

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Planning Hearings on Load)  
 Forecasts Generation Expansion )  
 Plans, and Cogeneration Prices )  
 for Florida's Electric Utilities.)

DOCKET NO. 920004-EU  
 ORDER NO. 25569  
 ISSUED: 1/06/92

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 J. TERRY DEASON  
 BETTY EASLEY

ORDER DENYING MOTION FOR RECONSIDERATION AND CLARIFICATION

BY THE COMMISSION:

On August 29, 1991, we issued Order No. 24989 in Docket No. 910004-EU. There we approved the terms and conditions of the standard offer contracts of Florida's investor owned electric utilities.

On September 13, 1991, Florida Power & Light Company (FPL) filed a Motion for Clarification and Reconsideration of Order No. 24989. In its motion, FPL requests clarification as to whether the Order intended to address the issues of "changed circumstances or regulation in the public interest so that these principles cannot be the basis for future Commission action with respect to the Standard Offer Contracts approved by the Order." In addition, FPL requests that Order No. 24989 "be reconsidered and changed in so far (sic) as it limits to \$1,000,000 the amount of liability insurance that FPL may require a Qualifying Facility (QF) which has signed a Standard Offer contract or Interconnection Agreement to maintain."

In addressing FPL's motion for clarification, we find nothing in Order No. 24989 which is unclear that would require clarification. In fact, FPL in its motion precisely restates our decision, noting that "having once determined that payments made pursuant to a Standard Offer contract are reasonable and prudent, the Commission will not revisit that issue, unless the initial approval of the contract was based on 'perjury, fraud, or the intentional withholding of key information'." [Motion at 2.]

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With regard to the law on "changed circumstances," the Florida Public Service Commission is bound to uphold the law, and we will comply with the law. It is unnecessary for us to clarify Order No. 24989 in view of the law on unchanged circumstances. Cogeneration contracts will be interpreted by the Commission (and the courts) in a manner consistent with the law. We recognize this in Order No. 24989, where we state

[C]ase law indicates that the Commission has only limited power to change its prior decisions.

Order No. 24989 at 71.

We therefore find that FPL's motion for clarification should be denied.

FPL is also seeking reconsideration of the Commission's decision limiting the amount of insurance required of QFs to \$1 million with any excess coverage to be determined by the QF. FPL argues that this decision is in conflict with Rule 25-17.087(6)(c), F.A.C..

We disagree. Our ruling does not conflict with the rule. The rule sets a minimum insurance requirement of \$300,000, with additional insurance as deemed necessary by the utility. In Order No. 24989, we limited the amount of additional coverage to \$1 million.

The rule addresses minimum insurance requirements. The rule does not set a maximum that may be required. Nor does the rule prohibit the Commission from setting a maximum for a particular contract. The Commission, being cognizant of the terms and conditions of a particular standard offer contract, as well as the size (in terms of energy and capacity) of the proposed project, is well able to determine a reasonable maximum insurance amount which the utility may require of the QF. Order No. 24989, which sets a maximum of \$1 million for this particular standard offer contract, does not conflict with the rule, but rather addresses an area which was not addressed by the rule.

The record in this proceeding supports our ruling. The record indicates that in the past, when the utility has set amounts over the minimum, vastly inconsistent and seemingly excessive insurance requirements have resulted. Our ruling cures this problem by setting a \$1 million limit, which applies only to this standard offer contract.

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It is, therefore,

ORDERED by the Florida Public Service Commission that the Motion for Reconsideration and Clarification filed by Florida Power & Light Company in this docket on September 13, 1991, is hereby denied.

By ORDER of the Florida Public Service Commission, this  
6th day of JANUARY, 1992.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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.

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 Records and Reporting 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 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

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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.