BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of cogeneration between Florida Power & Light Company and Royster Phosphates, Inc.	DOCKET NO. 900137-EQ ORDER NO. 23004 ISSUED: 5-30-90

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
BETTY EASLEY
GERALD L. GUNTER

PROPOSED AGENCY ACTION
ORDER APPROVING 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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Royster Phosphates, Inc. (RPI) is a cogenerator whose proposed facility is located near Bradenton, Florida in Manatee County. Pursuant to an interconnecton agreement made on November 13, 1989, Florida Power and Light Company (FPL) will purchase all energy and capacity in excess of RPI's internal consumption. FPL will initially purchase 28 MW from RPI, although the contract has an option for FPL to purchase up to 40 MW in the future.

The contract will begin with the initial delivery of committed capacity in 1992 and end on December 31, 2007. FPL may terminate the agreement if RPI fails to do the following:

> a. achieve financial closing of the facility and place the order for the turbine/generator within 60 days of the date of final Commission action approving this agreement;
> b. start construction within 180 days of the date of final Commission action approving this agreement; or

c. commence delivery of energy pursuant to the terms of this agreement, on or before June 1, 1992.

Should any of the events listed above happen, RPI would reimburse FPL for all costs, including interest at the rate of 12% per year, which FPL has reasonably incurred following the execution of this agreement in preparing to receive energy and capacity.

Below is a summary of the terms and conditions of the negotiated contract which vary from those of the standard offer contract:

a. The combined capacity and energy payment made to RPI during the first two years of the negotiated contract is larger than the year-by-year value of deferring the statewide avoided unit. The negotiated contract appears to be "front-end loaded" because the capacity and energy payments made by FPL to RPI are based on the costs normally associated with coal units for those years. The present value of the capacity payments during the life of the negotiated contract is higher than the present value of the capacity payments in the statewide avoided unit, a combined cycle unit. However, the lower energy payments during the life of the negotiated contract are designed to offset the increased capacity payments, insuring that the present value of the total payments to RPI is not greater than the total statewide unit avoided cost payments.

b. If RPI terminates or defaults on this contract, RPI will owe FPL a termination fee. This fee is the sum of all capacity and energy payments paid to RPI in excess of those payments provided for in the standard offer contract plus interest of 12% annually. If calculation of the termination fee yields an amount less than zero, the value of the termination fee will be zero. The termination fee is secured by an irrevocable letter of credit which will be

renewed annually unless the issuing bank notifies FPL and RPI of its intent to terminate.

c. If the delivery of capacity and energy begins prior to January 1, 1992, RPI will receive an energy payment equal to 90% of FPL's as-available avoided energy cost. On and after the starting date of the contract (January 1, 1992), RPI will receive an energy payment equal to 90% of the lesser of an hour-by-hour comparison of (1) FPL's as-available avoided energy cost and (2) the unit energy cost based on the average monthly cost of coal burned at the St. Johns River Power Park. The standard offer contract calls for a qualifying facility to receive the full amount of the appropriate energy cost.

d. The negotiated contract allows RPI to receive a monthly capacity payment which is based on the value of the annual capacity factor during that month. The capacity payment made to RPI will increase or decrease two percentage points for each corresponding percentage point increase or decrease in the capacity factor from 70%. The maximum capacity payment will be made based upon an annual capacity factor of 85% and no capacity payment will be made for a month in which the annual capacity factor falls below 55%. The standard offer contract calls for a capacity payment to be based on a 70% capacity factor, with no payment to be made in any month that the annual capacity factor falls below 70%. In addition, the standard offer does not have a provision for added capacity payment for performance above a 70% capacity factor.

e. The contract also provides that if the on-peak annual capacity factor should fall five percentage points or more below the annual capacity factor, the capacity factor as defined in this contract would be the average of the annual capacity factor and

> the on-peak annual capacity factor. The standard offer contract does not have a provision for an on-peak capacity factor.

Section 25-17.083, Florida Administrative Code, requires electric utilities to purchase electricity from qualifying facilities (QF) at rates agreed upon by the electric utility and the QF or at rates specified in the standard offer contract.

Section 25-17.083(2), Florida Administrative Code, states that a negotiated contract for the purchase of firm capacity and energy from a QF will be considered prudent for cost recovery purposes if the following criteria are met:

> a. It is shown that the utility's purchases under the contract can reasonably be expected to result in the economic deferral or avoidance of the construction of additional generating capacity by Florida's utilities;
> b. The present worth of the utility's payments for firm capacity and energy over the life of the negotiated contract is not greater than the present worth of the year-by-year value of deferral of the statewide avoided unit; and
> c. To the extent that annual firm capacity and energy payments by the utility in any year exceed the annual value of deferring the statewide avoided unit in that year, a security bond or other assurance of the QF's performance is given to protect the utility's ratepayers.

FPL states that all three criteria listed above are met. From a statewide perspective, this negotiated contract can reasonably be expected to result in the economic deferral or avoidance of the construction of additional capacity by Florida's utilities and contribute to the 385 MW subscription limit of the current statewide avoided unit. Further, the present value of the payments to RPI under this contract will be no greater than the present worth of the value of the year-by-year deferral of the current statewide avoided unit over the term of the contract. FPL's analyses show that the

present worth of its payments to RPI is less than the year-by-year value of deferring the statewide avoided unit by $9,405,949 and less than the value of deferring FPL's own avoided unit, a 385 MW combined cycle unit with an in-service date of 1992, by $9,408,755. Finally, FPL has required an irrevocable letter of credit to protect its ratepayers in case of the default or termination of the contract by RPI. This letter of credit also serves to secure the "front-end loaded" payments made to RPI.

Based on the above, we find that all the criteria of Section 25-17.083(2) have been met and we approve this contract for cost recovery purposes.

By Order of the Florida Public Service Commission, this 30th day of MAY, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

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by: Kay Flynn
Chief, Bureau of Records

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 June 20, 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.