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FLORIDA PUBLIC SERVICE COMM.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of
cogeneration agreement between FLORIDA
POWER AND LIGHT COMPANY and INDIANTOWN
COGENERATION, L.P.

)
) Docket No. 900731-EQ
)
) Filed: Dec. 21, 1990
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INDIANTOWN COGENERATION, L.P.'s
POST-HEARING STATEMENT OF POSITIONS

Indiantown Cogeneration, L.P. (ICL) hereby submits its
Post-Hearing Statement of Positions on the issues identified
in the prehearing order in this docket.

ISSUE 1: Will the purchase of firm energy and capacity
under the ICL/FPL contract result in the economic deferral
or avoidance of capacity construction?

ICL Position: Yes. Both FPL and the State of Florida
have a need for additional capacity in 1996 (Tr. 248,
256; Ex. 2, pp. 71-72), and the ICL contract is more
cost-effective than either the capacity FPL would build
to meet its need or the statewide avoided unit. (Tr.
242, 254; Exs. 29, 30) Moreover, the ICL contract would
result in the economic deferral or avoidance of those
units. (Tr. 250-251)

ISSUE 2: Over the life of the ICL/FPL contract, will the
cumulative present worth of the firm capacity and energy
payments be equal to or less than the value of deferral of
the capacity to be avoided or deferred by the contract?

ICL Position: Yes. This is true whether an FPL
specific unit (a 1996 IGCC unit) or the statewide
avoided unit (a 1996 pulverized coal unit) is deemed to
be the unit avoided or deferred by the contract. The
Indiantown Project saves approximately \$73 million
compared to FPL's own avoided unit, and approximately
\$67 million compared to the statewide avoided unit.
(Tr. 252, 254; Exs. 29, 30)

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ISSUE 3: Does the ICL/FPL contract contain adequate security provisions to protect FPL's customers in the event ICL fails to perform?

ICL Position: Yes. The contract contains numerous security provisions to protect FPL and its customers. These include: a series of milestones that ICL is contractually obligated to meet, culminating in the commercial operation date of the facility (Tr. 57-58; Ex. 20, §3.4); \$9 million of security for payment of \$750,000 per month in liquidated damages (and a pro rata portion for partial months) if ICL fails to begin commercial operation according to the terms and conditions of the agreement (Tr. 58; Ex. 20, §§4.1-4.2); security of up to \$50 million against ICL's obligation to pay a termination fee to FPL in the event the Agreement were prematurely terminated (Tr. 59-60; Ex. 20, §3.8, 21.1); a \$5 million cash reserve fund to ensure continued QF status and a \$30 million cash reserve fund to support major overhauls of the plant, on which FPL has a lien to secure all of ICL's obligations to FPL (Tr. 59; Ex. 20, §§21.2, 21.4); a 10% minimum equity requirement (Tr. 60, Ex. 20, §21.7); a second mortgage in favor of FPL to secure all of ICL's obligations to FPL (Tr. 60; Ex. 20, §21.5 and Appendix K); and an equity growth requirement (implemented through a levelization payment formula) which is designed to preserve the value of the second mortgage (Tr. 107-111; Ex. 20, §21.6 and Appendix M).

As shown by Exhibits 23 and 24, the effect of these provisions is (a) to ensure that ICL's termination fee obligation to FPL is equal in every year to the cumulative front-end loaded payments made by FPL, plus interest, and (b) to ensure that the termination fee obligation is fully secured in every year by the combination of the termination fee security fund, the second mortgage, and the other security provisions. Because the cumulative front-end loaded payments are slightly larger when compared to FPL's own avoided unit than to the statewide avoided unit, the termination fee and security provisions provide more than adequate protection if the statewide avoided unit is used as the standard of comparison.

ISSUE 4: Is the ICL/FPL contract reasonable, prudent and in the best interest of the FPL's ratepayers?

ICL Position: Yes. The contract provides a reliable and cost-effective means of meeting a portion of FPL's need for additional capacity in 1996. In addition to being less costly than FPL's own avoided unit (Tr. 252; Ex. 29), the contract contains a number of features that are of value to FPL and its ratepayers. (Tr. 254-255) These include: dispatchability; pay-for-performance provisions with substantial incentives for high capacity factor and on-peak operation; operational and other provisions designed to insure the capability of high capacity factor operation; and numerous financial provisions, restrictions and security provisions designed to protect FPL and its ratepayers. (Tr. 57-60, 173-184; Ex. 11) In addition, the project is backed by sponsors with substantial experience in all phases of the electric power business; is ideally located close to FPL's load center; and is based on a proven coal-fired technology that uses a stable domestically-sourced fuel. (Tr. 22-23, 27-29, 67, 172)

ISSUE 5: Should FPL be allowed to recover from its customers all payments for energy and capacity in connection with the ICL/FPL contract?

ICL Position: Yes. ICL adopts the position of FPL on this issue and notes that such a finding is a condition precedent to FPL's obligations under the Power Sales Agreement. (Ex. 2), §3.1.1)

ISSUE 6: Should FPL be required to resell to another utility energy and capacity purchased under the ICL/FPL contract, if it is in the best interest of FPL's customers to retain the power?

ICL Position: No. ICL adopts the position of FPL on this issue and notes that such a finding is a condition precedent to FPL's obligations under the Power Sales Agreement. (Ex. 20, §3.1.1)

ISSUE 7: Should the cogeneration agreement between FPL and ICL be approved?

ICL Position: Yes.

ISSUE 8: In determining QF contract prudence and cost recovery pursuant to Rule 25-17.083(2), may the Commission

consider as the basis for comparison a utility specific unit, or must it use a statewide avoided unit?

ICL Position: The ICL contract is designed to meet FPL's need for additional capacity in 1996. That need would otherwise be met by an FPL-constructed IGCC unit. Under Order No. 22341, the purchasing utility's avoided cost is the appropriate basis of evaluation for need determination purposes. That same standard of evaluation, FPL's own avoided cost associated with its 1996 IGCC unit, should be used for contract approval purposes. This consistency in the economic standard is logical and appropriate, and nothing in the Commission's rules or policies requires a different result.

It is inappropriate to compare the ICL contract to the standard offer price in effect at the time the contract was signed. That price was based on a 1993 combined cycle unit and ICL's project does not meet a 1993 need.

It is also inappropriate to compare the ICL contract to the standard offer price for 1996 established after its contract was signed. To use that price as a basis for comparison would give the Commission's redesignation of the statewide avoided unit an unfair retroactive effect.

In any event, the ICL project qualifies for approval when compared to either FPL's own avoided unit (compared to which it saves \$73 million on a value-of-deferral basis) or to the statewide avoided unit (compared to which it saves \$67 million on a value-of-deferral basis). (Exs. 29, 30)

RESPECTFULLY SUBMITTED this 21st day of December, 1990.

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