

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Extension of Florida Power Corporation's 1989 credit applied to customer bills.)	DOCKET NO. 891298-EI
)	ORDER NO. 22437
)	ISSUED: 1-22-90
)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTION
ORDER CONTINUING CREDIT

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

In Docket No. 870220-EI, the Office of Public Counsel (OPC), Occidental Chemical Corporation (Occidental), the Coalition of Local Governments (Coalition), the Florida Industrial Power Users Group (FIPUG) and Florida Power Corporation (FPC) entered into a stipulation which resulted in a permanent reduction in FPC's rates of \$121,500,000.

Order No. 18627 approving the stipulation discusses a permanent reduction of \$121.5 million and a one time credit of \$18.5 million due to excess deferred income taxes not subject to the federal Tax Reform Act of 1986 (Act). The \$18.5 million was an initial estimate pending an IRS ruling on whether a

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one-year flow-through of the deferred taxes in excess of the \$18.5 million attributable to the repair allowance and nuclear decommissioning would violate the normalization requirements of the Act.

The \$18.5 million in excess deferred taxes was to be refunded over 1988, with any additional excess to be refunded during 1989. Both the permanent revenue reduction of \$121.5 million and the one-year credit of \$18.5 million were allocated through the application of a uniform percentage factor to FPC's currently authorized permanent base rate charges under each of its rate schedules in proportion to the test year base revenues of \$870.968 million. This methodology resulted in at least a 13.95% reduction in all of FPC's non-fuel rates and charges. [Order No. 18627, issued on January 4, 1988, at 3.] The credit will expire on December 31, 1989 and customers' base rate bills will automatically increase 1.391% as of January, 1990.

Order No. 20632, issued January 20, 1989, implemented the IRS ruling which stated that the refund of the \$11.879 million in additional deferred taxes associated with the repair allowance and nuclear decommissioning would not violate the Tax Reform Act. This refund was done exactly as the permanent rate reduction described above: a factor of 1.391% applied to all charges except fuel, ECCR, franchise fees and municipal taxes.

In Docket No. 891095-EI, we voted to expedite a review of FPC's earnings pursuant to the new filing review legislation, Section 366.06(3), Florida Statutes. FPC's expedited filing is due March 30, 1990. This expedited review for FPC was in response to the fact that FPC's earnings hover around a 13.6% return on equity. This return on equity was the return that all parties to Docket No. 870220-EI stipulated would be used for interim purposes.

It may be true that FPC's earnings are being enhanced by the unusually warm weather experienced so far in 1989 and will soon decline. However, at this time FPC continues to earn a slightly higher return than the 13.6% agreed to and approved by this body. Removing the credit, as scheduled on December 31, 1989, will only exacerbate any potential over-earnings FPC is experiencing.

That being the case, we will require that the credit remain in effect until FPC's base rates are changed pursuant to some

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type of Commission proceeding in which a hearing is held. The continuation of this credit does not represent any further refund of excess deferred taxes associated with the repair allowance or nuclear decommissioning.

Therefore, it is

ORDERED by the Florida Public Service Commission that Florida Power Corporation is required to continue the credit on customer bills, which is scheduled to expire on December 31, 1989, as discussed in the body of this order. It is further

ORDERED that the credit be made to customer classes on the same basis as the credit is currently being applied. It is further

ORDERED that the credit shall continue until the base rates of Florida Power Corporation are changed as a result of a proceeding before this Commission in which there has been a hearing.

By Order of the Florida Public Service Commission
this 22nd day of JANUARY, 1990.


STEVE TRIBBLE, 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 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on February 12, 1990.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent 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.

If this order becomes final and effective on the date described above, any party adversely 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 sewer 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.