

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for authority to establish a regulatory liability to defer 1998 earnings for disposition in 1999 by Florida Power Corporation.

DOCKET NO. 981635-EI
ORDER NO. PSC-98-1750-FOF-EI
ISSUED: December 22, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING AUTHORITY TO ESTABLISH REGULATORY LIABILITY

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 a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

By Order No. PSC-97-0652-S-EQ, issued June 9, 1997, this Commission approved a stipulation concerning the disputed issues and the accounting treatment related to Florida Power Corporation's ("FPC" or "the Company") purchase of the Tiger Bay Limited Partnership cogeneration facility and the termination of related purchased power contracts. Pursuant to the stipulation, a regulatory asset of approximately \$370 million, related to the termination of the contracts, was created ("Tiger Bay regulatory asset"). This regulatory asset is being amortized by using the savings realized from the early termination of the contracts. It is expected that the regulatory asset will be fully amortized by 2008 using this methodology. The stipulation also provides, however, that FPC has the discretion to accelerate amortization of this regulatory asset if and when earnings permit. FPC's

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ratepayers will not receive any of the savings associated with termination of the contracts until the entire Tiger Bay regulatory asset is fully amortized.

By letter dated November 12, 1998, FPC informed us that it estimates the Company's 1998 earnings will reach a level sufficient to allow it to increase the amount of the Tiger Bay regulatory asset amortization. FPC stated, however, that it is considering several possible unspecified rate initiatives that might allow its ratepayers to receive the benefit of 1998 earnings sooner than if additional amortization is booked. To allow the Company time to more thoroughly explore and develop such initiatives, FPC requested that it be allowed to defer an unspecified amount of 1998 earnings. This deferral would create a regulatory liability to be disposed of in the future. FPC has agreed that interest would be accrued on the deferred earnings.

Since no proposal for disposition of the deferred 1998 earnings has been presented, we cannot presently determine whether the requested deferral will, in fact, result in a more immediate benefit to FPC's ratepayers than accelerated amortization of the Tiger Bay regulatory asset. However, we believe it is not in the best interests of FPC's ratepayers to preclude FPC from offering any plan or proposal that might accomplish this end. Given FPC's assurances that any deferred 1998 earnings, plus interest, will be applied against the Tiger Bay regulatory asset if a proposal is either not filed or not approved by this Commission, we find that FPC's request should be approved.

In its request, FPC stated that it would file either a proposal, or a notification that no proposal would be filed, at some time during 1999. Due to the unspecified nature of any proposal that FPC might offer and the time required to adequately review any such proposal, we are concerned with the lack of a date certain for filing a proposal. Therefore, we direct FPC to file any proposal that it intends to offer in this docket by May 1, 1999. This deadline will provide FPC five months from the date of our vote on this matter to more thoroughly evaluate and develop any alternative proposal for disposition of its 1998 deferred earnings. Further, this deadline will provide the Commission sufficient time to evaluate and dispose of the proposal prior to the end of 1999. If a proposal is not filed by May 1, 1999, FPC shall immediately apply any 1998 deferred earnings, plus interest, to the Tiger Bay regulatory asset.

For earnings surveillance reporting purposes, we find that FPC's 1998 deferred earnings should be included in the Company's capital structure as a separate line item using the actual interest rate applied to the deferred earnings. When working capital is computed, interest-bearing liabilities are excluded from the calculation. FPC's deferred earnings regulatory liability will be interest bearing. In reconciling the rate base and the capital structure, the adjustment to exclude interest-bearing liabilities increases the total amount of capital. The capital structure can be increased on a pro rata basis over all sources of capital or on a specific basis over one or more sources of capital. If the reconciliation is made pro rata, the Company will earn its overall cost of capital on the balance of the deferred earnings. However, the Company would only be accruing interest at the commercial paper rate which is less than its overall cost of capital. Accordingly, we find that FPC's 1998 deferred earnings should be included in the capital structure as a separate line item using the actual interest rate applied to calculate the interest.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power Corporation's request for authority to establish a regulatory liability to defer any 1998 earnings for disposition in 1999 is hereby granted. It is further

ORDERED that Florida Power Corporation shall file a proposal concerning the disposition of any 1998 deferred earnings by May 1, 1999, in this docket. If Florida Power Corporation does not file such a proposal by May 1, 1999, it shall immediately apply all 1998 deferred earnings, plus interest, toward amortization of the Tiger Bay regulatory asset. It is further

ORDERED that, for earnings surveillance reporting purposes, Florida Power Corporation shall include any 1998 deferred earnings in its capital structure as a separate line item, using the actual interest rate applied to the deferred earnings. It is further

ORDERED that this docket shall remain open pending the final disposition of any 1998 deferred earnings of Florida Power Corporation.

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By ORDER of the Florida Public Service Commission this 22nd
day of December, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

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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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 12, 1999.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

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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 substantially 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 wastewater 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.