

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to offset FAS) DOCKET NO. 920144-EI
106 costs and defer incremental) ORDER NO. PSC-92-0841-FOF-EI
FAS 106 costs until next rate) ISSUED: 8/21/92
case by Florida Power and Light)
Company.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER TO ALLOW FLORIDA POWER AND LIGHT
COMPANY TO WITHDRAW ITS AMENDED PETITION

BY THE COMMISSION:

On February 17, 1992, Florida Power and Light Company (FPL) filed a petition with the Florida Public Service Commission to request permission to (1) offset the incremental Statement of Financial Accounting Standard (FAS) 106 costs FPL will recognize in 1993 and future years against any deferred pension credit until new base rates are established in FPL's next rate case; (2) after using any deferred pension credit, defer any remaining incremental FAS 106 costs until FPL's next rate case; (3) include the associated assets and liabilities in rate base; and (4) recover accumulated deferred costs associated with FAS 106 costs over a five year period effective with the date the new base rates are implemented. Also, FPL presented three alternatives for consideration. FPL stated in its petition that it does not seek to change any rates or charges affecting its customers. FPL also requested expedited consideration of this matter. The Office of Public Counsel requested a formal hearing and, accordingly, this matter was scheduled for hearing on September 8, 1992. On June 3, 1992, FPL amended its original petition to exclude from consideration, its Primary and Secondary Alternatives that involved requests for permission to offset FAS 106 costs against any deferred pension credit.

FPL filed an Emergency Motion for Continuance and a Motion for Enlargement of Time on July 2, 1992. In its Emergency Motion for Continuance, FPL requested the Commission to continue the hearing in this docket and to suspend all interim filing deadlines, including deadlines for filing responses to discovery requests, until a revised CASR was issued. Also, in its Motion for Enlargement of Time, FPL requested the Commission to enlarge the

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time required by FPL to file its prefiled direct testimony as well as its response to staff's request for production of documents. The portion of FPL's Motion for Enlargement of Time pertaining to the filing of its direct prefiled testimony was granted as was the portion of FPL's Emergency Motion for Continuance relating to suspension of interim filing deadlines insofar as it pertained to the filing dates of testimony, rebuttal testimony and prehearing statements for all parties. The sections of the Motion for Continuance and the Motion for Enlargement of Time relating to suspension and delay of discovery was denied. (Order No. PSC-92-0605-PCO-EI).

On July 10, 1992, FPL filed with the Commission a Notice of Withdrawal of Amended Petition. FPL stated that its budget for 1993 would not be available until late 1992 and that FPL was involved in sensitive labor negotiations that would not likely be concluded until late 1992. For these reasons, FPL asserted, the company would not be able to present to the Commission the necessary quantitative information affecting the deferral issue by the date of the hearing scheduled for September. Without the deferral, FPL would be obligated under Generally Accepted Accounting Principles to begin accounting for other postretirement benefits under FAS 106 for reporting periods beginning after December 15, 1992.

Pursuant to Rule 1.420(a)(1), Florida Rules of Civil Procedure, an action may be dismissed by a party without order of court by serving a notice for dismissal at any time before hearing. The dismissal is without prejudice, except that a notice of dismissal operates as an adjudication on the merits when served by a party who has once dismissed an action based on or including the same claim.

Accordingly, since FPL has submitted a notice of withdrawal of its amended petition and has not previously dismissed an action based on the same claim, we find that FPL is allowed to withdraw its amended petition as permitted by Rule 1.420, Florida Rules of Civil Procedure.

It is, therefore,

ORDERED by the Florida Public Service Commission that Florida and Light Company is allowed to withdraw its amended petition, as discussed within the body of this Order. It is further

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ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 21st
day of August, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.