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 ORDER NO. PSC-01-1348-PCO-EI ISSUED: June 20, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER REQUIRING THE FILING OF MINIMUM FILING REQUIREMENTS AND PLACING MONEY SUBJECT TO REFUND

BY THE COMMISSION:

BACKGROUND

This docket was opened on July 7, 2000, to review the earnings of Florida Power Corporation (FPC or the company) and the effects of the acquisition of FPC by Carolina Power & Light Company (CPL). The acquisition was consummated on November 30, 2000. Although FPC's reported achieved return on equity (ROE) has been under its authorized ceiling of 13.00% for the past several years, this is due to FPC's discretionary acceleration of the amortization of the Tiger Bay Regulatory Asset that was authorized in Order No. PSC-97-0652-S-EQ, issued June 9, 1997. Without this totally discretionary acceleration, FPC would have earned substantially above its authorized ROE. Commission staff has had several discussions with FPC, Florida Industrial Power Users Group (FIPUG) and the Office of the Public Counsel (OPC) to find a more permanent solution to the problem. FPC offered a written proposal to defer Commission consideration while discussions continued. In exchange, FPC agreed that any subsequent formal Commission action taken under the interim rate statute would be effective as if that action had been taken at the March 13, 2001, Agenda Conference. Thereafter, FPC did not offer any acceptable written plan to achieve a more permanent solution to its potentially high earnings level.

Several events have occurred recently that impact the electric industry in Florida. In July, 2000, Governor Bush created the Energy 2020 Study Commission (Energy Commission), which has been charged with proposing an energy plan and strategy for Florida over the next 20 years. The Energy Commission filed an Interim Report to the Legislature and the Governor in December, 2000, which included proposed legislation designed to move Florida to a deregulated wholesale energy market. That proposed legislation called for a base rate cap on retail rates during a transition period. During the recent legislative session, there were concerns expressed about the earnings level of the investor-owned companies, the value of the generation and transmission assets, and whether current base rates accurately reflect cost.

In addition, the utility is involved in the establishment of GridFlorida, a regional transmission organization (RTO) formed in response to an order issued by the Federal Energy Regulatory Commission (FERC). This RTO will have a significant impact on the investment and expenses of the utility in the future. Retail rates, which currently include a cost component to recover transmission facility costs, must be reconciled with the removal of the applicable transmission costs and/or the imposition of new wholesale transmission rates charged by GridFlorida.

In light of all of these events, we believe it is necessary to initiate a base rate proceeding to address the level of FPC's earnings and to assure appropriate retail rates are implemented on a going forward basis so that appropriate benefits of the formation of the RTO and any future restructuring of the electric market are captured for the retail ratepayer. The following discussion details our specific concerns with regard to the level of earnings of FPC.

REVENUES HELD SUBJECT TO REFUND

On April 13, 2001, FPC filed its Earnings Surveillance Report (ESR) for the twelve month period ending February 28, 2001. As reported on the ESR, FPC had an achieved ROE of 11.48% on an "FPSC Adjusted" basis. When additional adjustments are made to reverse the effects of FPC's one-time merger costs, discretionary accelerated amortization of the Tiger Bay regulatory asset, the non-recurring write-off of a regulatory asset for previously flowed through taxes and the Crystal River Unit 3 (CR3) adjustment to common equity, the achieved ROE increases to approximately 17.02%. This exceeds the currently authorized maximum ROE of 13.00%.

Section 366.01, Florida Statutes, provides:

> The regulation of public utilities...is declared to be in the public interest and this chapter shall be deemed to be an exercise of the police power of the state for the protection of the public welfare and all the provisions hereof shall be liberally construed for the accomplishment of that purpose.

Section 366.071(1), Florida Statutes, authorizes the Commission, on its own motion, to order an interim decrease upon a showing that the utility is earning outside the range of reasonableness on rate of return. Section 366.071(5)(b)1., Florida Statutes, further provides that rate of return "...shall be calculated by applying appropriate adjustments consistent with those which were used in the most recent individual rate proceeding of the public utility...."

FPC's filed ESR for February 2001 reported an achieved ROE of 11.48%. However, additional adjustments are warranted in order to appropriately evaluate FPC's earnings. FPC's operating and maintenance (O&M) expenses include a retail amount of $64.6 million of merger costs incurred as a result of FPC's acquisition by CPL. These costs are mainly one-time severance payments to employees whose jobs were eliminated as a result of the merger.

The second adjustment involves the 2000 deferred earnings. In Order No. PSC-97-0652-S-EQ, we approved a stipulation which allowed FPC to accelerate the amortization of the Tiger Bay regulatory asset at its own discretion as earnings permitted. For the year ending in January 2001, FPC has recorded deferred revenues in the amount of $63 million. Per Order No. PSC-01-0071-PAA-EI, issued January 9, 2001, we approved FPC's request to defer these earnings for disposition in 2001 and to propose an alternative to using the funds for the amortization of the Tiger Bay regulatory asset. No plan was submitted by FPC by the April 2, 2001, deadline. The $63 million was subsequently applied against the Tiger Bay regulatory asset. Regardless of the disposition of the $63 million, it still represents earnings that are under the control of FPC. It is important to remember that FPC is under no obligation or requirement to defer revenues or to accelerate the Tiger Bay regulatory asset amortization.

There is no requirement or assurance that any additional amounts will be recorded on an ongoing basis. No revenue deferrals or amortization accelerations were included in the calculation of FPC's revenue requirement during its last rate proceeding. Therefore, we find that it is appropriate, reasonable and consistent with the interim statute to include the deferred revenues in the calculation of the interim amount. Under the current scenario, we are dependent upon FPC's willingness to accelerate the amortization of the Tiger Bay regulatory asset as a necessary measure to mitigate overearnings.

The third adjustment relates to an additional $10.7 million write-off of a regulatory asset for previously flowed through taxes. This write-off was due to a change in the methodology for calculating the flowback period. This additional write-off is a non-recurring expense that is normally not included for ratemaking purposes.

Because the merger-related costs are one-time expenses, $64.6 million should be removed from FPC's expenses. FPC also has the discretion to retain the $63 million of the Tiger Bay amortization for its own purposes rather than for the benefit of the ratepayers. Therefore, it is our opinion that an adjustment should be made to include the $63 million in revenues. We also find that expenses should be reduced by $10.7 million to remove the non-recurring expense related to the write-off of the previously flowed through taxes. These adjustments are necessary for the purposes of reviewing the level of FPC's current earnings and for evaluating

FPC's potential earnings for 2001. It should be noted that FPC was recently granted a 60-day extension to May 1, 2001, to file its rule-required forecasted ESR for 2001 in Docket No. 010112-EI. After the previously discussed adjustments are made, FPC's achieved ROE increases from the reported 11.48% to 16.24%. This exceeds the authorized maximum ROE of 13.00% by 324 basis points and represents $97,970,532 in operating revenues.

A further adjustment involves the CR3 regulatory asset. In Order No. PSC-97-0840-S-EI issued July 14, 1997, we approved a stipulation which allows FPC to make an adjustment to its capital structure so that the effect of the amortization of the CR3 regulatory asset, as well as the write-off of the additional O&M expenses associated with the extended outage of CR3, would be excluded in calculating its common equity capitalization ratios used for purposes of surveillance reporting pursuant to Rule 25-6.1352, Florida Administrative Code. The Order notes that "the only two events mentioned by the Company which would trigger an end to this adjustment after the conclusion of the four year amortization period would be a rate proceeding or a change in the law ordering industry restructuring." Therefore, we find that the CR3 equity adjustment be reversed for purposes of measuring earnings to be held subject to refund following the June 30, 2001, end of the "four year amortization period" to be consistent with the interim statute regarding adjustments not made in a company's last rate case. Accordingly, we find the amount held subject to refund effective March 13, 2001, should be increased by $15,924,217 for a total amount held subject to refund of $113,894,749 effective July 1, 2001. The inclusion of this adjustment increases FPC's achieved ROE to 17.02%.

The possibility for overearnings in 2001 is increased when taking into account the effects of Progress Energy's acquisition of FPC. Beginning in January 2001, certain functions, primarily in the administrative area, are being integrated with CPL's, an affiliate of Progress Energy. FPC has indicated that this will result in significant cost savings for FPC. Other factors involve nuclear decommissioning and fossil dismantlement.

FPC filed its updated nuclear decommissioning study for Crystal River Unit 3 on December 29, 2000. It should be noted, however, that FPC's study indicates a $11,865,002 decrease in its annual accrual, effective January 1, 2001. If this magnitude of a decrease in decommissioning accruals is approved, this will serve to further increase FPC's 2001 earnings. Moreover, the decrease in the annual accrual appears to be related to an increase in the assumed fund earnings rate in the annuity calculation. In the 1995 nuclear decommissioning study, we approved the use of a 4.9% assumed fund earnings rate. The current study utilizes a 6.0% fund earnings rate.

In addition, the recently filed dismantlement study reflects an annual accrual of $7.7 million. The current stipulation under which FPC is operating suspended accruals. We are currently reviewing both of these studies.

In consideration of all of the foregoing discussion, we order FPC to place $97,970,532 of annual revenue under corporate undertaking subject to refund, plus interest, pending final disposition in this proceeding. In addition, based on FPC's agreement, the effective date of this action is March 13, 2001. We further find that an additional $15,924,217, on an annual basis, be placed subject to refund effective July 1, 2001. The total amount to be held subject to refund effective July 1, 2001, is $113,894,749, on an annual basis, plus interest. The calculation of the amount to be held subject to refund is included in Attachment A.

MINIMUM FILING REQUIREMENTS (MFRs)

In addition to the reasons for an earnings investigation outlined above, the information contained in the rate case minimum filing requirements (MFRs) is necessary to ensure proper rate making and cost allocations among rate classes to reflect changes that have occurred since the company's last rate case. FPC's most recent fully allocated cost of service study was filed in 1991 for a projected 1993 test year. Since that time, significant changes have taken place in the company's operations, and cost shifting among rate classes has occurred over time. Considering the possibility of wholesale and/or retail electric market restructuring in Florida, the availability of current cost and allocation information will be beneficial to decision makers.

As mentioned previously, the utility is involved in the establishment of GridFlorida RTO along with other electric utilities in peninsular Florida. The planned implementation of GridFlorida is December, 2001 and the rates of the RTO are due to be filed with FERC in October, 2001. On May 11, 2001, prior to this decision, FPC, Florida Power & Light Company, and Tampa Electric Company filed a Joint Motion to Establish a Generic Docket to consider the issues related to the formation of GridFlorida on an expedited basis. This Joint Motion was addressed at the May 29, 2001, agenda conference, and a separate order reflecting that decision will be issued in Dockets Nos. 001148-EI, 000824-EI and 010577-EI.

DECISION

A rate proceeding with MFRs, including a fully allocated cost study, will provide assurances that FPC's rates, on a going-forward basis, are fair, just, and reasonable. For all of the reasons stated above, we find that FPC shall be required to file MFRs by September 14, 2001 (approximately 120 days from the date of our vote on this matter).

In our opinion, a due date of September 14, 2001, provides sufficient time to incorporate any effects of the expected pronouncement by the Financial Accounting Standards Board in June 2001, that could affect the recording and recovery of goodwill (acquisition adjustment). This could be a major expense item in light of FPC's acquisition by CPL. This filing date should also allow FPC the time necessary to evaluate the effects of the merger on its operations.

We further find that a projected calendar year 2002 test year is a reasonable basis for determining future rates. If the MFRs are filed by September 14, 2001, new base rates would be placed into effect no later than May 14, 2002.

In requiring FPC to file MFRs, we are mindful that it has been in excess of 9 years since full MFRs were filed, and that the effort to make such a filing is significant. To that end, we direct our staff to meet with the utility, the other parties, and other interested persons as soon as possible. The participants are directed to identify specific issues, discuss the possibility of eliminating certain MFRs that are not necessary for the efficient processing of this case, and to discuss the logistical challenges to the utility in meeting the September 14, 2001, filing date. We recognize that the discussions undertaken pursuant to the direction of this order could result in the need for further action by the Prehearing Officer and/or the Commission. Our intent is to be flexible, while still requiring the filing of sufficient information on a timely basis.

Our over-arching concern is that the public interest be protected. It is our responsibility to ensure that the company's retail rates are at an appropriate level. Moreover, it is our belief that information in the MFRs will assist this Commission in addressing questions from the Energy 2020 Study Commission and the Florida Legislature regarding the earnings level of FPC, appropriate base rates, and the level of potential stranded cost/investment associated with various plans for restructuring of the electric industry.

We want to be clear that this decision to initiate a rate proceeding does not foreclose the ability of the company and parties to reach a resolution of some or all of the issues involved in an earnings review. In fact, it is our belief that the information contained in the MFRs can empower parties and the Commission to reach a settlement that everyone can agree is in the public interest. However, we need to be ready to move forward to discharge our obligations in the event there is no informal resolution of the issues. The information contained in the MFRs will allow us to do that.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power Corporation place $97,970,532 of annual revenue subject to refund, including interest, under a corporate undertaking pending final disposition in this proceeding, effective March 13, 2001. It is further

ORDERED that Florida Power Corporation place an additional amount of $15,924,217 subject to refund, including interest, under a corporate undertaking pending final disposition in this proceeding, effective July 1, 2001, for a total annual amount to be held subject to refund as of July 1, 2001, of $113,894,749. It is further

ORDERED that Florida Power Corporation shall file Minimum Filing Requirements by September 14, 2001, based on a projected calendar year 2002 test year. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 20th day of June, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

FLORIDA POWER CORPORATION
For the Year Ended February 28, 2001
Excluding the CR3 Adjustment

NET OPERATING INCOME PER THE ESR			$305,167,152
Commission Adjustments:			
Merger Related Costs	$64,645,275		
Deferred Earnings	63,000,000		
Non-recurring Write-off	10,700,000		
CR3 Adjustment Interest Reconciliation - Income Tax Effect	0		
Income Taxes	(49,363,520)		
Total Adjustments			88,981,755
Adjusted Net Operating Income			$394,148,907
RATE BASE PER THE ESR			$3,519,639,998
Commission Adjustments:	$0		
Total Adjustments			0
Adjusted Rate Base			3,519,639,998
Overall Rate of Return @ 13.00% Return on Equity		x	9.49%
Maximum Allowed Net Operating Income			334,013,836
Achieved Net Operating Income			394,148,907
Excess Net Operating Income			60,135,071
NOI Multiplier (Federal & State Income Tax & Reg. Assess. Fee)		x	1.62917
TOTAL REVENUE SUBJECT TO REFUND			$97,970,532
ACHIEVED RETURN ON EQUITY			16.24%

FLORIDA POWER CORPORATION
For the Year Ended February 28, 2001
Average Capital Structure
Excluding the CR3 Adjustment

	FPSC Adjusted Retail	Commission Adjustments	Commission Adjusted	Ratio	Cost Rate	Weighted Cost
Common Equity	$1,844,817,569	$0 (1)	$1,844,817,569	52.63%	13.00%	6.84%
Preferred Stock	30,057,989		30,057,989	0.86%	4.51%	0.04%
Long Term Debt						
Fixed Rate	892,584,678		892,584,678	25.47%	7.27%	1.85%
Variable Rate	81,129,477	0 (1)	81,129,477	2.31%	6.47%	0.15%
Short Term Debt	107,376,724		107,376,724	3.06%	6.61%	0.20%
Revenue Decoupling	0		0	0.00%	5.55%	
Customer Deposits						
Active	104,180,959		104,180,959	2.97%	6.21%	0.18%
Inactive	453,853		453,853	0.01%	0.00%	0.00%
Investment Tax Credit						
Equity	37,945,802		37,945,802	1.08%	12.86%	0.14%
Debt	19,705,068		19,705,068	0.56%	7.20%	0.04%
Deferred Income Taxes	387,639,938		387,639,938	11.06%	0.00%	0.00%
FAS 109 Liability - Net	(25,389,043)		(25,389,043)	-0.72%	0.00%	-0.00%
Deferred Earnings	39,136,984	(14,608,839) (2)	24,528,145	0.70%	6.18%	0.04%
Total	$3,519,639,998	($14,608,839)	$3,505,031,159	100.00%		9.49%

(1) CR3 Adjustment
(2) ($63,000,000 + $63,316,313 + $63,598,598)/13

Interest Reconciliation Adjustment due to CR3 Adj.

	0	Additional Variable Rate Debt
x	6.47%	Variable Rate Debt Cost Rate
	0	Additional Interest Expense
	0.38575	Income Tax Rate
	0	Reduction in Income Taxes

FLORIDA POWER CORPORATION
For the Year Ended February 28, 2001
Including the CR3 Adjustment

NET OPERATING INCOME PER THE ESR			$305,167,152
Commission Adjustments:			
Merger Related Costs	$64,645,275		
Deferred Earnings	63,000,000		
Non-recurring Write-off	10,700,000		
CR3 Adjustment Interest Reconciliation - Income Tax Effect	2,735,128		
Income Taxes	(49,363,520)		
Total Adjustments			91,716,882
Adjusted Net Operating Income			$396,884,034
RATE BASE PER THE ESR			$3,519,639,998
Commission Adjustments:	$0		
Total Adjustments			0
Adjusted Rate Base			3,519,639,998
Overall Rate of Return @ 13.00% Return on Equity		x	9.29%
Maximum Allowed Net Operating Income			326,974,556
Achieved Net Operating Income			396,884,034.
Excess Net Operating Income			69,909,478
NOI Multiplier (Federal & State Income Tax & Reg. Assess. Fee)		x	1.62917
TOTAL REVENUE SUBJECT TO REFUND			$113,894,749
ACHIEVED RETURN ON EQUITY			17.02%

FLORIDA POWER CORPORATION
For the Year Ended February 28, 2001
Average Capital Structure
Including the CR3 Adjustment

	FPSC Adjusted Retail	Commission Adjustments	Commission Adjusted	Ratio	Cost Rate	Weighted Cost
Common Equity	$1,844,817,569	($109,589,103) (1)	$1,735,228,466	49.51%	13.00%	6.44%
Preferred Stock	30,057,989		30,057,989	0.86%	4.51%	0.04%
Long Term Debt						
Fixed Rate	892,584,678		892,584,678	25.47%	7.27%	1.85%
Variable Rate	81,129,477	109,589,103 (1)	190,718,580	5.44%	6.47%	0.35%
Short Term Debt	107,376,724		107,376,724	3.06%	6.61%	0.20%
Revenue Decoupling	0		0	0.00%	5.55%	
Customer Deposits						
Active	104,180,959		104,180,959	2.97%	6.21%	0.18%
Inactive	453,853		453,853	0.01%	0.00%	0.00%
Investment Tax Credit						
Equity	37,945,802		37,945,802	1.08%	12.86%	0.14%
Debt	19,705,068		19,705,068	0.56%	7.20%	0.04%
Deferred Income Taxes	387,639,938		387,639,938	11.06%	0.00%	0.00%
FAS 109 Liability - Net	(25,389,043)		(25,389,043)	-0.72%	0.00%	-0.00%
Deferred Earnings	39,136,984	(14,608,839) (2)	24,528,145	0.70%	6.18%	0.04%
Total	$3,519,639,998	($14,608,839)	$3,505,031,159	100.00%		9.29%

(1) CR3 Adjustment
(2) ($63,000,000 + $63,316,313 + $63,598,598)/13

Interest Reconciliation Adjustment due to CR3 Adj.

	109,589,103	Additional Variable Rate Debt
x	6.47%	Variable Rate Debt Cost Rate
	7,090,415	Additional Interest Expense
	0.38575	Income Tax Rate
	2,735,128	Reduction in Income Taxes