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**Florida
Power**
CORPORATION

JAMES A. MCGEE
SENIOR COUNSEL

September 16, 1998

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REGISTRATION

Ms. Blanca Bayo, Director
Florida Public Service Commission
2548 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

981167-

Re: Petition of Florida Power Corporation for waiver of Rule 25-17.015(1), F.A.C., to allow calendar year Energy Conservation Cost Recovery filing.

Dear Ms. Bayo:

Enclosed for filing in the subject docket are fifteen copies of Petition of Florida Power Corporation for waiver of Rule 25-17.015(1), F.A.C., to allow calendar year Energy Conservation Cost Recovery filing.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette containing the above-referenced document in WordPerfect format. Thank you for your assistance in this matter.

Very truly yours,

James A. McGee

JAM/kma
Enclosure

DOCUMENT NUMBER-DATE

GENERAL OFFICE

10244 SEP 17 1998

3201 Thirty-fourth Street South • Post Office Box 14042 • St. Petersburg, Florida 33733-4042 • Telephone (813) 866-4831

A Florida Progress Company FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power Corporation for waiver of Rule 25-17.015(1), F.A.C., to allow calendar year Energy Conservation Cost Recovery filing.

Docket No. _____

Submitted for filing:
September 17, 1998

PETITION

Florida Power Corporation ("FPC"), pursuant to Section 120.542, F.S., and Rule 28-104.002, Florida Administrative Code, hereby petitions the Florida Public Service Commission (the Commission) to waive portions of Rule 25-17.015(1), Florida Administrative code and permit FPC to file an Energy Conservation Cost Recovery ("ECCR") filing for the period January 1, 1999 through December 31, 1999, consistent with the filings for FPC's other adjustment clauses. As grounds for this petition, FPC states:

1. Petitioner, Florida Power, is a public utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes. Florida Power's General Offices are located at 3201 34th Street South, St. Petersburg, Florida, 33711

2. All notices, pleadings and other communications required to be served on petitioner should be directed to:

James A. McGee, Esquire
Post Office Box 14042
St. Petersburg, FL 33733-4042
Facsimile: (727) 866-4931

For express deliveries by private courier, the address is:

3201 34th Street South
St. Petersburg, FL 33711

DOCUMENT NUMBER-DATE

10244 SEP 17 98

3. The statute which Rule 25-17.015(1), Florida Administrative Code, implements is Section 366.82(5), Florida Statutes.

4. In Order No. PSC-98-0691-FOF-PU, issued on May 19, 1998, the Commission determined that the adjustment clauses for all investor-owned electric utilities should be determined on an annual, calendar year basis. The Commission ordered several different transition schedules to place all the adjustment clauses on an annual, calendar year basis. The Commission also found that the ECCR clause should be determined on an annual, calendar year basis, but noted that its rule regarding the ECCR clause would require amendment to permit such a change. The Commission initiated rulemaking to amend Rule 25-17 015, Florida Administrative Code, so that the transition to an annual, calendar year ECCR clause could be made by the year 2000.

5. The purpose of FPC's rule waiver petition is to allow waiver of Rule 25-17.015, Florida Administrative Code, to permit FPC to make a transition to an annual, calendar year ECCR clause in 1999 before the initiated rulemaking to amend Rule 25-17.015 rather than waiting until after that rulemaking and beginning in the year 2000. Such a waiver should allow FPC to establish annual, calendar year factors for all its adjustment clauses at one hearing, capturing all the advantages previously found by the Commission in Order No. PSC-98-0691-FOF-PU to justify the transition to annual, calendar year factors. More recently, the Commission granted a petition by Florida Power & Light for a waiver of Rule 25-17.015(1) for precisely this purpose. Order No. PSC-98-1211-FOF-EI issued September 14, 1998 in Docket No. 980740-EI. The instant petition of FPC is identical in all material respects to Florida Power & Light's waiver petition.

6. The Commission found a number of advantages to an annual fuel adjustment clause factor in Order No. PSC-98-0691-FOF-PU. First, it found that an annual hearing would reduce the number of hearing days per year, allowing the Commission and the parties to use their time and monetary resources more efficiently and gain greater efficiencies by saving the time and expense associated with an additional hearing. Second, it found that mid-course corrections would occur less frequently with annual factors. Third, it found that an annual factor would provide customers with more certain and stable prices. The Commission also found that an annual Environmental Cost Recovery Clause ("ECRC") hearing would have many of the same advantages:

An annual ECRC hearing will reduce the number of hearing days reserved for the ECRC and provide efficiencies for the parties as well as this Commission. In addition, customers will be able to project electricity costs more easily because the ECRC factor will remain unchanged for a twelve-month period.

Order No. PSC-98-0691-FOF-PU at 6, 7.

7. While the Commission has previously decided to move the ECCR clause to an annual rather than a six-month period, that annual period (April through March) does not coincide with the annual period (calendar year) to which the Commission has moved the other adjustment clauses. As a result, absent a waiver of a portion of Rule 25-17.015(1), Florida Administrative Code, FPC will lose the advantages found by the Commission to be associated with annual hearings. FPC will not reduce the number of hearing days per year for its adjustment clauses; FPC would have to undertake two hearings for its 1999 adjustment clauses -- one in November for all clauses other than ECCR and another in the first quarter of 1999 for ECCR. This will mean that FPC, the Commission and the parties will not be able "to use their

time and money more efficiently” and will not “gain greater incentives by saving the time and expense associated with an additional hearing.” In addition, FPC and FPC’s customers would face confusing adjustment clause rates associated with differing periods. Because the annual periods for the clauses differ, customers will not have the “more certain and stable prices” envisioned by the Commission. Customers will not be able “to project electricity costs more easily” for a twelve month period, for the ECCR clause will change during the calendar year used for the other clauses.

8. In Order No. PSC-98-0691-FOF-PU, the Commission also made findings addressing the advantage of the annual period for adjustment clauses being a calendar year. First, it found that the annual clause factor calculated on a calendar year basis would coincide with most commercial and industrial budget periods, providing ratepayers greater certainty about electricity costs due to a more stable, predictable twelve month charge for fuel. Order No. PSC-98-0691-FOF-PU at 8. Second, the Commission found that parties could analyze cost information more easily. *Id.* Third, the Commission found that an annual, calendar year factor would simplify Commission audits. *Id.* Fourth, the Commission found that an annual, calendar year factor allowed for greater administrative efficiencies. *Id.*

9. The Commission noted in several places in Order No. PSC-98-0691-FOF-PU that the efficiencies it had found for using an annual, calendar year for all factors would not occur if the period for the various factors differed. At pages 8 and 9 of the Order of the Commission stated:

As a result of our finding above, the length of the recovery period for all components of all cost recovery clauses for all investor-owned electric and gas utilities will be twelve months. As we stated above, this Commission and the parties will gain greater efficiencies if the frequency

of the hearings for the fuel clause for the investor-owned electric utilities and the ECRC for TECO is changed from a semiannual basis to an annual basis. These efficiencies do not occur, however, because the timing of the recovery periods differ among the four cost recovery clauses. Changing each recovery period to an annual, calendar year basis will allow these efficiencies to be gained.

Again at page 13 of the Order of the Commission expressly noted that the timing of the ECCR clause had to be changed to an annual, calendar year for the intended advantages of moving to annual factors was to be realized:

Unless the timing of the recovery period for the ECCR is modified to coincide with the fuel clause, the ECRC, and the PGA, and the PGA True-up, the desired efficiencies can not be achieved.

10. The Commission decided in Order No. PSC-98-0691-FOF-PU to initiate rulemaking so that Rule 25-17.015 could be amended to make the ECCR recovery period coincide with the recovery period for the other clauses. However, in doing so it acknowledged that such a rule change could not be accomplished before the year 2000. As a result, FPC faces substantial hardships due to the ECCR factor for 1999 not coinciding with the recovery period for its other adjustment clauses. Absent a rule waiver which would allow the recovery period for ECCR to coincide with the recovery period with the other clauses, in 1999 FPC and its customers will lose all the advantages which the Commission found justified an annual, calendar year recovery period for all clauses. FPC would not reduce the number of hearing dates, FPC would not be able to use its time and monetary resources more efficiently and would not gain greater efficiencies by saving time and expenses associated with an additional hearing. FPC would not have factors which provided customers with more certain and stable prices. FPC would not have an annual ECCR factor that coincided with most commercial and industrial customers' budget periods and would not be able to provide ratepayers with greater certainty about electricity costs due to

the change in the ECCR factor during 1999. The parties would not be able to analyze cost information as easily. Commission audits would not be simplified. Most importantly, as the Commission explicitly found, FPC, the Commission and the parties would not enjoy the greater administrative efficiencies intended by the Order. The granting of a waiver as requested by FPC is necessary to avoid the substantial hardships the Commission has previously found associated with recovery periods differing for adjustment clauses.

11. The purposes of the underlying statute will be achieved with the requested waiver of the portions of Rule 25-17.015(1), F.A.C. The underlying statute envisions that there will be an adjustment clause for the recovery of conservation costs. That purpose will continue to be fulfilled with the rule waiver sought by FPC. In fact, as the Commission pointed out in Order No. PSC-98-0691-FOF-PU, the clause will operate more efficiently if FPC's rule waiver is granted.

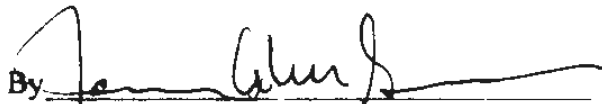
12. The waiver sought is temporary. FPC only seeks a waiver of the portions of Rule 25-17.015, Florida Administrative Code, so that it may have an ECCR factor for 1999 that is based on a calendar year rather than the year beginning April 1, 1999. Before the subsequent ECCR factor for the year 2000 is established, the rulemaking proceeding initiated by the Commission in Order No. PSC-98-0691-FOF-PU should be completed and there should be no further need for a waiver.

WHEREFORE, FPC respectfully requests that the Commission grant the waiver of Rule 25-17.015(1), Florida Administrative Code, and that FPC be permitted to file ECCR cost recovery factors for the calendar year 1999 which presume a projection period of January 1 through December 31, 1999, an

estimated/actual true up for the period April 1998 through December 1998, and a final true up for the period October 1997 through March 1998.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL
FLORIDA POWER CORPORATION

By 

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