

ORIGINAL



Florida Power

A Progress Energy Company

ASSOCIATE GENERAL COUNSEL

JAMES A. MCGEE

November 28, 2001

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

011611-EI

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Re: Petition of Florida Power Corporation for waiver of depreciation study filing requirement in Rule 25-6.0436(8)(a), F.A.C.

Dear Ms. Bayó:

Enclosed for filing are an original and fifteen copies of the subject petition of Florida Power Corporation.

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/scc
Enclosure

cc: Ms. Patricia Lee

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power Corporation for waiver of depreciation study filing requirement in Rule 25-6.0436(8)(a), F.A.C.

Docket No. 011611-EI

Submitted for filing:
November 28, 2001

P E T I T I O N

Florida Power Corporation ("Florida Power" or "the Company"), pursuant to Section 120.542, F.S., and Rule 28-104.002, F.A.C., hereby petitions the Florida Public Service Commission ("the Commission") for a waiver of the requirement established by Rule 25-6.0436(8)(a), F.A.C. that Florida Power file its next depreciation study within four years of its previous study, and for authorization to file its next depreciation study by April 30, 2003. In support of this petition, Florida Power submits the following:

1. Florida Power is a public utility subject to the jurisdiction of the Florida Public Service Commission ("Commission") under Chapter 366, F.S.
2. All notices, pleadings and correspondence required to be served on the petitioner should be directed to:

James A. McGee, Esquire
Post Office Box 14042
St. Petersburg, FL 33733-4042
Facsimile: (727) 820-5519

For express deliveries by private courier, the address is:

100 Central Avenue
St. Petersburg, FL 33701

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3. Rule 25-6.0436(8)(a), F.A.C., states: "Each company shall file a study for each category of depreciable property for Commission review at least once every four years from the submission date of the previous study unless otherwise required by the Commission." As a consequence of this provision, Florida Power is required to file its next depreciation study by December 31, 2001. Florida Power seeks a temporary waiver of this rule and authorization to file its next depreciation study by April 30, 2003.

4. The Commission may grant a waiver of the rule's filing requirement (a) when application of the rule would create a substantial hardship or would violate principles of fairness, and (b) when a demonstration has been made that the purpose of the underlying statute will be or has been achieved by other means. Section 120.542(2), F.S.

5. By Order No. PSC-01-1348-PCO-EI, issued June 20, 2001 in Docket No. 000824-EI, the Commission initiated a full revenue requirements rate case for Florida Power. The Company was required to initiate and complete the filing of MFRs and supporting testimony on September 14 and November 15, 2001, respectively, and continues to be engaged in responding to voluminous discovery requests. A significant portion of these and other ongoing rate case activities have been and will continue to be performed by the same individuals responsible for preparing the Company's depreciation studies. These individuals play an essential and indispensable role in meeting Florida Power's established rate case filing dates and discovery response deadlines and, as a result, will be unable to complete the comprehensive depreciation study by the filing date determined in accordance with -

Rule 25-6.0436(8)(a). Attempting to meet this filing date would not only compromise Florida Power's rate case efforts, but would also adversely affect the quality and thoroughness of the depreciation study. The same adverse affect would result if the Company were to attempt to hire outside assistance or temporary manpower to prepare the study. Florida Power submits that these circumstances illustrate the substantial hardship that exists absent the requested waiver, as well as the principles of fairness that support the requested extension of time to file the study.

6. The waiver of Rule 25-6.0436(8)(a) under these circumstances satisfies the requirements of Section 120.542(2), F.S., and serves the purposes of the statutes underlying that rule. Rule 25-6.0436, F.A.C., implements Sections 350.115 and 366.06(1), F.S. Section 350.115 authorizes the Commission to "approve or establish adequate, fair and reasonable depreciation rates and charges." Section 366.06(1) authorizes the Commission to "investigate and determine the actual legitimate costs of the property of each utility company, actually used and useful in the public service, and to keep a current record of the net investment of each public utility company and such property which value, as determined by the Commission, shall be used for ratemaking purposes and shall be the money honestly and prudently invested by the public utility company in such property used and useful in serving the public, less accrued depreciation and shall not include any goodwill or going concern value or franchise value in excess of the payment made therefor."

7. The waiver sought by Florida Power serves the purposes of the underlying statutes by providing the study and supporting data required to meet the requirements -

of the depreciation rule on a more qualitative and thorough basis. A waiver would also recognize the impact of the substantial workload associated with the preparation of MFRs and testimony and the other ongoing, time intensive activities required by the Company's rate case as it proceeds toward final hearing.

8. Florida Power is seeking a waiver on a temporary, one-time basis only, with subsequent depreciation studies to be submitted in accordance with the rule's four-year filing interval, absent contrary circumstances not presently anticipated. In addition, if an early settlement is reached in its pending rate case, Florida Power may be in a position to submit its next depreciation study earlier than the date requested above.

9. The circumstances supporting the waiver request herein are similar to those described in the petition of Florida Power & Light Company (FPL) for a waiver of the same filing requirement. At its November 6, 2001 Agenda Conference, the Commission approved Staff's recommendation to grant FPL's petition, which reached the following conclusion:

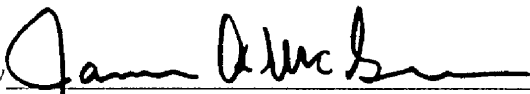
"Staff believes that requiring FPL to file the depreciation study by April 2002, given its staffing limitations, would create a substantial hardship. Staff agrees with FPL's analysis of the statutes underlying Rule 25-6.0436(8)(a), and agrees that the purposes of the statutes will be served if the waiver is granted. For these reasons, staff recommends that the waiver be granted. However, in the event that an early settlement is reached on FPL's MFR filing, the filing date should be revisited."

Florida Power submits that a similar conclusion is warranted with respect to the waiver requested by this petition.

WHEREFORE, for the reasons described above, Florida Power Corporation respectfully requests that the Commission grant this petition for a temporary waiver of the filing requirement in Rule 25-6.0436(8)(a), F.A.C., and authorize the Company to filing its next depreciation study by April 30, 2003.

Respectfully submitted,

FLORIDA POWER CORPORATION

By 

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