(21) T

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Hearings on Load Forecasts, Generation Expansion Plans, and Cogeneration Prices for Peninsular Florida's Electric Utilities.	DOCKET NO. 900004-EU FILED: June 15, 1990

NASSAU POWER CORPORATION'S NOTICE OF FIRST EXECUTION AND DEMAND FOR SUBSCRIPTION STATUS

NOTICE is hereby given that pursuant to Rule 25-17.083(3), Florida Administrative Code, which directs regulated utilities to submit standard offer contracts for approval by the Commission; Rule 25-17.083(3)(b), Florida Administrative Code, which states that upon approval utilities shall provide to QFs the prescribed options for standard offer energy and capacity payments; the decision of the Commission on May 25, 1990 to delegate to its Staff the authority and responsibility to administratively review and approve the revised tariffs which the Commission required the utilities to submit (Tr. 56-58[1/]); and the June 13, 1990 transmittal letter of Staff approving FPL's revised standard offer tariffs and contract to become effective on June 13, 1990; Nassau Power Corporation ("Nassau") executed on June 13, 1990 a Standard Offer Contract with Florida Power and Light Company

ACK 1
AFA
APP
CAF
CMU
CTR
EAG
LEG 1 w/m
LIN 6 17
OPC 1
RCH
SEC 1
WAS
OTH

[1/] Pertinent transcript excerpts and documents are included in the Appendix to this Notice.

("FPL") for the delivery of 435 MW of firm capacity beginning January 1, 1996.

Nassau Power Corporation's contract is the first to subscribe the 500 MW avoided unit designated by the Commission on May 25, 1990 and implemented by approved tariff on June 13, 1990 for the following reasons:

1. While FPL did not notify the Commission of the 300 MW contract between Indiantown Cogeneration and FPL until May 31, the contract was executed on May 21, 1990, four days before the Commission reconsidered its original order designating 1993, 1994, and 1995 combined cycle units as the avoided units. The Commission has established that a negotiated contract's "place in line" in terms of subscribing the statewide unit in effect at the time the agreement is made is determined by execution date. Therefore, the negotiated contract between Indiantown Cogeneration and FPL cannot subscribe an avoided unit that was not yet in existence at the time the contract was executed; the only avoided unit possibly applicable is that which was in place at the time of execution. To rule otherwise would set the illogical precedent for the administrative specter of other negotiated contracts that may somehow "leapfrog" the statewide avoided units in place at the time of their execution and impact future, as yet undesignated statewide avoided units.

Further, the Indiantown contract has an in-service date of 1995. On May 25, the Commission adopted the primary recommendation of Staff to consider, as counting toward the 500 MW subscription limit of the 1996 statewide avoided unit, only

those contracted units having in-service dates of 1996. (Agenda Synopsis, Issues 4, 5; Tr. 76-77). Therefore, under the Commission's ruling, the FPL/Indiantown negotiated contract would not have subscribed the statewide 500 MW 1996 coal-fired avoided unit even if it had been executed after May 25.

It must be made clear that the fact that the Indiantown/FPL negotiated contract does not subscribe the 500 MW statewide avoided unit does not mean that the contract must be disapproved. As the Commission determined on May 25, such contracts can be gauged on their own merits, based on the individual utility's own needs and costs. The Indiantown contract may ultimately be approved; but if it is approved, it cannot displace Nassau's contract, for the reasons stated.

2. The purported "standard offer contract" executed by Consolidated Minerals was signed on June 6, 1990, seven days before the conforming tariffs were approved and given an effective date of June 13, 1990 by the Commission.

It is fundamental that Commission decisions regarding changes in tariffs, regulations and contracts of regulated utilities by law must be given prospective application; and, where such decisions are implemented by tariffs submitted by the utility, the tariffs do not become operative until approved by the Commission. Section 366.07, Florida Statutes; City of Miami v. Florida Public Service Commission, 208 So.2d 249 (Fla. 1968); Florida Power Corporation v. Continental Testing Laboratories, Inc., 243 So.2d 195 (Fla. 4th DCA 1971). As a corollary, it follows that the last lawfully established tariff remains

effective until superseded by a new approved tariff. 73B C.J.S., Public Utilities, §15, 56. The requirement of prior approval is set forth in Rule 25-17.083, Florida Administrative Code. In facat, on one prior occasion when the Commission explicitly voted on a specific effective date (which was not done on May 25), it emphasized that the normal routine of submission and approval would nonetheless be followed and that the revised tariffs would not be available prior to approval. Order No. 22341, p. 30. The standard offer contract form submitted by FPL following the May 25 decision explicitly incorporates the rule's requirement of prior approval. Accordingly, the submitted tariffs had no efficacy on June 6; the revised standard offer tariff had not been approved and was not available. Consolidated Mineral's attempt to invoke the unapproved standard offer seven days prior to the date approved by the Commission was a nullity. The prior standard offer tariff provisions were still in effect on June 6.

3. In addition to the legal ramifications attached to the requirements of the rules and the approval date of tariffs, there are other practical administrative and equitable considerations which bear on the situation before the Commission. In order to position itself to subscribe to the 500 MW coal-fired avoided unit, Nassau Power Corporation carefully observed and adhered to the regulatory scheme established by the Commission's rules. Nassau devoted substantial resources and made detailed arrangements to obtain and review the tariffs submitted by the utilities immediately on filing and to execute the standard offer contract immediately upon approval. Nassau adhered to the

procedure established by the Commission's rules when it could have attempted to preempt the process. It should not be prejudiced as a result of following the prescribed procedures and awaiting approval of the tariffs before executing.

Requiring approval of the tariffs before making the standard offer available is also the only logical approach from a practical administrative viewpoint. The possibility exists that a tariff submitted by a utility may be disapproved [2/] or that modification may be required. There can be no valid execution prior to the approval because the terms and conditions have not been finalized and given force by the Commission prior to that time. To permit the execution of contracts prior to approval of the standard offer tariffs would be an abdication of the Commission's authority: It would indirectly place utilities in the role of prescribing terms and conditions. Abandoning the requirement of approval would place pressure on QFs to sign

---

2/ Even in this case, we have the example of a portion of FPC's tariff which is recommended to be suspended as substantially nonconforming; it is well that the Commission's requirement of prior approval would have invalidated any attempt to execute FPC's tariff immediately upon submission. Otherwise, the Commission could find itself in the bizarre position of having to choose between the application of an approved tariff versus a different unapproved but executed tariff, with parties pushing the Commission to choose that tariff most favorable to their economic or other interest. The Commission would also be faced with ruling on the status of a standard offer contract executed before tariff approval, if the tariff is then disapproved. Finally, the Commission could find itself in the position of having two competing standard offers for one period--a standard offer executed by parties before Commission approval and a standard offer executed after modification and approval. All of these unwieldy problems are avoided by the Commission's current process, which mandates that a standard offer tariff must be approved before it becomes available.

contracts before all terms are known or fixed by the Commission, and possibly place pressure on the Staff to approve tariffs notwithstanding objections or shortcomings because of the existence of contracts incorporating the terms of the submitted tariffs. The requirement of prior approval is legally correct, and is the most equitable and administratively desirable procedure as well. Abandoning that requirement in this instance would turn the Commission's long-standing tariff review and implementation mechanism into a farce, and would render completely chaotic the procedure for determining which QFs are entitled to subscribe the designated statewide avoided unit. Nassau Power Corporation was first to execute after the standard offer tariff was approved and in place, and is therefore first in line.

WHEREFORE, Nassau Power Corporation requests the Commission to determine that its standard offer contract of June 13, 1990 first subscribes the 500 MW 1996 statewide avoided unit implemented by approved tariff effective on June 13, 1990.

Joseph A. McGlothlin
Vicki Gordon Kaufman
Lawson, McWhirter, Grandoff
& Reeves
522 E. Park Avenue, Suite 200
Tallahassee, Florida 32301
904/222-2525

Attorneys for Nassau
Power Corporation

INDEX TO APPENDIX

NASSAU POWER CORPORATION'S
NOTICE OF FIRST EXECUTION AND
DEMAND FOR SUBSCRIPTION STATUS

date upon which the order initiating the proceeding is issued.

History.—s. 6, ch. 26545, 1951; s. 4, ch. 74-195; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 7, 16, ch. 80-35; s. 2, ch. 81-318; ss. 8, 20, 22, ch. 89-292.

[1]Note.—Repealed effective October 1, 1999, by s. 22, ch. 89-292, and scheduled for review pursuant to s. 11.61.

[1]366.07 Rates; adjustment.—Whenever the commission, after public hearing either upon its own motion or upon complaint, shall find the rates, rentals, charges or classifications, or any of them, proposed, demanded, observed, charged or collected by any public utility for any service, or in connection therewith, or the rules, regulations, measurements, practices or contracts, or any of them, relating thereto, are unjust, unreasonable, insufficient, excessive, or unjustly discriminatory or preferential, or in anywise in violation of law, or any service is inadequate or cannot be obtained, the commission shall determine and by order fix the fair and reasonable rates, rentals, charges or classifications, and reasonable rules, regulations, measurements, practices, contracts or service, to be imposed, observed, furnished or followed in the future.

History.—s. 7, ch. 26545, 1951; s. 24, ch. 57-1; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 16, ch. 80-35; s. 2, ch. 81-318; ss. 9, 20, 22, ch. 89-292.

[1]Note.—Repealed effective October 1, 1999, by s. 22, ch. 89-292, and scheduled for review pursuant to s. 11.61.

[1]366.071 Interim rates; procedure.—

(1) The commission may, during any proceeding for a change of rates, upon its own motion, or upon petition from any party, or by a tariff filing of a public utility, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish a prima facie entitlement for interim relief, the commission, the petitioning party, or the public utility shall demonstrate that the public utility is earning outside the range of reasonableness on rate of return calculated in accordance with subsection (5).

(2)(a) In a proceeding for an interim increase in rates, the commission shall authorize, within 60 days of the filing for such relief, the collection of rates sufficient to earn the minimum of the range of rate of return calculated in accordance with subparagraph (5)(b)2. The difference between the interim rates and the previously authorized rates shall be collected under bond or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(b) In a proceeding for an interim decrease in rates, the commission shall authorize, within 60 days of the filing for such relief, the continued collection of the previously authorized rates; however, revenues collected under those rates sufficient to reduce the achieved rate of return to the maximum of the range of rate of return calculated in accordance with subparagraph (5)(b)2. shall be placed under bond or corporate undertaking subject to refund with interest at a rate ordered by the commission.

(c) The commission shall determine whether a corporate undertaking may be filed in lieu of the bond.

(3) In granting such relief, the commission may, in an expedited hearing but within 60 days of the commencement of the proceeding, upon petition or upon its own motion, preclude the recovery of any extraordinary or imprudently incurred expenditures or, for good cause shown, increase the amount of the bond or corporate undertaking.

(4) Any refund ordered by the commission shall be calculated to reduce the rate of return of the public utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return which is found fair and reasonable on a prospective basis, but the refund shall not be in excess of the amount of the revenues collected subject to refund and in accordance with paragraph (2)(b). In addition, the commission may require interest on the refund at a rate established by the commission.

(5)(a) In setting interim rates or setting revenues subject to refund, the commission shall determine the revenue deficiency or excess by calculating the difference between the achieved rate of return of a public utility and its required rate of return applied to an average investment rate base or an end-of-period investment rate base.

(b) For purposes of this subsection:

1. "Achieved rate of return" means the rate of return earned by the public utility for the most recent 12-month period. The achieved rate of return shall be calculated by applying appropriate adjustments consistent with those which were used in the most recent rate case of the public utility and annualizing any rate changes occurring during such period.

2. "Required rate of return" shall be calculated as the weighted average cost of capital for the most recent 12-month period, using the last authorized rate of return on equity of the public utility, the current embedded cost of fixed-rate capital, the actual cost of short-term debt, the actual cost of variable-cost debt, and the actual cost of other sources of capital which were used in the last rate case of the public utility.

3. In a proceeding for an interim increase, the term "last authorized rate of return on equity" used in subparagraph 2. means the minimum of the range of the last authorized rate of return on equity established in the most recent rate case of the public utility. In a proceeding for an interim decrease, the term "last authorized rate of return on equity" used in subparagraph 2. means the maximum of the range of the last authorized rate of return on equity established in the most recent rate case of the public utility.

History.—s. 8, ch. 80-35; s. 2, ch. 81-318; ss. 3, 15, ch. 82-25; ss. 20, 22, ch. 89-292.

[1]Note.—Repealed effective October 1, 1999, by s. 22, ch. 89-292, and scheduled for review pursuant to s. 11.61.

[1]366.072 Rate adjustment orders.—Any order issued by the commission adjusting general increases or reductions of the rates of an electric or gas company shall be reduced to writing including any dissenting or concurring opinions within 20 days of the official vote of the commission. Within said 20 days, the commission shall also mail a copy of the order to the clerk of the circuit court of each county in which customers are served who are affected by the rate adjustment, which copy shall be kept on file and made available to the public. The commission shall notify all parties of record in the proceeding of the date of such mailing. Such an order

accounting for economy transactions which have taken place, using the utility's actual incremental energy cost curve for the hour, as affected by firm power purchases and sales when applicable and the output of the qualifying facilities connected to the utility's system. A megawatt block size at least equal to the most recent available estimate of the combined average hourly generation of all qualifying facilities making as-available energy sales and connected to the utility's system shall be used to calculate the utility's hourly avoided energy costs associated with as-available energy.

Each utility shall submit for Commission approval details of the methodology to be used in the calculation of avoided energy cost implementing Section (2) of this Rule. Each utility's implementation methodology shall specify the method by which the utility's incremental fuel and operating and maintenance costs and line losses are determined.

(3)(a) For qualifying facilities with hourly recording meters, monthly payments for as-available energy shall be made and shall be calculated based on the product of: (1) the utility's actual avoided energy rate for each hour during the month; and (2) the quantity of energy sold by the qualifying facility during that hour.

(b) For qualifying facilities with dual kilowatt-hour register time-of-day meters, monthly payments for as-available energy shall be calculated based on the average of the utility's actual hourly avoided energy rate for the on-peak and off-peak periods during the month.

(c) For qualifying facilities with standard kilowatt-hour meters, monthly payments for as-available energy shall be calculated based on the average of the utility's actual hourly avoided energy rate for the off-peak periods during the month.

(4) Each utility shall file a monthly report by the twentieth business day of the following month of their actual hourly avoided energy costs, the average of their actual hourly avoided energy costs for the on-peak and off-peak periods during the month, and the average of their actual hourly avoided energy costs for the month with the Commission. A copy shall be furnished to any individual who requests such information.

(5) Each utility tariff shall include, at minimum, a ten year rolling estimate of the average of the utility's annual generation mix and fuel price by type of fuel. These estimates shall be updated annually.

(6) Utility payments for as-available energy made to qualifying facilities pursuant to the utility's tariff shall be recoverable by the utility through the Fuel and Purchased Power Cost Recovery Clause. Utility payments for as-available energy made to qualifying facilities pursuant to a separately negotiated contract shall be recoverable by the utility through the Fuel and Purchased Power Cost Recovery Clause if the payments are in the best interest of the utility's ratepayers.

Specific Authority 366.05(9), 350.127(2) FS. Law Implemented 366.05(9) FS. History—New 9-4-83, Formerly 25-17.825.

25-17.083 Firm Energy and Capacity.

(1) Firm energy and capacity are energy and capacity produced and sold by a qualifying facility and purchased by a utility pursuant to a negotiated contract or the utility's standard contract offer and subject to certain contractual provisions as to the quantity, time, and reliability of delivery.

(2) Each utility may negotiate a contract for the purchase of firm energy and capacity from any qualifying facility. Generally, such contracts will be considered prudent for cost recovery purposes if the following criteria are met:

(a) It is demonstrated that the purchase of firm energy and capacity from the qualifying facility pursuant to the terms and conditions of the contract can reasonably be expected to result in the economic deferral or avoidance of additional capacity construction by Florida utilities from a statewide perspective; and

(b) The cumulative present worth of firm energy and capacity payments made to the qualifying facility over the term of the contract are to be no greater than the cumulative present worth of the value of a year-by-year deferral of the statewide avoided unit over the term of the contract; and

(c) To the extent that the annual firm energy and capacity payments made to the qualifying facility in any year exceed that year's annual value of deferring the statewide avoided unit, the contract contains adequate provisions to protect the utility's ratepayers in the event that the qualifying facility fails to perform pursuant to the terms and conditions of the contract. Such provisions may be in the form of a requirement for the repayment of firm energy and capacity payments made by the utility, a surety bond or equivalent assurance of performance of the contract by the qualifying facility, or payment of less than full avoided firm energy and capacity costs.

(3) Each utility shall submit a tariff containing a standard offer for the purchase of firm energy and capacity from any qualifying facility in the State for approval by the Commission. In lieu of a separately negotiated contract, a qualifying facility may accept any utility's standard offer.

Each utility's standard offer shall contain, at a minimum, the following criteria and rates of payment:

(a) A qualifying facility shall be eligible to receive firm energy and capacity payments pursuant to a utility's standard offer if the qualifying facility is willing to enter into a contract for the delivery of firm energy and capacity on the following terms and conditions at least two years before the anticipated in-service date of the statewide avoided unit:

1. The qualifying facility will agree to deliver energy and capacity commencing no later than the anticipated in-service date of the statewide avoided unit and continuing for a period of at least ten years after the anticipated in-service date of the statewide avoided unit; and

2. The qualifying facility will agree to maintain a seventy percent capacity factor for energy delivered by the qualifying facility on a 12 month rolling average basis. For the purpose of this subsection, the capacity factor of the qualifying facility shall be defined as: the total kilowatt-hours of energy delivered to the utility during the preceding 12 months, divided by the product of: (1) the maximum kilowatt capacity contractually committed for delivery to the utility by the qualifying facility during the preceding 12 months and (2) the sum of the total hours during the preceding 12 months less those hours during which the utility was unable to accept energy and capacity deliveries from the qualifying facility; and

3. Additional criteria reasonably required by the utility planning the statewide avoided unit, related to the delivery of firm energy and capacity by the qualifying facility during that utility's daily and seasonal peak periods.

(b) Upon approval by the Commission each utility's standard offer shall provide the following payment options to a qualifying facility for the delivery of firm energy and capacity:

1. Capacity payments shall be equal to the value of a year-by-year deferral of the statewide avoided unit, calculated in accordance with Section (7) of this rule; energy payments shall be calculated in accordance with Section (6) of this rule.

Normally, payments for firm capacity pursuant to this option shall not commence until the anticipated in-service date of the statewide avoided unit. At the option of the qualifying facility, however, a utility may begin making early capacity payments consisting of the avoided capital cost component of the value of a year-by-year deferral of the statewide avoided unit starting as early as seven years prior to the anticipated in-service date of the statewide avoided unit. The avoided operating and maintenance expense component of the value of a year-by-year deferral of the statewide avoided unit shall be included in the capacity payment made to the qualifying facility starting with the anticipated in-service date of the statewide avoided unit. Where such early capacity payments are made, the cumulative present value of the avoided capital cost component of capacity payments made to the qualifying facility over the term of the contract shall not exceed the cumulative present value of the avoided capital cost component of capacity payments which would have been made to the qualifying facility had such payments commenced with the in-service date of the statewide avoided unit. For the purpose of this option, the avoided capital cost component of capacity payments to be made to a qualifying facility starting as early as seven years prior to the anticipated in-service date of the state-wide avoided unit shall be paid monthly and shall be calculated as follows:

$$A_m = \frac{A\,(1 + i_p)^n}{12};\ \text{for } n = o, n$$

Where:

A_m = monthly avoided capital cost component of capacity payments to be made to the qualifying facility starting as early as seven years prior to the anticipated in-service date of the statewide avoided unit, in dollars per kilowatt per month;

i_p = annual escalation rate associated with the plant cost of the statewide avoided unit;

n = year for which early capacity payments to a qualifying facility are made; and

$$A = F\left[\frac{1 - \left(\frac{(1 + i_p)}{(1 + r)}\right)}{1 - \left(\frac{(1 + i_p)}{(1 + r)}\right)^t}\right]$$

Where:

F = the cumulative present value of the avoided capital cost component of capacity payments which would have been made had capacity payments commenced with the anticipated in-service date of the statewide avoided unit;

r = annual discount rate, defined as the utility's incremental after tax cost of capital; and

t = the term, in years, of the contract for the purchase of firm capacity commencing prior to the in-service date of the statewide avoided unit.

2. Capacity payments shall be equal to the average embedded book cost of fossil steam production plant of the utility planning the statewide avoided unit; energy payments shall be calculated in accordance with Section (6) of this rule.

Normally, payments for firm capacity pursuant to this option shall not commence until the anticipated in-service date of the statewide avoided unit. At the option of the qualifying facility, however, a utility may begin making capacity payments pursuant to this option as early as seven years prior to the anticipated in-service date of the statewide unit.

(c) If capacity payments are to be made prior to the anticipated in-service date of the statewide avoided unit, the qualifying facility shall be required to provide a surety bond or equivalent assurance of repayment of the early capacity

CHAIRMAN WILSON: Let's take a break until about five minutes after ten so we can all find this.

(Recess)

CHAIRMAN WILSON: Should we do this before we do the rules?

MR. DEAN: Yes. There is a little, a couple of administrative details that need to be cleaned up about filing tariffs.

CHAIRMAN WILSON: I know about that. But should we do this thing about subscription and allocation before we do the rules?

MS. BROWNLESS: Yes, you need to because of the fact that you voted to have a 500 megawatt subscription so --

COMMISSIONER EASLEY: Under the current rules.

MS. BROWNLESS: Under the current rules. So we need to figure out how people are prioritized in relation to that subscription.

Before we start though I would like to say, to clear up the, to tie up the administrative details about the new standard offer tariffs, we would suggest that the utilities be required to file new standard offer contracts and Cog 2 tariffs within 10 days of the date of this vote, and that those be administratively approved by staff if they are in conformance with the

vote. That they only have to be brought back to the Commission for Commission approval at an agenda, if there is some problem with them.

COMMISSIONER EASLEY: I would so move.

MR. DEAN: We would also suggest that the price parameters be those identified in staff's recommendation on Page 64 with the corrected K factor of 1.572.

COMMISSIONER GUNTER: What now?

MR. DEAN: What we need to do is we gave you all the price parameters for this coal unit in our staff recommendation, and we are just asking you to approve those as the pricing parameters.

COMMISSIONER GUNTER: Well, let me look at them. I've got to find --

MS. BROWNLESS: It's the original staff rec now.

MR. DEAN: Page 64 of staff.

COMMISSIONER GUNTER: Wait, I've got to find that.

MR. DEAN: The big thick one, the APH recommendation.

COMMISSIONER GUNTER: I don't even have it.

COMMISSIONER BEARD: I had it. I don't know what we did with it.

CHAIRMAN WILSON: We'll come back to it after you get a chance to look at it.

COMMISSIONER GUNTER: If bill is listening, he can get me a copy of it and get it on down here.

MS. BROWNLESS: We are getting copies made.

COMMISSIONER GUNTER: Okay.

MS. BROWNLESS: Perhaps we can get a vote on the 10 days.

CHAIRMAN WILSON: 10 days would be fine.

MS. BROWNLESS: For administrative approval.

CHAIRMAN WILSON: No problem with that.

MS. BROWNLESS: And then we'll come back to the parameters.

CHAIRMAN WILSON: All right. We are on the recommendation on --

MS. BROWNLESS: Allocation and subscription.

CHAIRMAN WILSON: Allocation and subscription.

MS. BROWNLESS: Obviously the issues having to do with allocation are moot because we have done away with that for this next unit. That leaves the subscription issue, and those kind of boil down to are you going to count negotiated contracts against --

Well, let's start over. The Commission has already ordered that negotiated, already found in a previous order that negotiated contracts and standard offer contracts are counted toward the subscription limit. Now, the staff is suggesting that only standard

CHAIRMAN WILSON: Pick a unit.

COMMISSIONER GUNTER: That's right, pick a unit.

MR. BALLINGER: We'll come back if it fills up?

CHAIRMAN WILSON: '93, '94 or '95, and we'll just keep going.

COMMISSIONER EASLEY: That is of course the legal answer.

COMMISSIONER GUNTER: We will go back and stay within the bounds of the record. We are supposed to have an APH next year, aren't you, in '91?

MS. BROWNLESS: No, sir. We will not have one in '91, because a work plan was not filed in January of this year. The reason the work plan was not filed in January --

COMMISSIONER GUNTER: You are talking '92, you are talking three year centers?

MS. BROWNLESS: Yes. We are talking '92 now because we haven't approved a work plan, and it takes them roughly a year after a work plan is approved to produce a product. We didn't make them file the work plan because we didn't know what we wanted them to do.

CHAIRMAN WILSON: Issue 4.

MR. DEAN: We can move it faster than three years.

CHAIRMAN WILSON: Primary recommendation?

COMMISSIONER GUNTER: Primary recommendation.

CHAIRMAN WILSON: Issue 5.

COMMISSIONER BEARD: No.

CHAIRMAN WILSON: Primary recommendation. All right.

COMMISSIONER GUNTER: Are we going to get to this?

CHAIRMAN WILSON: Yes.

MS. BROWNLESS: And now we are to the parameters?

COMMISSIONER EASLEY: I've got to express some reservation about taking '96 and going back to '94 and '95. I just have to say I don't --

COMMISSIONER GUNTER: I think that was just discussion, just indicating that there are possibilities if we get into a jam.

COMMISSIONER EASLEY: Well, I understand. But I have problems with that as being one of the solutions to the jam. I just thought --

CHAIRMAN WILSON: I do, too. Is there some problem with the logic?

COMMISSIONER EASLEY: Well, based on the discussion that we have been having here today, there should not be.

CHAIRMAN WILSON: That is sort of what my problem was.

COMMISSIONER EASLEY: Okay.

MS. BROWNLESS: I need to be very clear what you

2** DOCKET NO. 900004-EU - Planning Hearings on Load Forecasts, Generation Expansion Plans, and Cogeneration Prices for Peninsular Florida's Electric Utilities. (Deferred from the April 17, 1990 Commission Conference)

(Continued from previous page)

Issue: 4. Does the subscription limit prohibit any utility from negotiating, and the Commission from subsequently approving, a contract for the purchase of firm capacity and energy from a qualifying facility?
Primary Recommendation: No. The subscription limits set forth in Order No. 22341 and the current criteria for approval of negotiated contracts should only apply to contracts negotiated against the current designated statewide avoided unit, i.e., a 1993 combined cycle unit. Any contract outside of these boundaries should be evaluated on a utility's individual needs and costs, i.e., it should be evaluated against the units identified in each utility's own generation expansion plan.
Secondary Recommendation: Yes. Although the recommendation of technical staff has merit, the rules as currently written simply do not envision cogeneration contracts that are not tied to the current statewide avoided unit.
Issue: 5. Should a negotiated contract whose project has an in-service date which does not match the in-service date of the statewide avoided unit be counted towards that utility's subscription limit?
Primary Recommendation: No. The subscription limits set forth in Order No. 22341 and the current criteria for approval of negotiated contracts should only apply to the statewide avoided unit. Any contract outside of these boundaries should be evaluated against each utility's own avoided cost.
Secondary Recommendation: No. Utilities should be prohibited from negotiating for units which are beyond the date of the statewide avoided unit. If, however, such units are contracted for, these contracts should be judged for cost recovery purposes against the avoided costs of the 1994 and 1995 avoided units approved by the Commission in Order No. 22341. After 1995, these contracts should be judged against the units identified in the FCG's 1989 Long Range Generation Expansion Plan.

State of Florida

Commissioners:
MICHAEL McK. WILSON, CHAIRMAN
THOMAS M. BEARD
BETTY EASLEY
GERALD L. (JERRY) GUNTER
JOHN T. HERNDON

JOSEPH D. JENKINS
Director
Division of Electric and Gas
(904) 488-8501

Public Service Commission

June 13, 1990

Mr. David Mills
Supervisor, Rates & Tariffs
Florida Power & Light Company
Post Office Box 029100
Miami, Florida 33102

AUTHORITY NO. E-90-24

Dear Mr. Mills:

We are returning herewith, approved, one copy of the following tariff sheets for Florida Power & Light Company:

Third Revised Sheet No. 9.850	Fourteenth Revised Sheet No. 10.203
Third Revised Sheet No. 9.851	Eighth Revised Sheet No. 10.204
Third Revised Sheet No. 9.852	Seventh Revised Sheet No. 10.205
Third Revised Sheet No. 9.853	Third Revised Sheet No. 10.206
Original Sheet No. 9.854	Second Revised Sheet No. 10.207
Third Revised Sheet No. 10.200	Second Revised Sheet No. 10.208
Fourth Revised Sheet No. 10.201	Fourth Revised Sheet No. 10.209
Third Revised Sheet No. 10.202	Third Revised Sheet No. 10.210
	Second Revised Sheet No. 10.211
	Second Revised Sheet No. 10.212
	Second Revised Sheet No. 10.213
	First Revised Sheet No. 10.214

These tariff sheets were approved by Commission Authority No. E-90-24, to become effective June 13, 1990 and will be incorporated into the official tariff of Florida Power and Light Company on file with this Commission.

Very truly yours,

Robert L. Trapp

Robert L. Trapp
Assistant Director

RLT/bc
Attachments
cc: Joseph Jenkins

FLETCHER BUILDING • 101 EAST GAINES STREET • TALLAHASSEE, FL 32399-0868

STANDARD OFFER CONTRACT FOR THE PURCHASE OF FIRM CAPACITY AND ENERGY FROM A QUALIFYING FACILITY

THIS AGREEMENT is made and entered into this_____day of_____, 19____ by and between _____, hereinafter referred to as "QF" and Florida Power & Light Company, hereinafter referred to as "FPL" or the "Company"; a private utility corporation organized under the laws of the State of Florida. The QF and FPL shall collectively be referred to herein as the "Parties".

WITNESSETH:

WHEREAS, QF desires to sell, and FPL desires to purchase electricity to be generated by the QF consistent with Florida Public Service Commission (FPSC) Rules 25-17.080 through 25-17.087 of Order No. _____, Docket No. 900004-EU; and

WHEREAS, QF has signed an Interconnection Agreement with the utility in whose service territory the QF's generating facility is located, attached hereto as Appendix A; and

WHEREAS, the FPSC has approved this following Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Qualifying Facility;

NOW, THEREFORE, for mutual consideration the Parties agree as follows:

1. **Facility**

QF contemplates installing and operating a _____KVA_ _____generator located at _____. The generator is designed to produce a maximum of _____kilowatts (KW) of electric power at an 85% power factor, such equipment being hereinafter referred to as "Facility."

2. **Term of the Agreement**

This Agreement shall begin immediately upon its execution by the parties and shall end at 12:01 a.m., _____, 20____.

Notwithstanding the foregoing if construction and commercial operation of the Facility are not accomplished by QF before January 1, 1996, this Agreement shall be rendered of no force and effect.

3. **Sale of Electricity by QF**

FPL agrees to purchase all of the electric power generated at the Facility and transmitted to FPL by QF. The purchase and sale of electricity pursuant to this Agreement shall be construed as a ( ) net billing arrangement or ( ) simultaneous purchase and

(Continued on Sheet No. 9.851)

NOTICE OF EXECUTION OF UTILITY/QF
POWER PURCHASE AGREEMENT

- QF Owner and/or Operator: Indiantown Cogeneration, L.P.
- Name of Purchasing Utility: Florida Power & Light Company
- Type of Contract: Negotiated
- Effective Date (Last Signature): May 21, 1990
- Ending Date: Later of December 1, 2025 or 30 Agreement Years
- QF Size: 300 MW (nominal net output)
- QF Type: Cogeneration
- QF Location: Adjacent to Caulkins Citrus Processing Indiantown, Florida
- Committed Capacity: Ranges from 270 to 330 MW; expected to be 300 MW
- In Service Date: September 1, 1995
- No. of MW Remaining Unsubscribed: FPL expects to count this capacity against the 1996 coal-fired, 500 MW avoided unit designated by the Commission on May 25, 1990;[1] therefore, 200 MW remain
- Energy Delivery Date: (No earlier than) July 1, 1994
- Capacity Delivery Date: December 1, 1995

NEUQF.PPA

[1]Although the subject Agreement was executed before the Commission's vote took place, the Agreement's overall dollar amount (i.e., present value revenue stream) is based upon the cost of a 1996 combined cycle unit. The capacity payment/energy payment ratio is, however, skewed to mirror the financial structure and operating characteristics of a coal-fired unit.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Nassau Power Corporation's Notice of First Execution and Demand for Subscription Status and Appendix thereto has been furnished by Hand Delivery* or by U.S. Mail to the following parties of record, this 15th day of June, 1990:

Michael Palecki*
Florida Public Service Commission
Division of Legal Services
101 East Gaines Street
Tallahassee, FL 32399

Susan Clark, General Counsel*
Division of Appeals
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399

Matthew M. Childs
Steel, Hector & Davis
215 S. Monroe Street
First Florida Bank Building
Suite 601
Tallahassee, FL 32301-1804

James P. Fama
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33733

Paul Sexton
Richard Zambo, P.A.
211 S. Gadsden Street
Tallahassee, FL 32301

Edison Holland, Jr.
Beggs and Lane
Post Office Box 12950
Pensacola, FL 32576

Richard D. Melson
Hopping, Boyd, Green & Sams
Post Office Box 6526
Tallahassee, FL 32314

Lee L. Willis
James D. Beasley
Ausley, McMullen, McGehee
Carothers and Proctor
Post Office Box 391
Tallahassee, FL 32302

Stephen C. Burgess
Deputy Public Counsel
Office of the Public Counsel
c/o The Florida Legislature
111 W. Madison Street
Claude Pepper Bldg., Room 812
Tallahassee, FL 32399

Gail P. Fels
Assistant County Attorney
Metro-Dade Center
111 N.W. First Street
Suite 2810
Miami, FL 33128

Mike Peacock
Florida Public Utilities
Post Office Box 610
Marianna, FL 32446

Ann Carlin
Gainesville Regional
Post Office Box 490, Suite 52
Gainesville, FL 32602

William J. Peebles
Frederick M. Bryant
Moore, Williams & Bryant
Post Office Box 1169
Tallahassee, FL 32302

Florida Keys Electric Coop.
E. M. Grant
Post Office Box 377
Tavernier, FL 33070

Edward C. Tannen
1300 City Hall
Jacksonville, FL 32202

City of Chattahoochee
Attn: Superintendent
115 Lincoln Drive
Chattahoochee, FL 32324

Susan Delegal
115 S. Andrew Avenue, Rm. 406
Ft. Lauderdale, FL 33301

Quincy Municipal Electric
Post Office Box 941
Quincy, FL 32351

Barney L. Capehart
601 N.W. 35th Way
Gainesville, FL 32605

Cogeneration Program Manager
Governor's Energy Office
301 Bryant Building
Tallahassee, FL 32301

John Blackburn
Post Office Box 405
Maitland, FL 32751

E. J. Patterson
Florida Public Utilities Co.
Post Office Drawer C
West Palm Beach, FL 33402

C. M. Naeve
Shaheda Sultan
Skadden, Arps, Slate, Meagher
& Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

Bruce May
Holland and Knight
Post Office Drawer 810
Tallahassee, FL 32302

Ray Maxwell
Reedy Creek Utilities Co.
Post Office Box 40
Lake Buena Vista, FL 32830

Roy Young
Young, Van Assenderp,
Varnadoe & Benton
Post Office Box 1833
Tallahassee, FL 32302-1833

Department of Energy
Southeast Power Adm.
Attn: Lee Rampey
Elberton, GA 30635

Florida Rural Electric Coop.
Post Office Box 590
Tallahassee, FL 32302

Alabama Electric Coop.
Post Office Box 550
Andalusia, AL 37320

Gene Tipps
Seminole Electric Coop.
Post Office Box 272000
Tampa, FL 33688-2000

Terry O. Brackett
1899 L Street, N.W.
Washington, D.C. 20036

Patrick K. Wiggins
Wiggins and Villacorta
501 East Tennessee Street
Suite B
Tallahassee, FL 32308

Guyte P. McCord, III
Post Office Box 82
Tallahassee, FL 32302

Suzanne Brownless
Oertel, Hoffman, Fernandez
& Cole
Post Office Box 6507
Tallahassee, FL 32314-6507

Joseph A. McGlothlin

LAWSON, MCWHIRTER, GRANDOFF & REEVES
ATTORNEYS AT LAW

JOHN W. BAKAS, JR.
ENOLA T. BROWN
LEWIS J. CONWELL
C. THOMAS DAVIDSON
AILEEN S. DAVIS
STEPHEN O. DECKER
J. BERT GRANDOFF
G. CALVIN HAYES
LESLIE JOUGHIN, III
VICKI GORDON KAUFMAN
JOHN R. LAWSON, JR.
THOMAS A. MANN
JOSEPH A. MCGLOTHLIN
JOHN W. MCWHIRTER, JR.
RICHARD W. REEVES
WILLIAM W. SHIELDS, III
MATTHEW D. SOYSTER
DANA G. TOOLE

201 EAST KENNEDY BLVD., SUITE 800
TAMPA, FLORIDA 33602
(813) 224-0866
TELECOPIER: (813) 221-1854
CABLE GRANDLAW

MAILING ADDRESS: TAMPA
P. O. BOX 3350, TAMPA, FLORIDA 33601

MAILING ADDRESS: TALLAHASSEE
522 EAST PARK AVENUE
SUITE 200
TALLAHASSEE, FLORIDA 32301
(904) 222-2525
TELECOPIER: (904) 222-5606

PLEASE REPLY TO:
TALLAHASSEE

June 19, 1990

Mr. Steve Tribble, Director
Division of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399

Re: Docket No. 900004-EU, Hearings on Load Forecasts, Generation Expansion Plans, and Cogeneration Prices for Peninsular Florida's Electric Utilities.

Dear Mr. Tribble:

Enclosed for your file is a Certificate of Service for the Addendum to Appendix to Nassau Power Corporation's Notice of First Execution.

Yours truly,

for Joseph A. McGlothlin

JAM/jfg

Enclosure

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Hearings on Load Forecasts, Generation Expansion Plans, and Cogeneration Prices for Peninsular Florida's Electric Utilities.	DOCKET NO. 900004-EU FILED: June 19, 1990

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Addendum to Appendix to Nassau Power Corporation's Notice of First Execution has been furnished by Hand Delivery* or by U.S. Mail to the following parties of record, this 19th day of June, 1990:

Michael Palecki*
Florida Public Service Commission
Division of Legal Services
101 East Gaines Street
Tallahassee, FL 32399

Susan Clark, General Counsel*
Division of Appeals
Florida Public Service Commission
101 East Gaines Street
Tallahassee, FL 32399

Matthew M. Childs
Steel, Hector & Davis
215 S. Monroe Street
First Florida Bank Building
Suite 601
Tallahassee, FL 32301-1804

James P. Fama
Florida Power Corporation
Post Office Box 14042
St. Petersburg, FL 33733

Lee L. Willis
James D. Beasley
Ausley, McMullen, McGehee
Carothers and Proctor
Post Office Box 391
Tallahassee, FL 32302

Stephen C. Burgess
Deputy Public Counsel
Office of the Public Counsel
c/o The Florida Legislature
111 W. Madison Street
Claude Pepper Bldg., Room 812
Tallahassee, FL 32399

Gail P. Fels
Assistant County Attorney
Metro-Dade Center
111 N.W. First Street
Suite 2810
Miami, FL 33128

Paul Sexton
Richard Zambo, P.A.
211 S. Gadsden Street
Tallahassee, FL 32301

Edison Holland, Jr.
Beggs and Lane
Post Office Box 12950
Pensacola, FL 32576

Richard D. Melson
Hopping, Boyd, Green & Sams
Post Office Box 6526
Tallahassee, FL 32314

Florida Keys Electric Coop.
E. M. Grant
Post Office Box 377
Tavernier, FL 33070

Edward C. Tannen
1300 City Hall
Jacksonville, FL 32202

City of Chattahoochee
Attn: Superintendent
115 Lincoln Drive
Chattahoochee, FL 32324

Susan Delegal
115 S. Andrew Avenue, Rm. 406
Ft. Lauderdale, FL 33301

Quincy Municipal Electric
Post Office Box 941
Quincy, FL 32351

Barney L. Capehart
601 N.W. 35th Way
Gainesville, FL 32605

Cogeneration Program Manager
Governor's Energy Office
301 Bryant Building
Tallahassee, FL 32301

John Blackburn
Post Office Box 405
Maitland, FL 32751

E. J. Patterson
Florida Public Utilities Co.
Post Office Drawer C
West Palm Beach, FL 33402

Mike Peacock
Florida Public Utilities
Post Office Box 610
Marianna, FL 32446

Ann Carlin
Gainesville Regional
Post Office Box 490, Suite 52
Gainesville, FL 32602

William J. Peebles
Frederick M. Bryant
Moore, Williams & Bryant
Post Office Box 1169
Tallahassee, FL 32302

Ray Maxwell
Reedy Creek Utilities Co.
Post Office Box 40
Lake Buena Vista, FL 32830

Roy Young
Young, Van Assenderp,
Varnadoe & Benton
Post Office Box 1833
Tallahassee, FL 32302-1833

Department of Energy
Southeast Power Adm.
Attn: Lee Rampey
Elberton, GA 30635

Florida Rural Electric Coop.
Post Office Box 590
Tallahassee, FL 32302

Alabama Electric Coop.
Post Office Box 550
Andalusia, AL 37320

Gene Tipps
Seminole Electric Coop.
Post Office Box 272000
Tampa, FL 33688-2000

Terry O. Brackett
1899 L Street, N.W.
Washington, D.C. 20036

Patrick K. Wiggins
Wiggins and Villacorta
501 East Tennessee Street
Suite B
Tallahassee, FL 32308

C. M. Naeve
Shaheda Sultan
Skadden, Arps, Slate, Meagher
& Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

Bruce May
Holland and Knight
Post Office Drawer 810
Tallahassee, FL 32302

Guyte P. McCord, III
Post Office Box 82
Tallahassee, FL 32302

Suzanne Brownless
Oertel, Hoffman, Fernandez
& Cole
Post Office Box 6507
Tallahassee, FL 32314-6507

Joseph A. McGlothlin
Vicki Gordon Kaufman
Lawson, McWhirter, Grandoff
& Reeves
522 E. Park Avenue, Suite 200
Tallahassee, Florida 32301
904/222-2525

Attorneys for Nassau Power
Corporation