

VOTE SHEET

DATE: APRIL 1, 1997

RE: DOCKET NO. 961407-EQ - Petition for expedited approval of settlement agreement, regarding negotiated contract for purchase of firm capacity and energy from a qualifying facility, with Pasco Cogen, Ltd. by Florida Power Corporation.

Issue 1: Should the Negotiated Contract, as modified by the Settlement Agreement between FPC and Pasco Cogen, Ltd., be approved for cost recovery?
Recommendation: Yes. Approval of the Settlement Agreement mitigates the risks associated with the uncertainty of civil litigation. On balance, because there is more monetary risk in rejecting the Settlement Agreement than approving it, giving at least some intuitive recognition to the reduced need for replacement capacity due to deregulation increases the Settlement Agreement's cost-effectiveness, and using traditional regulatory rate base accounting as the basis to calculate simple payback, the contract buy-out should be approved.

APPROVED

*Commissioners Deason and Kieseling
dissented.*

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

[Handwritten signatures of majority commissioners]

[Handwritten signatures of dissenting commissioners]

REMARKS/DISSENTING COMMENTS:

PSC/RAR33 (5/90)

*Commissioners Deason and Kieseling
dissented from majority decision
in Issue 1. Commissioner Kieseling
dissented from majority decision
in Issue 2.*

DOCUMENT NUMBER-DATE
88466 APR-4 97
FPSC-RECORDS/REPORTING

Alternative Recommendation: No. The proposed Settlement Agreement should not be approved because it is not cost-effective. The modifications to the Contract result in a net overpayment of avoided costs of approximately \$17.3 million NPV. The Settlement Agreement is based on the assumption that Pasco would win the ongoing pricing dispute in litigated proceedings and that the Commission would be forced to pass these prices on to FPC's ratepayers. The Commission lacks statutory authority to approve the recovery of QF payments which exceed a utility's avoided cost.

DENIED

Second Alternative Recommendation: No. The proposed Settlement Agreement should not be approved because it is not cost-effective. It is based on the assumption that Pasco would win the ongoing pricing dispute in litigated proceedings, it does not properly account for risks associated with fuel prices and inflation, and it does not adequately reflect intergenerational fairness.

DENIED

Issue 2: If the Negotiated Contract, as modified by the Settlement Agreement, is approved, how should the energy settlement payment and ongoing capacity and energy payments pursuant to the Settlement Agreement be recovered from the ratepayers?

Recommendation: The energy settlement payment of \$5.5 million and the ongoing energy payments made pursuant to the Settlement Agreement should be recovered through the Fuel and Purchased Power Cost Recovery (Fuel) Clause. The capacity payments as determined and paid pursuant to the Settlement Agreement should be recovered through the Capacity Cost Recovery Clause. The recovery of payments made prior to their inclusion for recovery through the adjustment clauses should include interest from the date the payments were made. Should the Settlement Agreement not be approved, any necessary adjustments to the Fuel Clause to reflect the method of pricing energy under the Contract prior to the settlement should be made at the next fuel adjustment hearing.

APPROVED

Commissioner Kiesling dissented.

Issue 3: If the Negotiated Contract, as modified by the Settlement Agreement, is approved, what is the appropriate method of recovering the monthly payments associated with early termination of the Contract?

Recommendation: If the Settlement Agreement is approved, 72 percent of the buy-out payments should be recovered through the Capacity Cost Recovery Clause and 28 percent should be recovered through the Fuel and Purchased Power Cost Recovery Clause. This split between the clauses reflects the fact that the payments are justified based on anticipated capacity and energy savings in the buy-out years. The recovery of payments made prior to their inclusion for recovery through the adjustment clauses should include interest from the date the payments were made.

APPROVED

Issue 4: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the Commission's proposed agency action files a protest within twenty-one days of the issuance of this order, this docket should be closed.

APPROVED

Additionally, the Commissioners, on their own motion, allowed Vastar Gas and North Canadian Marketing to make five-minute presentations to the Commission. Commissioners Clark and Kiesling dissented.