

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of
amendment to cogeneration
contract with Pinellas County
Resource Recovery Facility by
Florida Power Corporation.

DOCKET NO. 010275-EQ
ORDER NO. PSC-01-1088-PAA-EQ
ISSUED: May 7, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING AMENDMENT TO COGENERATION CONTRACT

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.

Pursuant to a negotiated cogeneration contract dated February 21, 1989, Florida Power Corporation (FPC) currently purchases 54.75 MW of capacity and energy from the Pinellas County Resource Recovery Facility (Facility). We approved the initial negotiated contract for cost recovery in Order No. 21952, Docket No. 890637-EQ. The contract was modified by a subsequent amendment in 1993 and two curtailment letter agreements in 1994 and 1997.

For Pinellas County to receive full capacity payments from FPC under the negotiated contract, the Facility must operate at a minimum on-peak capacity factor of 70% as well as a minimum total capacity factor of 70%. Both performance measures are based on the

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Facility's committed capacity of 54.75 MW and are calculated using a 12-month rolling average.

Pinellas County notified FPC of its plans to replace major components of the Facility's three boilers to improve reliability and efficiency. Pinellas County plans to repair one boiler in each year from 2001 to 2003, with each outage expected to take twelve weeks. The Facility's capacity output will decrease by approximately 1/3 during each of the three outages.

Pinellas County has an incentive to schedule the boiler outages during the summer season, when the Facility typically processes less waste. Such action would minimize the risk of the Facility failing to meet its 70% capacity factor obligation under the contract. However, FPC needs the Facility's capacity the most during the summer season to meet prolonged high demand periods.

To meet the needs of both Pinellas County and FPC, the parties have negotiated an amendment to the current negotiated contract. FPC petitioned for Commission approval of this amendment on February 28, 2001.

We have jurisdiction over the subject matter pursuant to Sections 366.05, 366.06 and 366.051, Florida Statutes.

Provisions of the FPC / Pinellas County Contract Amendment

The contract amendment proposed by FPC and Pinellas County contains the following key provisions:

1. The amendment has a term of three years, beginning in 2001 and encompassing the Facility's three 12-week boiler outages.
2. Pursuant to the 1994 and 1997 curtailment letter agreements, Pinellas County may reduce the Facility's output for a four-week period without penalty, if requested to do so by FPC. The proposed contract amendment allows Pinellas County to treat the first four weeks of the 12-week boiler outage as a curtailment period if the outage begins on October 1st of each year (or no earlier than September 15th by mutual agreement). However, Pinellas County may modify the Facility's committed capacity for the last eight weeks of the 12-week outage to

reflect decreased generating capability. The proposed agreement calls for the Facility's 12-month rolling average on-peak and total capacity factors to be calculated using its redesignated committed capacity. This minimizes the likelihood that the boiler outages will cause the Facility's capacity factor to fall below 70%.

3. FPC's capacity payments to Pinellas County during the first four weeks of the 12-week outage/curtailment period will be based on the Facility's existing committed capacity, currently 54.75 MW. For the last eight weeks of each 12-week outage/curtailment period, capacity payments will be based on the Facility's redesignated committed capacity.

In its petition, FPC projected that the contract amendment would save its customers \$7,141,068 on a net present value (NPV) basis. Of this value, \$3,787,707 is the NPV savings from FPC paying reduced capacity payments to Pinellas County due to the Facility's derating, while \$3,353,361 is the NPV savings from FPC's purchase of replacement capacity and energy during the fall shoulder period rather than during high demand summer months.

There are two primary areas where we disagree with the assumptions underlying FPC's analysis:

1. Need for Replacement Capacity Is Uncertain

Because the Facility will decrease its capacity output during boiler outages, FPC forecasts a need to replace 18.25 MW, 16.25 MW, and 14.25 MW of capacity in 2001, 2002, and 2003, respectively. If the three boiler outages were to occur during the summer peak months as Pinellas County prefers, FPC's summer reserve margin is forecasted to decrease by approximately 0.22% in each year from 2001 to 2003. If the boiler outages were to occur during the summer and FPC were not to purchase replacement capacity, the lowest forecasted reserve margin at summer peak during this period is 18.15% in 2001.

Because FPC appears to require only a small amount of replacement capacity during the Facility's boiler outages, we are not certain whether FPC will, in fact, make such purchases. If FPC

does not purchase replacement capacity and energy, FPC's ratepayers will realize \$3,353,361 less in NPV savings from the proposed contract amendment. We agree that it is generally appropriate to shift boiler maintenance from summer peak periods to the fall shoulder months to ensure system reliability. However, fall maintenance can also be a problem because other Peninsular Florida utilities perform unit maintenance at that time. During a capacity shortage, the price paid by utilities for capacity and energy may be the same regardless of the season.

2. Savings from Reduced Capacity Payments Are Overstated

FPC states that its customers will gain \$3,787,707 in NPV savings from FPC paying reduced capacity payments to Pinellas County during the Facility's derating. However, this analysis assumes that Pinellas County will decrease the committed capacity of the Facility for the entire 12-week period. As previously mentioned in provision #2 above, the first four weeks of a curtailment period can occur without penalty. As previously mentioned in provision #3 above, FPC's capacity payments during the first four weeks of the curtailment period will be based on the existing committed capacity, currently 54.75 MW. For the last eight weeks of the outage/curtailment period, capacity payments are calculated using the Facility's redesignated committed capacity. If FPC's analysis had properly accounted for these two different methods to measure the cost impact of curtailment outage, we believe that the true reduction in capacity payments is \$2,406,348 NPV.

We also question the likelihood that FPC's customers could save the \$2,406,348 NPV stated above. This dollar value assumes that Pinellas County will reduce its committed capacity, for an eight-week period, by exactly 18.25 MW in 2001, 16.25 MW in 2002, and 14.25 MW in 2003. However, since the contract amendment enables Pinellas County to redesignate the Facility's committed capacity during each outage, Pinellas County could conceivably choose any value, including the full contractual commitment of 54.75 MW. While the monthly capacity factor for these two months will certainly be below the 70% capacity factor requirement, Pinellas County may choose to take a risk that the previous 10 months' performance will sufficiently keep the 12-month rolling average capacity factor above 70%. In such a scenario, Pinellas

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County would continue to receive the full capacity payment based on 54.75 MW, and FPC's customers would save nothing.

At worst, we believe that the proposed contract amendment will neither cost nor save FPC's ratepayers anything. Because the contract amendment ensures that the Facility's output will not be derated during the summer peak months and does not cause customers to incur any extra costs, we find that FPC's petition should be approved.

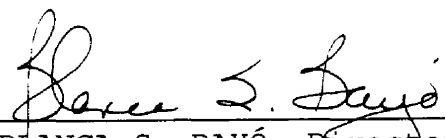
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power Corporation's petition for approval of an amendment to its cogeneration contract with the Pinellas County Resource Recovery Facility is granted. It is further

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 7th day of May, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 May 28, 2001.

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.