

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for of approval of)	DOCKET NO. 900986-EQ
amendment to agreement for purchase of)	ORDER NO. 24172
firm capacity and energy between Central)	ISSUED: 2-27-91
ower & Lime, Inc. (Successor to Florida)	
Crushed Stone Co.) and Florida Power)	
& Light Company.)	
)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 GERALD L. GUNTER
 MICHAEL MCK. WILSON

NOTICE OF PROPOSED AGENCY ACTIONORDER APPROVING COGENERATION CONTRACT AMENDMENT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On December 13, 1990, Florida Power & Light Company (FPL) filed a petition requesting approval of an amendment dated December 10, 1990 to its contract with Central Power and Lime, Inc. (Successor to Florida Crushed Stone Co.) for the purchase of firm energy and capacity which was previously approved by this Commission in Order No. 13765. The amendment contained two changes having FPL pay Central Power & Lime, Inc. (CPL); 1) 100% as-available energy costs for all hours, and 2) an additional \$2.71/MWH for all energy delivered during on-peak hours. On February 13, 1991, FPL and CPL revised the earlier amendment whereas FPL would now pay CPL; 1) \$2.71/MWH for on peak energy not to exceed 110% of CPL's committed energy, and 2) CPL waived the right to qualify for the Capacity Alert Payment schedule offered by FPL. Both amendments contain a provision that the capacity and energy payments due to CPL pursuant to the original agreement will be offset by an amount equal to 1/24th of the total early payment amount plus accrued interest during the period of April 1, 1992 to April 1, 1994. All other terms of the December 10, 1990 agreement remain the same.

DOCUMENT NUMBER-DATE

01945 FEB 27 1991

FPC-RECORDS/REPORTING

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Having reviewed these changes, we find that they are reasonable, do not significantly alter the terms of the previously approved original contract and do not violate our rules. It is therefore

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's petition for approval of this revised amendment to its contract with Central Power & Lime, Inc. for the sale of firm energy capacity as discussed above, as stated in Attachment A, is hereby granted. It is further

ORDERED that the effective date of our approval of the agreement is January 1, 1991. It is further

ORDERED that the other terms of the original contract as approved in Order No. 13765, are hereby reaffirmed. It is further

ORDERED that this Order shall become final and this docket closed unless an appropriate petition for formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By Order of the Florida Public Service Commission, this
27th day of February, 1991.

 STEVE TRIBBLE, Director
 Division of Records and Reporting

(S E A L)
 MRC:bmi
 900986.bmi

by: Kay Flynn
 Chief, Bureau of Records

Commissioner Betty Easley dissented.

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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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 20, 1991.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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AMENDMENT TO
AGREEMENT FOR THE PURCHASE
OF FIRM CAPACITY AND ENERGY BETWEEN
CENTRAL POWER & LIME, INC. AND
FLORIDA POWER & LIGHT COMPANY

This Amendment, made and entered as of this 10th day of December, 1990, by and between CENTRAL POWER & LIME, INC. ("CPL"), a Florida corporation with its principal offices in Leesburg, Florida, and successor to Florida Crushed Stone Company ("FCS"), and FLORIDA POWER & LIGHT COMPANY ("FPL"), a private utility corporation organized and existing under the laws of the State of Florida and having its principal place of business in Miami, Florida. CPL, FCS and FPL may collectively herein be called the "Parties" and may be individually identified from time to time as a "Party."

BACKGROUND. FPL and FCS entered into that certain Agreement for the Purchase of Firm Capacity and Energy between Florida Crushed Stone Company and Florida Power & Light Company, dated September 10, 1984 (the "Agreement"). The Agreement was assigned to CPL on December 15, 1988. Pursuant to an agreement in principle reached by the parties in September, 1990, CPL wishes to revise the terms of the payment for energy prior to April 1, 1992, under the Agreement, and FPL is willing to consent to those modifications under the terms and conditions hereinafter set forth.

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

1.0 Definition. All terms used herein in capitalized form, and not otherwise defined in this Amendment, shall have the meanings ascribed to those terms in the Agreement. In addition, for purposes of this Amendment only, the following terms shall have the following meanings which, when inconsistent with the meanings of such terms defined in the Agreement, shall supersede those definitions as long as this Amendment is in effect:

1.1 "Annual On-Peak Energy Factor" shall mean the sum of the 12 consecutive On-Peak Monthly Energy Factors preceding the date of calculation, divided by 12. During the first 12 consecutive Monthly Billing Periods, commencing on the effective date specified in Section 5 hereof, the calculation of the Annual On-Peak Energy Factor shall be performed by dividing the sum of the On-Peak Monthly Energy Factors from the effective date by the number of Monthly Billing Periods which have elapsed from such date. This calculation shall be performed at the end of each Monthly Billing Period until enough Monthly Billing Periods have elapsed to calculate a true 12-month average Annual On-Peak Energy Factor.

1.2. "Committed Energy Deliveries" shall mean the amounts of Energy that CPL will endeavor to deliver during On-Peak Hours prior to April 1, 1992, which, for purposes of

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this Amendment, shall be 100 MW at an 82.5% On-Peak Monthly Energy Factor.

1.3. "On-Peak As-Available Avoided Energy Costs" shall mean As-Available Avoided Energy Costs plus \$2.71 per MWh.

1.4 "On-Peak Monthly Energy Factor" shall mean the total Energy delivered during On-Peak Hours in the Monthly Billing Period for which the calculation is made, plus the sum of the megawatt-hours of energy produced by the Facility during On-Peak Hours that (i) FPL did not accept for delivery or receive pursuant to the provisions of Sections 4.3, 4.4 and 6.4 of the Agreement, and (ii) the energy not produced by the Facility due to CPL's election pursuant to Section 6.4 of the Agreement, divided by the product of (a) 100 MW and (b) the sum of On-Peak Hours during the Monthly Billing Period. On-Peak Energy deliveries for any hour shall be included in this calculation only to the extent they do not exceed 110% of the Committed Energy Deliveries.

2. Commitment to Deliver Energy. CPL commits that, during the period commencing on the effective date and through March 31, 1992, CPL will use all commercially reasonable efforts to deliver to FPL 100 MW of Energy during On-Peak Hours, at an Annual On-Peak Energy Factor of 82.5%, and to maintain wheeling arrangements with Florida Power Corporation for the delivery of such Energy.

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3. Increased Energy Payment Obligation.

3.1 For any Monthly Billing Period commencing on or after the effective date, and concluding on or before March 31, 1992, during which the Annual On-Peak Energy Factor is equal to or in excess of 82.5%, FPL agrees to pay CPL for Energy delivered in such Monthly Billing Period at the following rates:

- (a) During Off-Peak Hours, and with respect to all Energy delivered during On-Peak Hours that is not included in clause (b) below, 100% of FPL's As-Available Avoided Energy Costs; and
- (b) For all Energy deliveries received during On-Peak Hours during such Monthly Billing Period up to 110% of the Committed Energy Deliveries, at the rate of FPL's On-Peak As-Available Avoided Energy Cost.

CPL agrees that it shall not be eligible for any payments otherwise available under FPL's tariff issued pursuant to FPSC Order No. 23999 (1/17/91) and hereby waives any entitlement thereto.

3.2 If the Annual On-Peak Energy Factor for any Monthly Billing Period is less than 82.5%, FPL shall pay CPL for Energy delivered in such month in accordance with the Agreement, without regard to this Amendment.

3.3 Amounts payable by FPL pursuant to Section 3.1 in

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Section 3.2 shall be treated as an advance by FPL to CPL, subject to the repayment obligations set forth in Section 4 below.

4. Repayment of Advance; Reduction in Capacity and Energy Payments. In consideration of the increase in payments contemplated in Section 3 above, CPL agrees to a reduction of the amount of Monthly Capacity Payments and payments for Energy otherwise due it under the Agreement for a two-year period (i.e., 24 FPL payments) commencing May 1, 1992, and ending April 1, 1994, as follows:

4.1 Each advance, consisting of the amount by which any payment under Section 3.1 above exceeds the amount payable under the Agreement without regard to this Amendment, shall bear interest from the date each such advance is received by CPL at the prime rate of interest charged by The Chase Manhattan Bank, N.A., from time to time (the "Prime Rate"). The aggregate of such advances outstanding and the interest thereon as of April 1, 1992, shall be aggregated and repaid in 24 equal consecutive installments, together with interest thereon accumulating at the Prime Rate. Such payments shall commence on May 1, 1992, and shall be made through a reduction in the Monthly Capacity Payments and payments for Energy earned during each preceding month. In the event that any Monthly Capacity Payment and any payment for Energy due during any such Monthly Billing Period is less than the monthly amount

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calculated pursuant to the foregoing, CPL shall pay FPL cash in the amount of such deficiency on the date such Monthly Capacity Payment would otherwise have been due. FPL shall have and may exercise full setoff rights with respect to any monthly credit amount to which it is entitled hereunder.

4.2 CPL may repay such advances in whole or in part without penalty at any time and from time to time. Any such repayment shall be applied first to interest accruing after April 1, 1992, and then to principal.

4.3 CPL's obligations hereunder shall survive the cancellation or termination of the Agreement.

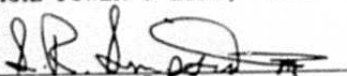
5. Effective Date; Termination Date. For cost recovery purposes, FPL is required to seek the approval of the terms hereof by the Florida Public Service Commission ("FPSC"). Therefore, this Amendment shall not become effective unless and until appropriate FPSC approval has been received. FPL hereby agrees to make an expedited filing therefor with the FPSC, and CPL agrees to cooperate in supporting such petition for approval. If expressly authorized by the FPSC, this Amendment shall become effective on October 1, 1990, and shall terminate on the first day after April 1, 1992, that the advances and interest thereon have been repaid in full. Amounts accruing hereunder between October 1, 1990, and the effective date specified above shall become payable 10 days after final FPSC approval.

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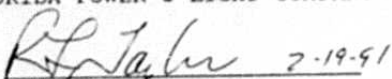
6. Modifications. Except as expressly set forth herein, the Agreement shall remain in full force and effect and is hereby reaffirmed.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment through their duly authorized officers on the day and year first written above.

CENTRAL POWER & LIME, INC.

By 
Title: Vice President

FLORIDA POWER & LIGHT COMPANY

By  7-19-91
Title: Vice President