

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of
plan to share risks of Bay
County qualifying facility
contract modification by Florida
Power Corporation.

DOCKET NO. 020404-EQ
ORDER NO. PSC-03-1120-FOF-EQ
ISSUED: October 7, 2003

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER ACKNOWLEDGING VOLUNTARY WITHDRAWAL OF PETITION

BY THE COMMISSION:

On June 17, 1988, by Order No. 19509, this Commission approved a purchased power contract between Florida Power Corporation, now known as Progress Energy Florida, Inc. (Progress Energy), and Bay County. The negotiated contract provides Progress Energy with 11 megawatts of capacity and associated energy from Bay County's Resource Recovery Facility, a qualifying facility (QF). The contract was set to expire in 2022. The pricing structure of the contract was unusual because it included early capacity payments to the cogenerator in exchange for a ten-year period of firm energy with no capacity payments from 2013 through 2022.

By Order No. PSC-02-0483-PAA-EQ, issued April 8, 2002, in Docket No. 011365-EQ, we granted a petition by Progress Energy to amend the Bay County Contract. The amendment terminates the contract in 2006 rather than 2022 and requires Progress Energy to pay Bay County \$610,000. In our Order, we noted that:

The risks associated with variances from the projected energy and capacity costs used to measure the cost-effectiveness of this amendment are, at present, borne

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entirely by FPC's ratepayers . . . a sharing of both the risks and rewards associated with this amendment could be beneficial to both the utility and its customers.

We therefore ordered Progress Energy to consider a sharing plan and to either file a petition seeking approval of a sharing plan or submit a report detailing why a sharing plan was not proposed.

On May 8, 2002, Progress Energy filed a petition for approval of a plan to share the risks of the Bay County contract amendment. At our September 3, 2002, Agenda Conference, we voted to defer resolution of this matter to allow Progress Energy and the Office of Public Counsel time for further discussion. Progress Energy filed an amendment to its petition on March 11, 2003.

On August 8, 2003, Progress Energy filed a Notice of Voluntary Withdrawal of its proposed sharing plan for the Bay County contract amendment. We have jurisdiction over this matter pursuant to several provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05, and 366.051, Florida Statutes.

In its Notice of Voluntary Withdrawal, Progress Energy states that the unusual nature of the original Bay County contract does not lend itself "to the initial application of the sharing concept encouraged by the Commission when the amendment was approved." We agree with Progress Energy that the early capacity payments to Bay County and ten-year zero capacity payment period at the end of the original contract make it difficult to design a sharing plan which equitably shares the risks among ratepayers and shareholders. We therefore acknowledge Progress Energy's Voluntary Notice of Withdrawal of the proposed Bay County sharing plan.

Progress Energy further states that it believes the risk and reward sharing concept has the potential to provide significant benefits to Progress Energy and its customers in future QF contract restructuring negotiations, and it urges this Commission to continue its encouragement of this concept. In acknowledging Progress Energy's Notice of Voluntary Withdrawal, we do not preclude or intend to discourage Progress Energy from filing risk sharing plans associated with future cogeneration contract restructurings.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Progress Energy Florida, Inc.'s Notice of Voluntary Withdrawal of its May 8, 2002, petition for approval of a plan to share the risks of the Bay County contract amendment is hereby acknowledged. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 7th Day of October, 2003.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

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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.

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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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.