



Florida Power

A Progress Energy Company

ASSOCIATE GENERAL COUNSEL

ORIGINAL

JAMES A. MCGEE

February 19, 2002

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

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Re: Docket No. 020112-EI

Dear Ms. Bayó:

Enclosed for filing in the subject docket are an original and fifteen copies of Florida Power Corporation's petition for waiver of Rule 25-6.1353, F.A.C., regarding the forecasted earnings surveillance report for 2002.

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

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for waiver of Rule 25-6.1353, F.A.C., concerning 2002 forecasted earnings surveillance report by Florida Power Corporation.

Docket No. 020112-EI

Submitted for filing:
February 19, 2002

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 25-6.1353, F.A.C. that Florida Power file a forecasted earnings surveillance report for calendar year 2002. 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") pursuant to 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 25-6.1353(1), F.A.C., provides in pertinent part that: "Each investor-owned utility ... shall file with the Commission its forecasted financial information on Commission Form PSC/AFA 22 (1/95) ... entitled 'Investor-Owned Electric Utility Forecasted Earnings Surveillance Report' The report shall be due on or before March 1 of each year, and shall contain the forecasted financial information for that calendar year." Florida Power seeks a temporary waiver of this requirement to file a forecasted earnings surveillance report for calendar year 2002 only. Thereafter, the Company will file its forecasted surveillance report in accordance with the rule.

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

5. In the instant case, the conditions that satisfy both of these requirements for the granting of a rule waiver stem from the Commission's decision in Order No. PSC-01-1348-PCO-EI, issued June 20, 2001 in Docket No. 000824-EI, initiating a full revenue requirements rate case for Florida Power and establishing calendar year 2002 as the projected test year. The rate case proceeding has resulted in Florida Power providing enormous amounts of forecasted information, while taxing the Company's manpower resources to its limit. At the outset, Florida Power had to assemble the massive volume of data and information required to file its MFRs and supporting testimony. Florida Power then provided and continues to provide

extensive information in response to voluminous discovery requests. Most recently, the Company prepared and filed rebuttal testimony of numerous witnesses providing information and explanations regarding a myriad of issues raised in testimony submitted by Staff and intervenor witnesses. Apart from providing additional information in response to on-going discovery request, Florida Power is now fully engaged in the substantial task of preparing for the final hearings set to commence on March 20, 2002.

6. With respect to the first criterion for granting the requested waiver, the extensive information, including forecasted financial data, provided by Florida Power for 2002 in its pending rate case has substantially complied with, and exceeded, the requirements of Rule 25-6.1353, F.A.C. As a result, the purpose of the underlying statutes¹ has been achieved by other means. Forecasted surveillance reporting is intended to allow the Commission to monitor projected utility earnings *between rate cases* by providing pertinent financial information prepared at a relatively high level compared to the level of detail provided during rate cases. Therefore, almost by definition, this type of information becomes largely superfluous during a rate case when a greater quality and quantity of information is available.

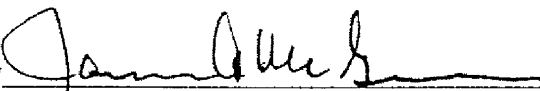
¹ Rule 25-6.1353 cites as "Law Implemented" Section 350.117(1), F.S. ("The Commission may require such regular or emergency reports, including, but not limited to, financial reports, as the Commission deems necessary to fulfill its obligations under the law."), Section 366.04(2)(f), F.S. ("To prescribe and require the filing of periodic reports and other data as may be reasonably available and as necessary to exercise its jurisdiction hereunder."), and Section 366.05(1), F.S. ("In the exercise of such jurisdiction, the Commission shall have power to ... prescribe all rules and regulations reasonably necessary and appropriate for the administration and enforcement of this chapter.").

7. With respect to the second criterion for granting the requested waiver, filing the forecasted earnings surveillance report for 2002 would require key Florida Power personnel currently involved in important rate case activities to instead devote significant time to preparation of the report. As a result, application of the rule in this instance would impose a substantial hardship on the Company's ability to properly prepare its case in the pending rate proceeding. Preparation of the forecasted surveillance report typically requires a skilled employee approximately two months to complete. Employees capable of performing this task are currently devoting well beyond normal working hours to critical rate case assignments. Reassigning essential manpower to a time consuming task that amounts to little more than reformatting information that has already been provided would constitute a serious and unnecessary detriment to Florida Power's rate case efforts.

WHEREFORE, for the reasons described above, Florida Power Corporation respectfully requests that the Commission grant this petition for a temporary waiver of the requirement in Rule 25-6.1353, F.A.C., that the Company file a forecasted earnings surveillance report for calendar year 2002.

Respectfully submitted,

FLORIDA POWER CORPORATION

By 

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