

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for a Rate)	DOCKET NO. 910890-EI
Increase by Florida Power)	ORDER NO. 25292
Corporation.)	ISSUED: 11/04/91
<hr/>		

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY
 MICHAEL MCK. WILSON

ORDER DENYING PUBLIC COUNSEL'S REQUEST FOR HEARING

BY THE COMMISSION:

By letter to the Commission Chairman dated August 27, 1991, Florida Power Corporation (FPC) requested approval of three separate test years for use in the rate case that it plans to file in the beginning of 1992. (Document No. 8556-91). The three separate test year periods are: (1) a test year ending November 30, 1991, for interim rate relief; (2) a current test year ending December 31, 1992, for permanent rate relief; and (3) a test year ending December 31, 1993, for subsequent year rate relief. The Office of Public Counsel (OPC) filed a Motion to Deny Florida Power Corporation's Request for Test Year Approval and Request for Hearing on September 6, 1991. (Document No. 8913-91). FPC filed a response to the Motion on September 16, 1991. (Document No. 9195-91).

Public Counsel states in its Motion that

the decision on the test year request will determine the substantial interests of both Florida Power and its customers. Since the test year letter is facially inadequate to support the use of three separate test years, the Commission should not affirm the request without first conducting an evidentiary hearing at which Florida Power must justify its request.

DOCUMENT NUMBER-DATE

10943 NOV -4 1991

FPSC-RECORDS/REGISTRATION

ORDER NO. 25292
DOCKET NO. 910890-EI
PAGE 2

We do not believe it is necessary or legally appropriate to hold an evidentiary hearing on the initial approval of FPC's proposed test year periods. The final decision which ultimately determines the adequacy of a chosen test year will not be made until the conclusion of the rate case. We find that parties whose substantial interests may be affected by the selection of a particular test year will have ample opportunity to challenge the appropriateness of the test year at the rate case hearing before that final decision is made, and by appeal of our final decision. See Southern Bell Tele. and Telegraph Co. v. Florida Pub. Serv. Comm'n, 443 So.2d 92 (Fla. 1983); Citizens of State v. Public Serv. Comm'n, 425 So.2d 534 (Fla. 1982); Citizens of Fla. v. Hawkins, 356 So.2d 254 (Fla. 1978); Gulf Power Co. v. Bevis, 289 So.2d 401 (Fla. 1974).

Our initial approval of a test year is an interim decision only, subject to our final decision approving or disapproving the use of a particular test year in the ratemaking proceeding. Although Public Counsel and others certainly have a substantial interest in the ultimate outcome of a rate proceeding, we find that interest does not entitle them to a separate hearing on every interim or procedural decision we make along the way. See Citizens of State of Fla. v. Wilson, 568 So.2d 904, 908 (Fla. 1990); Citizens of State of Fla. v. Wilson, 567 So.2d 889, 892 (Fla. 1990).

If we were to conduct a hearing at every administrative decision point, we would hardly facilitate the avoidance of regulatory lag in rate cases. The test year is simply a mechanism which is used to keep the rate setting process efficient and effective. It is the method by which we cope with the voluminous information which must be used to set fair, just, and reasonable rates. We do not find it appropriate or efficient to conduct a "mini rate case" hearing on the merits of the test year at this point. During the course of the case, if we determine that the chosen test year is inappropriate, we can and will adjust the test year then. Accordingly, we deny Public Counsel's request for a hearing on this matter.

OPC states that "[i]f Florida Power wishes to proceed on a combination of historic and projected periods, it should be required to file using consistent, calendar-year data." However, we find that it is appropriate to use different test year periods during a rate case. The test year mechanism is simply a Commission tool or technique to make rate setting reflective of known future conditions. See Gulf Power Co. v. Bevis, 289 So.2d 401, 404 (Fla. 1974). We find the choice of test year periods in this instance is a suitable starting point in the case, for the purpose of filing

ORDER NO. 25292
 DOCKET NO. 910890-EI
 PAGE 3

MFRs and beginning the ratemaking process. We would like to reiterate, however, that our acceptance of the test years is interim in nature. It is subject to our review and modification in the rate case proper. It in no way precludes us from requiring the utility to submit other data from other years, if we believe the data is needed to set fair, just and reasonable rates.

It is, therefore,

ORDERED that the Office of Public Counsel's Motion to Deny Florida Power Corporation's Request for Test Year Approval and Request for Hearing is denied.

By ORDER of the Florida Public Service Commission, this
4th day of NOVEMBER, 1991.

 STEVE TRIBBLE, Director
 Division of Records and Reporting

(S E A L)
 MAB/MCB/MAP:bmi
 testyrre.mb

by: Kay Flynn
 Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 25-22.038(2), 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,

ORDER NO. 25292
DOCKET NO. 910890-EI
PAGE 4

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.