

ORIGINAL



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May 21, 2001

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Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

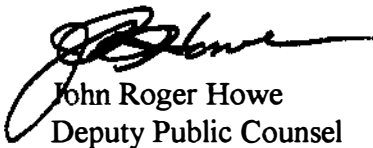
RE: Docket No. 000824-EI

Dear Ms. Bayó:

Enclosed are an original and fifteen copies each of a Response in Opposition to Florida Power Corporation's Proposal for filing in the above referenced docket.

Please indicate receipt of filing by date-stamping the attached copy of this letter and returning it to this office. Thank you for your assistance in this matter.

Sincerely,


John Roger Howe
Deputy Public Counsel

JRH/dsb
Enclosures

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power)
Corporation's earnings, including)
effects of proposed acquisition of)
Florida Power Corporation by)
Carolina Power & Light)
_____)

Docket No. 000824-EI
Filed: May 21, 2001

**RESPONSE IN OPPOSITION TO
FLORIDA POWER CORPORATION'S PROPOSAL**

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to Rule 28-106.203, Florida Administrative Code, respond in opposition to Florida Power Corporation's Petition for Approval of Proposal to Resolve Outstanding Issues, filed May 14, 2001, which should be rejected for the following reasons:

1. Florida Power Corporation, the Office of Public Counsel, and other parties entered into a stipulation on June 19, 1997, which was approved by the Commission in Order No. PSC-97-0840-S-EI, issued July 14, 1997. The stipulation, among other things, froze base rates for a four-year period ending June 30, 2001, and pursuant to Paragraph 3, provided that the various consumer representatives would "neither seek nor support any reduction in Florida Power's base rates or the authorized range of its return on equity used for surveillance reporting purposes during this [four-year] period unless such reduction is sought by Florida Power." [Emphasis added.] Since the company has now asked for reductions in both its base rates and its return-on-equity (ROE) range in the petition filed May 14, 2001, this office is not precluded by the terms of the stipulation from responding to the company's proposals.

2. Florida Power's proposed rate reduction of \$30 million per year for three years is obviously inadequate when, as your Staff has observed, a conservative calculation shows the company's earnings for a recent twelve-month period exceeding the ceiling of its last allowed return on equity range by approximately \$114 million. Even this amount does not reflect the fact that permanent rates will, in all likelihood, be set to allow earnings at an even lower midpoint ROE. Further reductions will be necessary to adjust for lower expenses in the future such as the revised nuclear decommissioning and fossil dismantlement accruals noted in the Staff's recommendation. Expenses will be reduced even more when the "synergies" touted as justification for the recent merger with Carolina Power & Light Company are fully reflected in the calculation of Florida Power's earnings. Add to this the adjustments to rate base, capital structure, revenues and expenses typically made at the end of a rate case which will no doubt reveal additional excess earnings.

3. Florida Power's proposed method for implementing a rate reduction is also inappropriate. The company proposes a three-year credit on the customer bills instead of the more traditional reduction to base rates. This approach will cause an automatic increase in rates after three years when the credit is removed from customer bills. The Commission, of course, cannot possibly know today that it would be appropriate to burden Florida Power's customers with a \$30 million rate increase three years from now.

4. Florida Power is also proposing to charge its customers \$60 million over the next three years to accelerate and complete the amortization of the Tiger Bay regulatory asset. Charges in the fuel docket should fall when this asset is fully amortized, but Florida Power has not shown how customers could benefit from paying an additional \$20 million per year just to have the asset written off two years earlier. Moreover, when the accelerated amortization expires at the end of

2003, the additional \$20 million per year will further increase Florida Power's earnings in 2004 and beyond.


5. Florida Power's proposal includes a methodology to reimburse CP&L Energy for the premium it paid to Florida Power's former stockholders: Everyone knows, however, that electric utilities in Florida are subject to cost-based regulation. The Commission sets rates at a level designed to provide sufficient revenues to cover prudent expenses and pay interest on debt, with enough left over to provide a fair return to stockholders. Obviously, under this equation, if expenses go down, one would expect rates to decrease. The rate base is quantified at original cost; assets are not written up just because a purchaser pays more than net book value. This is apparently the reason utility assets are not subject to reappraisal as part of the process to identify the amount of good-will resulting from a merger. Utility assets cannot be worth more than book value if the regulatory commission cannot set rates based upon a higher purchase price.

6. Apparently, CP&L assumed it could recover the premium paid for Florida Progress by combining operations of the two utilities and achieving synergies in the form of reduced expenses at Florida Power. These reduced expenses would lead to higher profits which could be flowed up to the new parent company. But this ignores the fact that, under traditional ratemaking procedures, lower expenses should lead to lower rates to customers. CP&L's answer to this conundrum is to direct Florida Power to propose that it be given a wider ROE range on the upside; instead of the traditional 1% above the midpoint ROE, Florida Power would also be allowed to earn an additional \$40 million per year beyond that for the next 15 years. This approach, however, would allow the company to keep excess earnings without any showing that purported synergies had actually been achieved or that the company had the right to retain them for its new stockholder's benefit.

7. The company's math just doesn't work. It is obvious that the company's proposal would leave it earning well above the 13% ceiling of its last allowed ROE range, and once the accelerated amortization of Tiger Bay stopped and the rate credit expired, Florida Power's earnings would automatically increase by another \$50 million per year. The proposal does too much to protect the company without offering substantial benefits for the customers.

WHEREFORE, the Citizens of the State of Florida, through the Office of Public Counsel, urge the Florida Public Service Commission to reject Florida Power Corporation's Petition for Approval of Proposal to Resolve Outstanding Issues.

Respectfully submitted,


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Attorneys for the Citizens of the
State of Florida

**CERTIFICATE OF SERVICE
DOCKET NO. 000824-EI**

I HEREBY CERTIFY that a true and correct copy of the foregoing RESPONSE IN
OPPOSITION TO FLORIDA POWER CORPORATION'S PROPOSAL has been furnished by U.S.

Mail or *Hand-delivery to the following parties on this 21st day of May, 2001.

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Florida Public Service Commission
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Tallahassee, FL 32399-0850

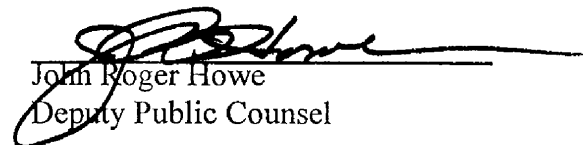
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