regulatory policy. The appropriate approach is the Commission's historic practice: i.e., to adjust annual accruals, if justified by new comprehensive studies, in order to adequately recover future expense over the lives of the generating units.

The current accounting of the expenses addressed in the Plan reflects a fair balancing of ratepayer and investor interests. The proposed Plan unreasonably changes that treatment to a system that benefits investors at the expense of consumers.

There is no reason to accelerate the funding of nuclear decommissioning through a \$484 million added charge under the Plan - in addition to the \$84 million annual accrual authorized in the above noted 1995 order - to correct for lower recovery levels in prior years. (Cicchetti, DeWard)

STAFF: No position at this time.

ISSUE 7: Should this docket be closed?

POSITIONS

FP&L: No position at this time.

AMERISTEEL: No position at this time.

STAFF: No position at this time.

VII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Gower	FP&L	<u> </u> (HAG - 1)	Examples of Costs Subject to Special Recovery Approved by the Florida Public Service Commission.
		<u> </u> (HAG - 2)	Cost Underrecoveries Addressed by Docket No. 970410-EI
Cicchetti	AmeriSteel	<u> </u> (MAC - 1)	FPL's 1997 base rate forecast and FPL's listing of accruals to date through July, 1997.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
		_____ (MAC - 2)	FPL write-off activity summary.
Cicchetti	AmeriSteel	_____ (MAC - 3)	FPL charts of the book value of fossil and nuclear units and regulatory assets.
		_____ (MAC - 4)	Standard & Poor financial benchmarks for a AA rating.

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

There are no stipulations at this time.

IX. PENDING MOTIONS

There are no pending motions at this time.

X. OTHER MATTERS

At the pre-hearing conference, the possibility that the Commission may wish to render a bench decision at the conclusion of the hearing was discussed. The parties were asked whether they had any objections to preserving this the option of a bench decision in the pre-hearing order. Counsel for FP&L had no objection. Counsel for AmeriSteel also had no objection. However, Counsel for AmeriSteel did request the opportunity to offer closing arguments as well as a request for a brief recess at the close of the evidence before presenting such arguments. Counsel for AmeriSteel asked for 30 minutes and FP&L 10 minutes for making closing arguments. Counsel for AmeriSteel also requested at least a one (1) hour recess.


ORDER NO. PSC-97-1457-PHO-EI
DOCKET NO. 970410-EI
PAGE 16

Accordingly, the Commission has the option, to render a bench decision in this matter. If the Commission elects to render a bench decision, then a brief recess may be granted to the parties prior to the commencement of closing arguments. The time allotted for closing arguments shall be determined by the Presiding Officer.

It is therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 19th day of November, 1997.



J. TERRY DEASON, Commissioner
and Prehearing Officer

(S E A L)

JCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2)

ORDER NO. PSC-97-1457-PHO-EI
DOCKET NO. 970410-EI
PAGE 17

reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

FPL 1998 and 1999 Plan

FPL shall record an additional retail expense in 1998 and 1999 equal to 100% of the base rate revenues produced by retail sales between its "low band" (\$3.1409 billion) and "most likely sales forecast" (\$3.2241 billion) and at least 50% of the base rate revenues produced by retail sales above FPL's "most likely sales forecast" forecasted for 1996 as filed in Docket No. 950359-EI. Any additional retail expense recorded as a result of this provision will be applied to the retail portion of the following listed in priority order:

1. Correction of any depreciation reserve deficiency resulting from an approved depreciation study order;
2. Writing off the net amounts of book-tax timing differences that were flowed through in prior years and remain to be turned around in future periods;
3. Writing off the Unamortized Loss on Reacquired Debt;
4. Correction of the reserve deficiency, if any, existing in FPL's fossil dismantlement reserves;
5. Correction of the reserve deficiency, if any, existing in FPL's nuclear decommissioning reserves. Any additional expenses recorded under this plan for nuclear decommissioning shall be funded on an after tax basis. Effective January 1, 1998, all debit deferred taxes resulting from amounts contained in decommissioning funds shall be excluded for surveillance purposes;
6. In the event revenues from the forecast bands are greater than the expenses identified herein, the remaining expenses shall be recorded in an unspecified depreciation reserve to be allocated at a later date.

A comprehensive fossil dismantlement study and a comprehensive nuclear decommissioning study shall be filed by October 1, 1998.

Upon the Commission's own motion or a petition filed with the Commission, the recording of the additional expense under this plan may be altered or terminated by the Commission in the event that legislative, administrative or judicial action authorizing retail wheeling or deregulating the retail electric market is approved for Florida.