

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

**ORIGINAL
FILE COPY**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

In The Matter of	:	DOCKET NO. 870098-EI
	:	
Petitions for approval of an increase in the accrual of nuclear decommissioning costs by Florida Power Corporation and Florida Power & Light Company	:	PREHEARING CONFERENCE
	:	

RECEIVED
Division of Records & Reporting

MAY 9 1989

Florida Public Service Commission

FPSC Hearing Room 106
Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399

May 4, 1989

Met pursuant to notice at 9:45 a.m.

BEFORE: COMMISSIONER GERALD L. GUNTER
Prehearing Officer

DOCUMENT NO.
04616-89
5/9/89

APPEARANCES:

MATTHEW M. CHILDS, Steel, Hector and Davis, 310 West College Avenue, Tallahassee, Florida 32301-1406, Telephone No. (904) 222-4192, on behalf of Florida Power and Light Company.

JAMES MCGEE, Florida Power Corporation, P.O. Box 14042, St. Petersburg, Florida 33733, Telephone No. (813) 866-5184, on behalf of Florida Power Corporation.

M. ROBERT CHRIST, Florida Public Service Commission, Division of Legal Services, 101 East Gaines Street, Tallahassee, Florida 32399-0863, Telephone No. (904) 487-2740, on behalf of

1 the Commission Staff.

2 PRENTICE P. PRUITT, Florida Public Service Commission,
3 General Counsel, 101 East Gaines Street, Tallahassee, Florida
4 32399-0862, Telephone No. (904) 488-7464, Counsel to the
5 Commissioners.

6
7 **ALSO PRESENT:**

8 BETH SALAK, FPSC, Division of Auditing and Financial
9 Analysis

10 ANN CAUSSEAU, FPSC, Division of Auditing and Financial
11 Analysis

12

13

14

15

16

17 **REPORTED BY:**

JOY KELLY, CSR, RPR
Official Commission Reporter

18

19

20

21

22

23

24

25

P R O C E E D I N G S

(Hearing convened at 9:45 a.m.)

COMMISSIONER GUNTER: Let's call this prehearing conference to order. Counsel read the notice.

MR. CHRIST: Pursuant to notice this time and place has been set for hearing in the prehearing conference docket in 870098-EI on the Petitions for Approval of an Increase in the Accrual of Nuclear Decommissioning Costs of Florida Power Corporation and Florida Power and Light Company.

The purpose of the hearing are more particularly described in the notice.

COMMISSIONER GUNTER: Let's take appearances.

MR. CHILDS: My name is Matthew M. Child of the firm of Steel, Hector & Davis appearing on behalf of Florida Power and Light Company.

MR. MCGEE: James McGee, P. O. Box 14042, St. Petersburg, appearing on behalf of Florida Power Corporation.

MR. CHRIST: M. Robert Christ, 101 East Gaines Tallahassee, Florida appearing on behalf of the Commission Staff.

MR. FRUITT: Prentice Pruitt, same address, Counselor to the Commissioners.

COMMISSIONER GUNTER: Mr. Christ, I take by their absence that Public Counsel is not going to be involved in this proceeding.

MR. CHRIST: They've never participated thus far.

1 COMMISSIONER GUNTER: I understand. Do you have any
2 preliminary matters?

3 MR. CHRIST: And I talked to the people in Dade County
4 and they said they are not going to participate either. That's
5 why their position were in the included in the draft.

6 COMMISSIONER GUNTER: Okay. Do we have any
7 preliminaries?

8 MR. CHRIST: I don't know of any preliminary matters.

9 MR. CHILDS: We have none.

10 MR. MCGEE: None.

11 COMMISSIONER GUNTER: All right. We'll follow our
12 standard proceed. We'll go page by page. I have some questions
13 I want to ask as we go through. We'll ask them as we go through
14 the process. Does anybody have any problems with Page 1, which
15 includes the background? Page 2 is a continuation of the
16 background, prefiled testimony, deposition, that's standard,
17 order of witnesses, in the order order of witnesses correct on
18 pages 2 and 3?

19 MR. CHILDS: It is correct except on Page 3 at the top
20 for Mr. Hoffman on the issue column add Issue 24, and for Mr.
21 Kuberek add Issue 25.

22 COMMISSIONER GUNTER: All right. Power Corporation's
23 all right?

24 MR. MCGEE: Yes, sir.

25 COMMISSIONER GUNTER: Staff's correct?

1 MR. CHRIST: Yes, sir. I would like to understand why
2 -- is Mr. LaGuardia going to take the stand twice, is that what
3 the Commissioners what?

4 COMMISSIONER GUNTER: Pardon.

5 MR. CHRIST: There is one witness for both companies.
6 Mr. LaGuardia, he's the key witness for both companies and Power
7 Corp has him down for Issues 1 through 5 and 9, and Power and
8 Light has him down for some other one and I'm just wondering if
9 there is some -- what the deal is. But he's testfying in the --

10 COMMISSIONER GUNTER: If they go out and hire somebody
11 on the same subject, and I assume that might have been what was
12 done.

13 MR. CHILDS: I believe there are, that he did separate
14 studies for the company, each company, and I don't have any
15 problem with him testfying at one time and presenting first one
16 set of studies and then the other set of studies.

17 MR. CHRIST: I thought it would be easier for the
18 Commission.

19 COMMISSIONER GUNTER: That would be fine. You'll have
20 kind of a bifurcated testimony. Make sure you keep the studies
21 that were done for each company separate, and there may be
22 questions why are there differences and that kind of thing.

23 MR. MCGEE: That would be fine.

24 MR. CHRIST: So we can have Mr. LaGuardia listed one
25 time.

1 COMMISSIONER GUNTER: Right. Make sure you list in the
2 Prehearing Order that he will testify representing both
3 companies.

4 MR. CHRIST: Right.

5 COMMISSIONER GUNTER: All right do we have exhibit
6 numbers yet?

7 MR. CHRIST: No, sir. We were wondering what your
8 pleasure would be.

9 COMMISSIONER GUNTER: I don't care as long as it's 1,
10 2, 3, but we're going to, for this proceeding, eliminate As, Bs
11 and Cs and double Xs and all that.

12 MR. CHRIST: We can go through and number them 1
13 through 3 if that is the way you want it.

14 COMMISSIONER GUNTER: All right, I would like to do
15 that. Mr. LaGuardia's study would be Exhibit No. 1, is that
16 correct? Want to do it that way?

17 MR. CHRIST: Yes, sir, that is fine.

18 COMMISSIONER GUNTER: Court reporter do you have any
19 preference?

20 THE REPORTER: Numbering them 1 through 100 is fine.

21 COMMISSIONER GUNTER: Mr. LaGuardia will be identified
22 as Exhibit No. 1. The -- am I correct that the Hoffman -- two
23 witnesses listed there will sponsor one exhibit, is that correct?

24 MR. CHRIST: The three witnesses, I think.

25 MR. CHILDS: That's correct. So exhibit numbers. for

1 Hoffman --

2 MR. CHRIST: One to St. Lucie 1 and 2 and two for
3 Turkey Point 3 and 4.

4 MR. CHILDS: Okay.

5 COMMISSIONER GUNTER: All right. 3 would be for 3 and
6 4. Mr. LaGuardia would be 3. 4 would be for units 3 and 4.

7 MR. CHRIST: Yes.

8 COMMISSIONER GUNTER: I'm trying to go down the list,
9 Bob, and trying to understand if you have three people.

10 MR. CHRIST: They are all going to be subject to
11 testimony on that.

12 COMMISSIONER GUNTER: I understand. Who is going to
13 sponsor it?

14 MR. CHRIST: Mr. LaGuardia.

15 COMMISSIONER GUNTER: Let's strike Hoffman and Kuberek.

16 MR. CHILDS: Commissioner, I don't want to confuse
17 anyone but this document -- there is a portion of it and it's
18 explained with a document in the testimony, there is a portion of
19 it that has been put together by Mr. LaGuardia and a portion by
20 Mr. Hoffman and a portion by Mr. Kuberek, and I think once you
21 look at those documents, although it's large, it could be sorted
22 out but I think they all three need to be listed.

23 COMMISSIONER GUNTER: All right. So that will be the
24 combined exhibit with all three of those. All right.

25 The next one, The Cost Schedule and Estimate for 1 and

1 2, Document No. 1, would that be No. 4? By LaGuardia.

2 MR. CHILDS: Right.

3 COMMISSIONER GUNTER: The next one would be LaGuardia
4 again that would be Exhibit No. 5.

5 MR. CHRIST: No, sir.

6 COMMISSIONER GUNTER: No?

7 MR. CHRIST: First one would be --

8 COMMISSIONER GUNTER: Let me tell you what, rather than
9 waste the time -- hear me out. Rather than waste the time why
10 don't you all do it yourselves.

11 MR. CHRIST: We can do it ourselves.

12 COMMISSIONER GUNTER: The way you have it listed, I'm
13 reading it, you're going down, they are different studies.

14 MR. CHRIST: Each one of Laguardia's should be 1, 2 and
15 3, and then the 4th LaGuardia should be 4, but we can do it
16 ourselves.

17 COMMISSIONER GUNTER: Why don't you do it yourselves.
18 Because the way it is now is I'm going down that list, it appears
19 as though each one of them is a separate item and you don't have
20 them broken out in the way you want them numbered.

21 MR. CHRIST: Okay. We'll be glad to.

22 COMMISSIONER GUNTER: LaGuardia's statement, go to Page
23 5, statement of basic positions, is that stated correctly?

24 MR. CHRIST: We have a change in ours. An addition to
25 ours. On Page 6, after that sentence "the new accrual amount

1 should be implemented on January 1, 1989," it should read, "the
2 new accrual amount should be implemented for Florida Power and
3 Light as of January 1st, 1989."

4 COMMISSIONER GUNTER: Excuse me, Bob, what was that?

5 MR. CHRIST: On Page 6, line --

6 COMMISSIONER GUNTER: Page 6.

7 MR. CHRIST: Yes, sir. New accrual amounts should be
8 implemented.

9 COMMISSIONER GUNTER: Right.

10 MR. CHRIST: "Florida Power and Light" should be
11 inserted in there, "for Florida Power and Light." "New accrual
12 amounts for Florida Power and Light should be implemented as of
13 January 1st, 1989." Then we're going to add, "Any change to the
14 accrual amount approved for FPC in Order Number 18627, Docket No.
15 870220-EI should be implemented as of January 1st, 1990." And
16 that is keeping with a stipulation we understand that was entered
17 into in that docket. There would be no change in the accrual
18 until 1990.

19 COMMISSIONER GUNTER: All right.

20 MR. CHRIST: That's the only change we have in our
21 position.

22 COMMISSIONER GUNTER: Anybody else have any changes in
23 the basic position?

24 MR. MCGEE: Commissioner, there is a typo in FPC's
25 basic position in the fifth line down. The word "basic" should

1 be "basis."

2 COMMISSIONER GUNTER: Basis. B A S I S?

3 MR. MCGEE: That's correct.

4 COMMISSIONER GUNTER: All right. Any further?

5 MR. MCGEE: No, sir.

6 COMMISSIONER GUNTER: All right. Page 6, statement of
7 issues and positions. Is Power and Light's stated correctly.

8 MR. CHILDS: Page 6 we have no changes.

9 COMMISSIONER GUNTER: Power Corp.

10 MR. MCGEE: No changes.

11 COMMISSIONER GUNTER: Staff?

12 MR. CHRIST: No changes.

13 COMMISSIONER GUNTER: Issue 2, Power Corp's.

14 MR. MCGEE: No changes.

15 COMMISSIONER GUNTER: Staff.

16 MR. CHRIST: It would be easier than running through
17 this -- has counsel reviewed the positions on all the issues?

18 MR. CHILDS: Commissioner, we have and we do have some
19 changes. If you agree, maybe we could sit down and go through
20 some of these with the Staff and might save your time if we could
21 do that.

22 COMMISSIONER GUNTER: We can do that and we could get
23 back together this afternoon or whenever you all get it squared
24 away and make sure we have them right.

25 MR. CHRIST: We can have them ready in a hour.

1 COMMISSIONER GUNTER: Let me ask you this, some
2 questions I've got, I want to make sure they are addressed.

3 When we start talking about -- back on Issue 12, on
4 Page 14 when we talk about internally or externally managed funds
5 and there are some other pieces that go over like on Issue 20,
6 and I realize what I'm trying to do is to carry a thread, Issue
7 20 on Page 18. On Issue 20 I'm asking the question, I want to
8 make sure it's addressed in the testimony. I had not read all
9 the testimony yet, but it was my understanding that last year NRC
10 had some sort of a ruling that there had to be external funds,
11 they had to be managed externally and there was some sort of a
12 question at that time. I had some discussions, for instance,
13 with an I guess regulatory affairs accounting kind of person with
14 Power and Light, because it was my understanding you all had an
15 external fund and mine was kind of a tweaking thing saying hey,
16 the original order said it would be an internal fund. And I get
17 the positions of the parties on Issue 12 and Power and Light
18 saying it should be internally. I thought that that was -- they
19 had gone to an external situation was my understanding.

20 Now, some of the questions that raises in my mind, is:
21 One, does the method of treatment, does that conform -- whether
22 internal or external does it conform to the requirements of NRC,
23 and I understand they are not in that business except they do,
24 through amiable terrorism, they get you to do what they want you
25 to do. That is a question I need for us to answer.

1 Secondly, on Issue 20, is it going to be covered in the
2 benefits of qualifying or nonqualifying fund, are we going to be
3 able to see the tax implications and the revenue requirements
4 that fall out of the tax implications if your qualified versus
5 not being qualified.

6 Thirdly, there was a provision that we had the first
7 time as to an earnings minimum that these funds should achieve or
8 if they don't, ratepayers don't have to kick up that return,
9 stockholders are going to have to, and that established, if my
10 recollection is correct, that the funds should earn at a minimum
11 commercial paper rate based on a 30-day rolling on the last day
12 of the month -- either last day of the month or first day of the
13 month as reported in the Wall Street Journal. Maybe that wasn't
14 an order, but at least that was in a discussion we had at that
15 time.

16 Those are some items I'd like to see that we cover
17 because of one thing of getting the money there. Secondly,
18 assuring that the return on the money, you know, it's not just
19 sitting out there -- somebody is not really paying attention to
20 it and maximizing a return. Then you start getting real goosey
21 about what's the tax effect, if any, between qualified and
22 nonqualified. And I think that may some how be tied between
23 internal and external, and do we, by going one or the other, are
24 we getting crosswise with the NRC and other federal regulatory
25 bodies, such as the Internal Revenue Service. Anything unfair

1 about those that I want to see come out of this, and is it
2 covered in testimony?

3 MS. SALAK: As far as the pros and cons of the
4 qualified versus nonqualified funds.

5 COMMISSIONER GUNTER: How about the internal versus
6 external and what the requirements are both with the NRC and IRS.

7 MS. SALAK: There is a mention of the external
8 requirements, but I can't think of any testimony that covers it
9 directly. No.

10 COMMISSIONER GUNTER: Well, that's an issue with me.

11 MS. SALAK: It's covered through deposition but what
12 was about it.

13 COMMISSIONER GUNTER: Well, it's going to be an issue
14 that somebody is going to address, and I want to tell you that's
15 an issue. That's an issue that I'm adding and you all can
16 discuss that and take a position on it. I need also the issue
17 about should we establish a minimum earnings for the fund, and
18 that one we talked about, that would be the internal and external
19 and are we meeting the requirements of the NRC and IRS, is that
20 fair, Ann?

21 MS. CAUSSEAU: Yeah.

22 COMMISSIONER GUNTER: Okay. I think it's -- what we're
23 really trying to do, it's fundamental, it was started and I
24 recall the reluctance in 1981 of everybody to embrace this rather
25 than go the old process of just negative depreciation, if I

1 recall at that time it was 125%, it's been a long time ago, of
2 requiring that these be funded reserves, and it works both for
3 the benefit of the Company, and the ratepayers, and the future
4 ratepayers, so that future ratepayers have got no benefit of this
5 process, will not have to pay for it.

6 You all call me.

7 MR. CHRIST: Could you give us the wording of the issue
8 that you want on the one where the NRC --

9 COMMISSIONER GUNTER: There is a question in my mind is
10 it was my understanding, and it can be incorrect, and I want
11 somebody to tell me under sworn testimony that it's not correct,
12 that NRC has a requirement that all the funds be external. If
13 that is a requirement, because see we have one company that's
14 gone outside and we have would be that's saying no, we should
15 keep it inside. I had understood they had already gone outside
16 to a bank in Boston or somebody. I need to understand.

17 MR. CHRIST: I think the problem is is on the
18 interpretation, what's external and what's internal. And they
19 are both doing it almost the same, is my understanding.

20 COMMISSIONER GUNTER: Then I need to understand, Bob,
21 and the panel needs to understand are there any tax implications
22 that are different ways of treatment. It may be that you've got
23 somebody out acting as a trustee. You can have a blind trust
24 which you have no control over at all, and you have a trust which
25 you can manage. You know, in the simplest form your IRA is the

1 same way, you can manage. The funds in your IRA but you just
2 can't get it unless you want to pay a severe penalty or
3 something. And that's the simplest form and one maybe you have
4 external funds deposited somewhere but you manage them. Maybe --
5 I don't know. But that's a question in my mind that I don't see
6 addressed in the prehearing.

7 MR. CHRIST: We were aware of that type of issue but
8 --

9 COMMISSIONER GUNTER: Well, it is an issue now. It is
10 no longer just being aware and you all worrying about it. I'm
11 worried about it. And I hate to be dogmatic about it but those
12 are I think some real important elements, and I don't want this
13 Commission to do something which can ultimately harm the Company
14 and its ratepayers by making a decision when we're not fully
15 knowledgeable of it.

16 I'm going to wait on you all to call me. And if I had
17 the language down I wouldn't need you all. You all know what the
18 issue is so you all call me when you get ready. We'll just stand
19 in recess.

20 (Brief recess.)

21 COMMISSIONER GUNTER: All right. Back on the record.
22 Bob, where are we now?

23 MR. CHRIST: We have some suggested wording for the
24 issues that you've requested. Ms. Lee will read it.

25 MS. LEE: Do FP&L and FPC comply with NRC requirements

1 as they pertain to control of the decommissioning funds?

2 COMMISSIONER GUNTER: All right.

3 MS. LEE: Do FP&L and FPC comply with NRC requirements
4 as they pertain to the management of the investment of the
5 decommissioning trust funds?

6 Do FP&L and FPC comply with IRS requirements as they
7 pertain to control of the decommissioning funds.

8 Do FP&L and FPC comply with the IRS requirements as
9 they pertain to the management of the investments of the
10 decommissioning trust funds?

11 COMMISSIONER GUNTER: Now, implicit in that last
12 portion, in that last item, the fourth item that you just read,
13 an evaluation of the tax implication -- excuse me, I thought you
14 were through.

15 MS. LEE: A separate issue. What are the tax and
16 revenue requirement implications of having a qualified fund
17 versus a nonqualified fund?

18 COMMISSIONER GUNTER: Okay.

19 MS. LEE: And the last issue: Should a minimum fund
20 earnings rate be imposed? And if so, how should that rate be
21 determined?

22 COMMISSIONER GUNTER: Okay. Bob shared with me that
23 last order which I was in error on, my recollection from some
24 eight years ago was wrong in that -- it's my understanding, Bob,
25 that it was tied with the inflation rate.

1 MR. CHRIST: Correct.

2 COMMISSIONER GUNTER: And not with the commercial paper
3 rate. We'd use that commercial paper rate for other things.

4 Would all the parties get to Bob. When would you like
5 to have the positions on those? When is the hearing scheduled
6 for?

7 MR. CHRIST: The hearing is not scheduled until the
8 25th and 26th, so by next Tuesday would be fine.

9 COMMISSIONER GUNTER: All right. Could you all provide
10 your positions on this?

11 MR. MCGEE: Yes.

12 COMMISSIONER GUNTER: And who would address them? Are
13 there any other changes, you said you went through -- Mr. Childs
14 said he had some changes he wanted to --

15 MR. CHRIST: Unless they are substantive we'll go ahead
16 and include them ourselves.

17 MR. CHILDS: I have given a copy of the draft
18 prehearing marked up with changes in it.

19 COMMISSIONER GUNTER: Is yours all right?

20 MR. MCGEE: I given him one correction on one issue,
21 very minor, cosmetic.

22 MR. CHILDS: Commissioner, one other item. On the
23 additional six issues we will furnish our statement of position.
24 If you'd had like, we'd have witnesses address that at the
25 hearing when we ask them to summarize their testimony.

1 COMMISSIONER GUNTER: All right. We do need to address
2 those at the hearing, Mr. Childs. I think that they are first
3 getting the numbers of bucks there, but we need to clearly
4 understand what all the implications are and primarily because
5 I'm not sure we understand.

6 MR. CHILDS: Right.

7 COMMISSIONER GUNTER: You know, you hear the NRC puts a
8 requirement in. You know, what weight does that have except as I
9 use the term, "amicable terrorism". How does had that fit with
10 the IRS, do we have some sort of a dichotomy existing between two
11 federal agencies, that kind of thing, at least we need to
12 understand.

13 MR. CHRIST: Mr. Commissioner, we have some issues here
14 which you can read and see we are all in agreement. Do you want
15 us to move them into a stipulated area? There are some issues in
16 here that we are going to need a ruling by the Commission because
17 they are required by the IRS. Do you want us to move them to the
18 stipulated area or just leave them the way they are.

19 COMMISSIONER GUNTER: I think, Bob, my understanding,
20 of reviewing this, is that it doesn't hurt anything in this
21 proceeding cause it's not one of these hotly contested -- the
22 only hotly contested item I think would be whether there were --
23 whether we're talking about a complete dismantlement, or usage of
24 other items, and what the dollar figures would be. I don't think
25 in this proceeding it would hurt at all to leave them the way

1 they are.

2 MR. CHRIST: Okay.

3 COMMISSIONER GUNTER: Anybody got any objection to
4 that?

5 MR. CHILDS: No sir.

6 MR. MCGEE: No sir.

7 MS. LEE: Commissioner Gunter, we will go ahead and
8 footnote those issues that are required by the IRS rule.

9 COMMISSIONER GUNTER: Sure. Okay. Anything else?
10 Thank you all.

11 (Hearing adjourned 11:20 a.m.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 F L O R I D A)
2 COUNTY OF LEON)

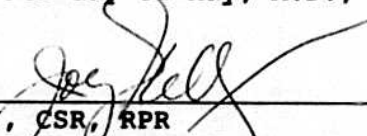
CERTIFICATE OF REPORTERS

3 I, JOY KELLY, CSR, RPR, Official Commission Reporter
4 DO HEREBY CERTIFY that the Prehearing Conference, in
5 the captioned matter, Docket No. 870098-EI, was heard by the
6 Florida Public Service Commission at the time and place herein
7 stated; it is further

8 CERTIFIED that I reported in shorthand the proceedings
9 held at such time and place; that the same has been transcribed
10 under my direct supervision, and that this transcript, consisting
11 of 19 pages, inclusive, constitutes a true and accurate
12 transcription of my notes of said proceedings; it is further

13 CERTIFIED that I am neither of counsel nor related to
14 the parties in said cause and have no interest, financial or
15 otherwise, in the outcome of this docket.

16 IN WITNESS WHEREOF, I have hereunto set my hand at
17 Tallahassee, Leon County, Florida, this 9th day of May, A.D.,
18 1989.

19 
20 JOY KELLY, CSR, RPR
21 OFFICIAL COMMISSION REPORTER
22 FPSC Bureau of Reporting
23 Fletcher Building, Room B-45
24 101 East Gaines Street
25 Tallahassee, Florida 32301-0871
Telephone No. (904) 488-5980