

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power Corporation for approval of regulatory treatment associated with the sale of replacement capacity and energy to the City of Tallahassee.

DOCKET NO. 990771-EI
ORDER NO. PSC-99-1741-PAA-EI
ISSUED: September 3, 1999

The following Commissioners participated in the disposition of this matter:

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

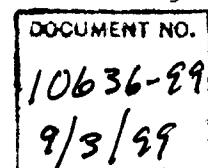
NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING REGULATORY TREATMENT FOR SALE OF
REPLACEMENT CAPACITY AND ASSOCIATED ENERGY

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.

A. Background

The City of Tallahassee ("City") currently owns a 1.3333 percent undivided interest in Crystal River Unit 3 ("CR-3") as a tenant in common with Florida Power Corporation ("Florida Power"), Seminole Electric Cooperative, and eight other municipal electric utilities. CR-3 is an 859 MW nuclear steam electric generating unit located in Citrus County, Florida. As a party to the CR-3 Participation Agreement, the City currently receives 1.3333 percent of CR-3's actual output. However, on December 9, 1998, Florida Power agreed to acquire the City's interest in CR-3 (approximately 11.4 MW) for a nominal cost and assume responsibility for all associated future costs, including decommissioning costs ("Agreement to Acquire the City of Tallahassee's Interest in the Crystal River Nuclear Plant"). Concurrently, Florida Power agreed



to replace the same amount of capacity that the City previously received as its share of CR-3 ("Power Sale Agreement By and Between Florida Power Corporation and the City of Tallahassee").

For regulatory purposes, Florida Power proposes that this Commission treat the sale of capacity and associated energy to the City as a unit power sale. Thus, Florida Power would assign all costs of the "unit" (i.e., 1.3333 percent of CR-3) to the wholesale jurisdiction. When the unit does not operate at a 100 percent capacity factor, Florida Power would assign all costs of providing supplemental capacity and associated energy to the wholesale jurisdiction.

B. Applicable Law and Policy

In Order No. PSC-97-0262-FOF-EI, issued March 11, 1997, in Docket No. 970001-EI ("Order No. 97-0262"), we restated our criteria for separated wholesale sales. This Commission has traditionally required a utility to separate a wholesale sale if it is a long-term firm sale (greater than one year) that commits production capacity to a wholesale customer. We separate wholesale sales to remove the production plant and associated operating expenses from the retail jurisdiction. We use average embedded costs for production plant and operating expenses to assign costs to both jurisdictions and have required the utility to credit its fuel clause with its average system fuel cost. This treatment is intended to avoid any cross-subsidies between the wholesale and retail jurisdictions.

On behalf of Florida Power in Docket 960001-EI, Mr. Karl Wieland testified¹:

...Florida Power believes that any sale, either retail or wholesale, should be priced at the average cost of the generation resources used to make the sale. In other words, sales from the utility's system should be based on system average fuel costs, and sales from a single generating unit (e.g., a Unit Power Sales arrangement) or from a combination of units (e.g., a "stratified"

¹ Direct testimony of Karl H. Wieland in Docket No. 960001-EI, filed June 24, 1996, page 12

sales arrangement) should be based on the average cost of the particular unit or units involved with the sale. Following this approach will ensure that retail customers do not subsidize wholesale sales...

In Order No. 97-0262, we stated that a utility may propose a deviation from our policy if the utility proves, on a case-by-case basis, that each new sale provides overall benefits to its retail ratepayers. Florida Power seeks approval of its proposed regulatory treatment because the treatment is a deviation from our policy as stated in Order No. 97-0262. Further, our approval of the proposed regulatory treatment is necessary for Florida Power and the City to complete the aforementioned agreements.

We acknowledge that Chapter 120, Florida Statutes, generally requires an agency to adopt as rules any agency statement of general applicability that prescribes law or policy. However, Section 120.80(13)(a), Florida Statutes, specifically exempts from this requirement agency statements relating to cost recovery clauses and mechanisms implemented pursuant to Chapter 366, Florida Statutes. Order No. 97-0262 was issued as part of this Commission's fuel and purchased power cost recovery clause. Thus, although that Order contains an agency statement of general applicability that prescribes policy, the agency statement is exempt from the rulemaking requirements of Chapter 120, Florida Statutes.

C. Provisions of "Power Sale Agreement By and Between Florida Power Corporation and the City of Tallahassee"

Florida Power will sell capacity and associated energy to the City until the expiration of CR-3's operating license on December 3, 2016. The power sales agreement between Florida Power and the City includes the following details:

1. Florida Power will deliver 11.4 MW of firm capacity to the City at a 100 percent capacity factor.
2. The City will pay Florida Power an all-inclusive charge of \$42 per MWH, which includes energy, capacity, and transmission charges, until December 31, 2007. After that date, the amount will increase annually by the rate of change in the Consumer Price Index until December 3, 2016.

3. Florida Power will provide the capacity and associated energy to the City at a priority level equivalent to Florida Power's firm native load. To the extent that Florida Power eliminates bundled service for its native load, the capacity and associated energy will be provided at a priority equal to Florida Power's highest service obligation of its generation division.
4. Pursuant to Florida Power's Open Access Transmission Tariff, the City will maintain a valid, binding, and enforceable agreement for firm transmission and related ancillary services.

D. Proposed Regulatory Treatment

With respect to acquiring the City's interest in CR-3, Florida Power's proposed regulatory treatment would affect its jurisdictional cost separations and surveillance reporting as follows:

1. Capital cost. In accordance with the Uniform System of Accounts (USoA), the City's gross investment and accumulated depreciation in its share of CR-3 would be recorded on Florida Power's records. The difference between the acquisition price and the net book value of this share would be recorded as a credit to "Electric Plant Acquisition Adjustments", because the net book value is greater than the purchase price. The USoA requires that any company that intends to record credit amounts to this account must receive this Commission's approval. The credit would then be amortized to "Amortization of Electric Plant Acquisition Adjustments" over the remaining life of the investment. This would not increase retail ratebase or depreciation expense. Therefore, no cost separation is necessary.
2. Decommissioning costs. Florida Power would assign the continued funding of decommissioning costs for the newly acquired share to the wholesale jurisdiction.
3. Operation and maintenance costs. Florida Power would assign 1.3333 percent of the costs to operate and maintain CR-3, as well as all other costs of the unit, such as insurance and property taxes, to the wholesale jurisdiction on an average cost basis.

4. Capital additions. Florida Power would assign 1.3333 percent of capital additions related to CR-3's existing capacity to the wholesale jurisdiction. However, Florida Power would allocate the associated costs of a capacity increase to CR-3 on a jurisdictional basis between the retail and wholesale jurisdictions.

Florida Power proposes that all transactions related to the purchase, including the acquisition adjustment, be assigned to the wholesale jurisdiction. We find that the proposed accounting treatment to amortize the acquisition adjustment over the remaining life of CR-3 is proper and will not impact retail ratepayers. Therefore, we find that Florida Power's proposed accounting treatment is appropriate.

With respect to the sale of replacement capacity and associated energy to the City, Florida Power's proposed treatment would affect its retail fuel and capacity cost recovery clauses as follows:

1. Nuclear fuel costs. Florida Power would credit 1.3333 percent of the average cost of nuclear fuel to the fuel clause.
2. Spent fuel disposal costs. Florida Power would credit \$1.00 per MWH generated with the newly-acquired share of CR-3 to the fuel clause.
3. Nuclear decommissioning and dismantlement (D&D) charges. Florida Power would assign 1.3333 percent of CR-3's nuclear D&D charges to the wholesale jurisdiction.
4. Supplemental power costs. Florida Power would calculate the cost of providing supplemental power, during periods when CR-3 is operating at less than a 100 percent capacity factor, under the pricing provisions of Florida Power's standard Schedule B interchange tariff approved by FERC. Florida Power uses Schedule B to sell capacity and associated energy to other utilities to replace the output of a unit on a forced or maintenance outage. Its pricing provisions consist of an incremental energy charge and a capacity charge calculated as follows:
 - a) Calculation of incremental energy costs. Florida Power proposes to utilize the hourly incremental cost used to price as-available energy payments to qualifying

facilities to represent incremental energy costs. Florida Power would multiply the hourly difference between the 11.4 MW sale to the City and 1.3333 percent of the actual output of CR-3 by the incremental energy cost for that hour. Then, Florida Power would credit the sum of these hourly amounts to the retail fuel clause.

- b) Calculation of capacity costs. Capacity costs are based on average embedded costs and are expressed on an energy basis for billing purposes. The capacity charge under the current Schedule B tariff is \$5.53 per MWH. Florida Power would credit the product of this capacity charge and the amount of supplemental energy to the capacity cost recovery clause.

E. Effects on Retail Ratepayers

We find that the proposed regulatory treatment will have a nominally positive effect on Florida Power's retail customers. First, the retail customers will not bear any fixed costs, non-fuel variable costs, or fuel costs associated with the newly-acquired share of CR-3. Also, the retail customers will not bear any of Florida Power's energy costs to provide supplemental power to the City when CR-3 operates at less than a 100 percent capacity factor.

Second, when CR-3 operates at less than a 100 percent capacity factor, Florida Power will assign the revenue received (\$5.53 per MWH) from the City for supplemental capacity to the retail customers. If Florida Power has sufficient capacity on its system to satisfy its obligation to the City, its retail ratepayers will not bear the cost of this capacity. Absent its agreement to sell replacement capacity and associated energy to the City, Florida Power's retail ratepayers would have borne the cost of this capacity. However, because Florida Power will credit these revenues to the capacity cost recovery clause, the retail ratepayers will benefit through a reduction in rates. We recognize that Florida Power may need to purchase additional capacity on rare occasions, due to lack of capacity on its system, to meet its obligations to the City. Depending upon the specific circumstances, Florida Power may be required to pay more than \$5.53 per MWH for the additional capacity. Our staff will monitor the occurrence of these transactions so that we may ensure Florida Power's retail ratepayers will not suffer a detriment due to the proposed regulatory treatment.

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Third, under the proposed regulatory treatment, when CR-3 operates at a 100 percent capacity factor, there will be no change in the amount of electricity that the City receives from Florida Power. Under this scenario, the proposed regulatory treatment will make the transaction transparent to Florida Power's retail customers. However, when CR-3 operates at less than a 100 percent capacity factor, the City will continue to receive 11.4 MW from Florida Power. Under this scenario, Florida Power will credit the incremental energy costs to the fuel clause for the difference between 1.3333 percent of CR-3's actual output and 11.4 MW.

We note that the proposed regulatory treatment of Florida Power's supplemental power costs is analogous to the regulatory treatment prescribed by this Commission in Order No. PSC-97-1273-FOF-EU, issued October 15, 1997, in Docket No. 970171-EU. In that docket, we ordered Tampa Electric Company to credit its fuel clause with system incremental fuel cost associated with wholesale sales to FMPA and the City of Lakeland. In a similar fashion, when the capacity factor of CR-3 is less than 100 percent, Florida Power will utilize the hourly incremental cost used to price as-available energy payments to qualifying facilities to represent incremental energy costs.

F. Conclusion

In summary, after reviewing the two agreements between Florida Power and the City, we find that the regulatory treatment proposed by Florida Power will provide a nominally positive benefit to Florida Power's retail ratepayers. Therefore, under the applicable standard set forth in Order No. 97-0262, we approve Florida Power's proposed regulatory treatment.

Based on the foregoing, it is

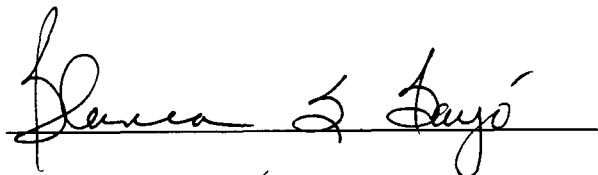
ORDERED by the Florida Public Service Commission that Florida Power Corporation's petition for approval of proposed regulatory treatment associated with the sale of replacement capacity and associated energy to the City of Tallahassee is granted. It is further

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ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 3rd day of September, 1999.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WCK

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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 that is available under Section 120.57, 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 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 September 24, 1999.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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.

M E M O R A N D U M RECEIVED-FISC

SEPTEMBER 7, 1999 SEP-3 PM 1:50

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (C. KEATING) WCK RUE

RE: DOCKET NO. 990771-EI - PETITION OF FLORIDA POWER CORPORATION FOR APPROVAL OF REGULATORY TREATMENT ASSOCIATED WITH THE SALE OF REPLACEMENT CAPACITY AND ENERGY TO THE CITY OF TALLAHASSEE

1741-FAA

Attached is a NOTICE OF PROPOSED AGENCY ACTION - ORDER APPROVING REGULATORY TREATMENT FOR SALE OF REPLACEMENT CAPACITY AND ASSOCIATED ENERGY to be issued in the above-referenced docket. (Number of pages in order - 9)

WCK/js

Attachment

cc: Division of Electric and Gas (Bohrmann, Wheeler)
Division of Auditing and Financial Analysis (Revell)

I: 990771or.wck

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