

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition of Florida Power)
and Light Company For the Inclusion)
Scherer Unit No. 4 Purchase in Rate)
Base, Including an Acquisition)
Adjustment.)
_____)

Docket No. 900796-EI

Filed: January 9, 1991

**PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW OF THE
COALITION OF LOCAL GOVERNMENTS**

Pursuant to the rules of the Commission and the Florida Administrative Code, the Coalition of Local Governments ("CLG") files its Proposed Findings of Fact and Conclusions of Law in this docket. This filing is in addition to the contemporaneously filing a post-hearing brief and post-hearing statement of issues and positions.

PROPOSED FINDINGS OF FACT

1. Georgia Power Company ("GPC") indicated in its RFP response that alternate energy would be available to Florida Power & Light Company ("FPL") from units of the Southern Company Services system under terms consistent with the 1988 UPS. [Denis, TR 229-240.]

2. In its response to the RFP, GPC stated that it offered to make UPS sales to FPL beginning as early as 1990 at prices lower than those reflected in the RFP responses for the years preceding 1994. [Denis, TR 236.]
3. Under both the Scherer 4 purchase option and the Scherer UPS option, FPL could reduce its dependence upon oil at an equally early date. [Woody, TR 66.]
4. Under the conditions existing as reflected in the foregoing two findings of fact, both the Scherer 4 purchase and the Scherer UPS could provide capacity in 1991 to allow for the upgrade of the Turkey Point nuclear station.
5. The FPL employee who was allegedly the employee who is said to have heard from Jacksonville Electric Authority ("JEA") that it would not grant additional transmission capacity to FPL unless the purchase of Scherer 4 was consummated by FPL and JEA did not appear as a witness in this case. [Woody, TR 114.]
6. No JEA employee or agent appeared as a witness in this matter to address the alleged position presented by FPL that it would refuse to grant FPL additional transmission capacity unless the Scherer 4 purchase is consummated by FPL and JEA. [Transcript 1-end.]
7. Joint efforts with Florida Power Corporation to secure permits for and build a west coast Florida 500 kV transmission line connecting with Southern Company Services are not contingent upon the purchase by FPL of Scherer 4. [Woody, TR 115.]

8. FPL began discussions with Florida Power Corporation for the west coast 500 Kv line as early as March 27, 1990, prior to executing the original Letter of Intent regarding the potential purchase of Scherer 4. [Woody, TR 54-58; Exhibit 5.]
9. The UPS cost analysis by FPL has been overstated for such factors as fuel and escalation. Fuel cost differences used by FPL show an unreasonable and unexplained disparity and the use of the different fuel costs have not been adequately explained by FPL. [Bartels, TR 874.]
10. Errors have been found in FPL's analyses of the capacity options, including specifically the errors shown to be present in Exhibit 21. When the analyses are corrected for these errors, the result is that the apparent best option for FPL for increasing capacity is shown to be the Scherer UPS option. [Bartels, TR 883.]
11. The methodology used to develop escalation factors for coal used in the different options should be similar in order to be reasonably accurate. [Bartels, TR 903.]
12. The methodology used to determine the fuel escalation for fuel in the Martin IGCC evaluation was significantly different from the methodology used in the evaluation of fuel in the Scherer purchase. [Silva, TR 1081; Wells, TR 953; Waters, TR 606.]
13. The materials provided by FPL do not justify the use of the different escalation factors used in the various option evaluations by FPL. The use of the different escalation factors has materially influenced the result of the option evaluations. [Bartels, TR 888.]

14. In order for the Commission to accept the result of the FPL cost studies, the Commission must find that the cost studies and forecasts are reasonable and that FPL did a reasonable job on developing the cost studies and fuel forecasts. [Waters, TR 603, 613.]
15. The FPL planning models are, under the best of circumstances, capable of providing forecasts that benchmark system production costs within approximately 2%. [Waters, TR 501.] The estimated difference in benefits determined by FPL comparing the Scherer purchase option and the Scherer UPS option are less than 2%.
16. Fuel costs constitute a large percentage of total power production costs for a coal fired unit, such as Scherer 4. [Thomas, TR 434.]
17. FPL intends to use Georgia Power Corporation as its fuel procurement agent. [Cepero, TR 377-378.]
18. In the event FPL purchases Scherer 4, it intends to participate in joint procurement with the other co-owners of units at the Scherer plant site, including Georgia Power Company, Oglethorpe Power Corporation, MEAG and Jacksonville Electric Authority. [Cepero, TR 372.]
19. FPL intends to use GPC as its procurement agent to execute FPL's procurement strategy. [Cepero, TR 372-373.]

20. Fuel procurement for the Plant Scherer (all units) will be from joint decisions made by all owners of the units at the Plant Scherer site. [Cepero, TR 375.]
21. FPL will not have a majority of the votes to be cast in determining the fuel procurement policy at Plant Scherer. [Cepero, TR 375.]
22. Oglethorpe Power Corporation will have the largest number of votes to cast on the procurement policy decisions at Plant Scherer. [Cepero, TR 375.]
23. One decision that could be made by the group decision at Plant Scherer is to change procurement strategy from using eastern bituminous coal to western subbituminous coal. [Cepero, TR 375.]
24. FPL has not interviewed Oglethorpe Power Corporation or any other joint owner other than Georgia Power to determine what changes the other owners suggest in procurement strategy at Plant Scherer. [Cepero, TR 369.]
25. Scherer Unit 4 is substantially similar to the other three units at Plant Scherer from the standpoint of heat rate and basic equipment. [Cepero, TR 367-368.]
26. FPL has until the end of June, 1991 during which to decide to purchase Scherer Unit 4. [Woody, TR 95.]

27. It is unlikely that FPL could purchase coal for the same generating unit at a cost of more than \$7.00 per ton cheaper than GPC and SCS. [Wells, TR 943.]
28. Using a similar fuel escalation factor for the Martin IGCC option as that used for the Scherer purchase option decreases the expected cost of fuel for the Martin option by approximately \$500,000,000. [Wells, TR 943.]
29. The likely fuel escalation for lower quality coal usable in the Martin option would be less than the escalation factor used for the higher quality coal required to be used in Scherer 4.
30. The record contains competent expert opinion to the effect that the fuel escalation factors used by FPL to compare the costs of the capacity options were incorrect and unreliable. [Wells, Tr 948.]
31. Under the expected purchase arrangement with GPC, in the event FPL purchases Scherer 4, FPL will be required to assume a ratable proportion of the existing fuel contracts at Scherer. [Wells, TR 962-963; Silva, TR 1087.]
32. The coal selected by FPL as the proposed feedstock for the Martin IGCC option is relatively rare coal located so far from the plant site in Florida that it suffers a freight disadvantage of approximately \$2.50 per ton. [Wells, TR 954-955; Silva, TR 1094-1097.]

33. FPL determined that the Georgia Power UPS was the winning bid under the RFP process, despite the alleged concern on the part of FPL regarding its ability to reach an agreement with JEA for transmission capacity into the FPL territory.

PROPOSED CONCLUSIONS OF LAW

1. A petitioning utility has the burden of proof to demonstrate by convincing evidence that the relief sought is reasonable and appropriate.
2. FPL has failed to demonstrate that the proposed purchase of Scherer Unit No. 4 would substantially improve the ability of FPL to import power into Florida and to its service territory.
3. FPL has failed to demonstrate by competent evidence that its ratepayers would benefit from substantial additional benefits under the Scherer Unit No. 4 purchase.
4. There is no compelling reason to render a decision in this matter regarding the appropriate treatment of a proposed purchase of Scherer Unit No. 4 until such time as the actual agreements controlling the sale of the unit are available for review by the Commission and intervenors.
5. FPL does not require the Commission's permission or approval to purchase an interest in Scherer Unit 4.

6. There is no legal requirement that FPL receive approval from the Commission prior to purchasing Scherer Unit 4.
7. An analyses to compare the expected costs of the capacity options available to FPL is an integral part of this docket as it forms the basis on which the Commission can determine whether the proposed purchase is a reasonable and prudent action and whether the customers of FPL would realize the benefits FPL asserts are available under this purchase.
8. The analysis performed by FPL contained substantial errors and, when corrected for these errors, indicates that the purchase of Scherer Unit No. 4 is not the lowest cost option available to FPL to meet its capacity requirements for 1996.
9. The assumptions made by FPL in its analysis of the present value revenue requirements for the options available to FPL were made in such a manner as to unreasonably bias the data to favor the analysis of the purchase of Scherer Unit No. 4.
10. The analysis performed by FPL to evaluate the options available to FPL to provide capacity in 1996 are so biased and error laden, that the Commission has determined that the analysis should be performed by an outside consultant, rather than FPL.
11. An independent consultant should be retained by the Commission at the cost of FPL to determine the appropriate escalation, depreciation and fuel cost factors to be used in the analysis of the options available to FPL, including the Scherer purchase, the Scherer

UPS, the Martin IGCC project, the Nassau Power project and the Standard Offer options.

12. FPL has failed to show by competent evidence that the purchase of Scherer Unit No. 4 would materially improve its ability to reach an agreement with JEA regarding transmission of power into Florida for FPL's customers.
13. FPL has failed to show by competent evidence that it would be unable to meet its capacity requirements in 1996 by methods other than the purchase of Scherer Unit No. 4, which other methods may be at a lower expense to the customers of FPL.
14. FPL has failed to show by competent and convincing evidence that the purchase of Scherer Unit 4 is a reasonable and prudent investment necessary to enable FPL to meet its forecast 1996 system load requirements.
15. The petition of FPL in this matter should be denied without prejudice to FPL to petition this Commission upon the completion of the independent study ordered above regarding the best cost method for FPL to meet its 1996 capacity requirements.
16. The issue of whether an acquisition adjustment should be given rate base treatment (Issues 1 and 14) is not reached as being not ripe for decision in light of the ruling of this Commission that FPL has not demonstrated the purchase of Scherer Unit No. 4 to be reasonable and prudent.

17. The issue of whether the capacity to be provided by the purchase of Scherer Unit No. 4 is reasonable consistent with the needs of peninsular Florida (Issue 3) is not reached as being not ripe for decision in light of the ruling of this Commission that FPL has not demonstrated the purchase of Scherer Unit No. 4 to be reasonable and prudent.
18. The issue of how the proposed purchase of Scherer Unit No. 4 will affect the reliability and integrity of FPL's electric system (Issue 4) is not reached as being not ripe for decision in light of the ruling of this Commission that FPL has not demonstrated the purchase of Scherer Unit No. 4 to be reasonable and prudent.
19. The issue of how the proposed purchase of Scherer Unit 4 will affect the adequacy of the fuel diversity for FPL's system (Issue 5) is not reached as being not ripe for decision in light of the ruling of this Commission that FPL has not demonstrated the purchase of Scherer Unit No. 4 to be reasonable and prudent.
20. The Commission has determined that the errors and biasing assumptions used by FPL in its analyses of the supply side sources of capacity demonstrates that FPL has not reasonably considered such supply side sources of capacity (Issue 6).
21. Issue 8, regarding whether the purchase of Scherer Unit 4 is the most cost effective means of meeting FPL's capacity needs is answered in the negative without prejudice to FPL to represent this matter for consideration upon completion of the independent study ordered in this matter.

22. The fuel supply and transportation costs presented in FPL's economic analyses for Scherer Unit 4 (Issue 11) are found to not be reasonable and prudent.
23. The Commission determines that FPL has not demonstrated that the purchase of an undivided ownership interest in Scherer Unit No. 4 is a reasonable and prudent investment necessary to enable FPL to meet its forecast 1996 system load requirements (Issue 16).
24. The Commission determines that FPL should not be authorized at this time to include the purchase price of its undivided share of Scherer Unit 4, including acquisition adjustment, in rate base (Issue 17).
25. The issues of guarantee requirements on the electrical output of the unit and delivery to FPL and limits on the amount of total investment, operation and maintenance and fuel costs (Issue 18) is not ripe for determination at this time in light of the Commission's ruling finding that the purchase of Scherer Unit 4 is not reasonable and prudent.

Respectfully submitted on behalf of Coalition of Local Governments.



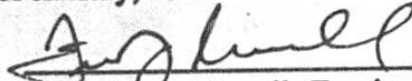
Frederick J. Murrell, Esquire
Schroder & Murrell
1001 3rd Avenue West Suite 375
Bradenton, Florida 34205
Florida Bar #: 0227447
(813) 747-2630

Attorneys for the
Coalition of Local Governments

CERTIFICATE OF SERVICE

I, Frederick J. Murrell, hereby certify that I have this day served the foregoing Proposed Findings of Fact and Conclusions of Law on behalf of the Coalition of Local Governments by hand delivery or mailing it first-class, postage prepaid to parties on the service list shown below.

Dated at Bradenton, Florida this 8th day of January, 1991.


Frederick J. Murrell, Esquire

Service List

Edward A. Tellechea, Esquire
Staff Counsel
Florida Public Service Commission
101 East Gaines Street
Fletcher Building - Room 226
Tallahassee, Florida 32399

Matthew M. Childs, Esquire
Steel, Hector, & Davis
215 S. Monroe Street
Tallahassee, Florida 32301

John Roger Howe, Esquire
Office of the Public Counsel
111 West Madison Street
Suite 801
Tallahassee, Florida 32399-1400

Frederick M. Bryant, Esquire
Moore, Williams, Bryant, Peebles
& Gautier, P.A.
Post Office Box 1169
Tallahassee, Florida 32302

Robert C. Williams
Director of Engineering
7201 Lake Ellenor Drive
Orlando, Florida 32809