

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for a rate) DOCKET NO. 910890-EI
increase by Florida Power) ORDER NO. PSC-93-0303-AS-EI
Corporation.) ISSUED: 02/25/93
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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
LUIS J. LAUREDO

ORDER APPROVING STIPULATIONS AND DENYING RECONSIDERATION

On October 22, 1992, we issued Order No. PSC-92-1197-FOF-EI in this docket granting Florida Power Corporation (FPC) certain rate increases. The following parties timely filed motions for reconsideration of our decision: Florida Power Corporation, Office of the Public Counsel, Florida Industrial Power Users Group, and Occidental Chemical Corporation. Since the various motions for reconsideration and resulting responses were filed, the parties entered into discussions concerning the motions for reconsideration. The discussions resulted in two stipulations. The stipulations address problems associated with allocation, rate design, and a partially non-weather normalized forecast.

The first stipulation is between FPC, the Florida Industrial Power Users Group, and the Ad Hoc Committee of Local Governments. It concerns rate design and cost allocation issues. The second stipulation is between Florida Power and Public Counsel. It concerns the use of actual weather in the Company's revised 1992 sales. Both stipulations are contingent upon the other being approved by this Commission. Occidental did not sign either stipulation. Occidental declined to sign the stipulations absent receipt and review of a calculation of the rates obtained by applying the terms of the stipulations.

The Stipulation between Florida Power Corporation, Florida Industrial Power Users Group, and the Ad Hoc Committee of Local Governments addresses the following issues:

1. the misallocation of revenues among the customers classes resulting from the methodology used to implement the Commission's decision approving a revision to the company's sales forecast, and

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2. the alteration of the pre-existing relationship between time-of-use and standard rates for interruptible, curtailable, and general service demand customer classes and the resulting large-scale migration of time-of-use customers to standard rates within these classes.

Our decision to use the utility's revised sales forecast to set rates did not allow sufficient time for staff to work up revised class revenue requirements and billing determinants consistent with the revised sales forecast in time to meet the Rate Agenda schedule. The first part of the stipulation addresses this problem.

The second matter addressed by the stipulation concerns the relationships between standard rates and time-of-use (TOU) rates. The goal of TOU rate design is to ensure revenue neutrality. This means that the same amount of non-fuel energy revenue should be generated whether all customers are on standard rates or all customers were to take service on TOU rates. Rates are designed initially as though all customers take service on the standard rate. In reality, some customers choose to take service under TOU rates because it will result in a lower bill than the standard rate, from which a shortfall occurs. The standard energy charge must be increased to account for the shortfall resulting from TOU customers. In the original rate design, this was not done, resulting in significant migration to the standard rate from the TOU rate and unanticipated loss of revenue to the utility. The stipulation provides for redesign of the standard and TOU rates to maintain the same relationship as found prior to the rate case.

The parties agree that the company shall submit an updated compliance cost of service study for the 1992 and 1993 test years prepared in accordance with the cost of service and rate design stipulation (the rate stipulation) adopted in Order No. PSC-92-1197-FOF-EI. The updated compliance cost of service study shall be accompanied by revised rate schedules containing rates designed in conformance with the cost of service study and the rate stipulation. The study and schedules shall be submitted to staff within 30 days. After the parties have an opportunity to submit comments to staff, staff shall review the company's filing and the comments of the parties to determine whether the submittal complies with our decision in this proceeding and the provisions of the stipulation. In the event any compliance issue is raised that

cannot be resolved informally, that issue shall be brought before this Commission for resolution.

We approve and adopt the stipulation between FPC, FIPUG, and AHCLG. This stipulation alleviates concerns associated with allocation and rate design. It permits the use of billing determinants and class allocation factors that are consistent with the revised sales forecast and with the record developed at hearing. A copy of the stipulation is attached to this order as Attachment 1.

The stipulation between Florida Power Corporation and the Office of Public Counsel attempts to resolve the issues raised by Public Counsel regarding the use of actual weather in the company's revised 1992 sales. Public Counsel objected to the use of actual sales data that had not been weather-normalized.

In the stipulation, FPC and Public Counsel agree that the revised 1992 sales approved by Order No. PSC-92-1197-FOF-EI should be adjusted to recognize the effects of normal weather in the following manner: One-half of the difference between actual sales and forecast sales shown on Exhibit 37 for the months of January through May 1992 shall be added to the revised 1992 sales shown on Exhibit 148. The resulting adjusted total 1992 sales of 25,576,597 MWHs shall be utilized to determine revised 1992 billing determinants and cost allocation factors.

We approve and adopt the stipulation between FPC and OPC. This stipulation alleviates problems associated with the use of a non-weather normalized forecast. A copy of the stipulation is attached to this order as Attachment 2.

Our approval of the two stipulations resolves all issues raised by Florida Power Corporation in its Motion For Reconsideration. It also resolves the issues raised by Florida Industrial Power Users Group in its Cross Motion For Reconsideration and in its Motion to Rectify Posthearing Misallocations. It also resolves the issue raised by the Office of Public Counsel regarding the use of actual rather than normalized weather in quantifying sales and earnings.

In its Motion For Reconsideration OPC also argued that the Commission should reconsider its decision allowing fossil O&M expenses in excess of the benchmark for aging and maturation activities. According to OPC, the plants used to meet FPC's

generation requirements are not old enough to justify fossil O&M expenses above the benchmark based on aging and maturation factors.

With respect to OPC's objections to our allowance of fossil O&M expenses in excess of the benchmark for aging and maturation activities, OPC's arguments do not contain any material point of fact or law that we overlooked or failed to consider in this case. The arguments presented by OPC in its motion are arguments that OPC has presented before, and they are arguments which we fully considered and rejected. The purpose of a motion for reconsideration is to bring to our attention some material and relevant point of fact or law which was overlooked, or which we failed to consider when we rendered the order in the first instance. See Diamond Cab Co. v. King, 146 So.2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (Fla. DCA 1981). It is not an appropriate avenue for rehashing matters which were already considered, or for raising immaterial matters which even if adopted would not materially change the outcome of the case.

Our approval of the two stipulations also resolves some of the issues raised by Occidental Chemical Corporation in its Motion For Reconsideration. We recognize that Occidental did not join in the stipulations and that the stipulations do not constitute the agreement of all parties that contested the issues. Nonetheless, after carefully reviewing the stipulations, we find that the stipulations are fully supported by the record, and that they constitute reasonable solutions to the issues raised by the parties in their Motions For Reconsideration. This Commission has the authority to implement the measures embodied in the stipulations even absent the stipulations. Since we could take the action without stipulations, the fact that Occidental did not join in the stipulations does prevent us from adopting the stipulations and requiring that measures embodied therein be carried out.

In its motion for reconsideration, Occidental argued that we failed to properly consider the reasons against reliance on the 1993 forecast test year as basis for a rate increase of \$27.771 million. Occidental argued that we should reconsider our decision to use the updated forecast. Occidental argued that we should have accepted the February 1992 inflation and CPI data proffered by its witness. Occidental also argued that we retroactively and inconsistently applied a different standard of "justification" to the nuclear O&M category. In addition, Occidental argued that we should reconsider our decision concerning the B&W Owner's Group and the wage differential. Occidental argued that FPC's justification

for increased and excessive fossil O&M expenses was unsupported. Occidental also argued that we failed to consider record evidence developed by various intervenors concerning scheduled outage expenses, environmental changes, aging and maturation activities, existing gas turbines, predictive maintenance, and wages above CPI.

We believe that our approval of the two stipulations resolves Occidental's rate design and revenue allocation concerns. The other issues raised by Occidental do not contain any material point of fact or law that the Commission overlooked or failed to consider in this case. The arguments presented by Occidental have been presented to the Commission before, and they are arguments that we have fully considered and rejected. The question of whether to use FPC's updated forecast was thoroughly and exhaustively considered by the Commission and it is thus not a proper matter for reconsideration. Likewise, the arguments made by Occidental concerning revenue requirements have already been considered and rejected. The purpose of a motion for reconsideration is to bring to the attention of the Commission some material and relevant point of fact or law which was overlooked, or which it failed to consider when it rendered the order in the first instance. See Diamond Cab Co. v. King, 146 So.2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (Fla. DCA 1981). It is not an appropriate avenue for rehashing matters which were already considered, or for raising immaterial matters which even if adopted would not materially change the outcome of the case.

Finally, this docket shall remain open pending staff's review of a proposed work force reduction in 1993 by Florida Power Corporation.

Accordingly, it is

ORDERED by the Florida Public Service Commission that the stipulation signed by Florida Power Corporation, the Florida Industrial Power Users Group, and the Ad Hoc Committee of Local Governments appended hereto as Attachment 1, is hereby approved. It is further

ORDERED by the Florida Public Service Commission that the stipulation signed by Florida Power Corporation and the Office of Public Counsel appended hereto as Attachment 2, is hereby approved. It is further

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ORDERED that the Motions For Reconsideration of Order No. PSC-92-1197-FOF-EI filed by Florida Power Corporation, Office of Public Counsel, Occidental Chemical Corporation and Florida Industrial Power Users Group (Cross Motion For Reconsideration) in this docket are hereby denied. It is further

ORDERED that the Motion to Rectify Posthearing Misallocations filed in this docket by Florida Industrial Power Users Group is hereby denied. It is further

ORDERED that this docket shall remain open pending staff's review of a proposed work force reduction by Florida Power Corporation.

By ORDER of the Florida Public Service Commission this 25th day of February, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
MAP:bmi

by: Kay Flynn
Chief, Bureau of Records

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NOTICE OF 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 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 wastewater 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power
Corporation for authority to
increase its rates and charges.

Docket No. 910890-EI

STIPULATION

Florida Power Corporation (the Company), the Florida Industrial Power Users Group (FIPUG), and the Ad Hoc Committee of Local Governments (the Local Governments) (collectively, the Parties), by and through their undersigned counsel, hereby stipulate and agree to the resolution of certain rate design and cost allocation issues raised in the Parties' motions for reconsideration of Order No. PSC-92-1197-FOF-EI (the Order) and other related pleadings, as follows:

1. The issues which the Parties agree will be resolved by this stipulation include (a) the concerns articulated by FIPUG in several pleadings and in the motions, and responses to motions, for reconsideration by the Local Governments regarding the misallocation of revenues among the customer classes resulting from the methodology used to implement the Commission's decision approving a revision to the Company's sales forecast; and (b) the concerns raised by the Company's motion for reconsideration regarding the alteration of the pre-existing relationship between Time-of-Use (TOU) and standard rates for the interruptible, Curtailable and General Service - Demand customer classes and the resulting large-scale migration of TOU customers to standard rates within these classes.

This stipulation does not address other issues raised in the intervenors' motions for reconsideration concerning the Company's revenue requirements approved by the Order.

2. In addition, this stipulation incorporates and is dependent upon Commission approval of the contemporaneous stipulation between the Company and the Office of Public Counsel (the Public Counsel Stipulation), which resolves an issue raised in Public Counsel's motion for reconsideration regarding the inclusion of actual data in the Company's revised 1992 sales that had not been weather-normalized.

3. The Parties agree that the Company shall submit an updated compliance cost of service study for the 1992 and 1993 test years prepared in accordance with the Cost of Service and Rate Design Stipulation approved by the Commission in this proceeding (the Rate Stipulation), and specifically incorporating the following:

- (a) The effect of the Commission's decision on all revenue requirements issues in this proceeding (i.e., rate base, net operating income, capital structure and cost of capital);
- (b) Revised billing determinants and cost allocation factors based on revised test year sales approved by the Commission, adjusted for 1992 in accordance with the Public Counsel Stipulation,¹ and developed using the same

¹ As is more particularly described in the Public Counsel Stipulation, the Company's revised 1992 sales will be adjusted to remove the effect of mild weather by adding back 50% of the reduction in actual kWh sales during the five-month period of January through May, 1992.

methodologies and relationships utilized in preparing the Company's original filing and described in the MFRs and other exhibits in the record of this proceeding.

(c) Because the Company's revised sales will be recognized in the updated cost of service study's billing determinants and allocation factors, the study will reflect the removal of the 1992 and 1993 revenue adjustments (\$24.3 million in 1992 and \$15.5 million in 1993), which were included in test year revenues approved by the Order as a means to recognize the sales revision.

4. The updated compliance cost of service study shall be accompanied by revised rate schedules containing rates designed in conformance with the cost of service study and the Rate Stipulation. The rate schedules shall include revised standard and on-peak TOU rates for the Interruptible, Curtailable and General Service - Demand customer classes developed using a methodology designed to maintain the pre-existing break-even relationship within each of the three classes.

5. The Company shall submit its updated compliance cost of service study and revised rate schedules to Staff for its review to determine whether the submittal complies with the Commission's decision in this proceeding and the provisions of this stipulation. If Staff's determination is in the affirmative, the rate schedule tariff sheets shall be administratively approved and shall be effective with the Company's next billing cycle thereafter. In the event Staff should raise

any compliance issue that cannot be resolved informally, the issue will be brought before the Commission.

6. To facilitate Staff's review, the Company shall provide with its submittal appropriate workpapers supporting the development of revised rates. The workpapers shall include the development of revised billing determinants and revised cost allocation factors (MFR Schedule E18a, b, c and d), and a rate comparison between present and proposed rates, by rate class (MFR Schedule E16c), as well as other information required by Staff. The Company shall make its submittal within 30 days from the Commission's approval of this stipulation, and shall serve copies on all parties to the proceeding. The Parties will have the opportunity to submit comments to Staff to be taken into account in making its determination on the submittal.

7. Each of the provisions set forth in paragraphs 1 through 6 above have been negotiated as essential, interdependent components to a settlement of the issues addressed herein and, therefore, collectively constitute a single stipulation between the Parties. In addition, the effectiveness of this stipulation is dependent upon Commission approval the Public Counsel Stipulation. Accordingly, the Parties agree that if this stipulation and the Public Counsel Stipulation are not approved by the Commission in their entirety, this stipulation shall be null and void and of no binding effect on the Parties. The Parties further agree that this stipulation is for settlement purposes only, shall have no precedential value, and shall be without prejudice to the right and opportunity of the Parties to present

and argue the cost of service and rate design considerations and rate levels they deem to be appropriate in future rate proceedings before this Commission.

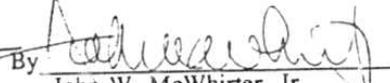
Dated: January 8, 1993.

FLORIDA POWER CORPORATION

FLORIDA INDUSTRIAL POWER
USERS GROUP

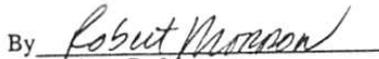
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power
Corporation for authority to
increase its rates and charges.

Docket No. 910890-EI

STIPULATION

Florida Power Corporation (the Company) and the Office of Public Counsel (Public Counsel), by and through their undersigned counsel, hereby stipulate and agree to the resolution of the issue raised in Public Counsel's motion for reconsideration of Order No. PSC-92-1197-FOF-EI (the Order) regarding the use of actual weather in the Company's revised 1992 sales, as follows:

1. The Parties agree that this stipulation will resolve the issue addressed on pages 1 through 6 of Public Counsel's motion for reconsideration concerning the use of actual sales data for the first five months of 1992 that had not been weather-normalized. This stipulation does not address the other issue raised in Public Counsel's motion for reconsideration concerning the justification of the Company's O&M expenses.

2. In addition, this stipulation is dependent upon Commission approval of the contemporaneous stipulation between the Company, the Florida Industrial Power Users Group, Occidental Chemical Corporation, and the Ad Hoc Committee of Local Governments (the Intervenor Stipulation), which resolves

certain rate design and cost allocation issues raised in the motions for reconsideration of Order No. PSC-92-1197-FOF-EI (the Order) and other related pleadings of the intervenors and the Company.

3. The Company and Public Counsel agree that the revised 1992 sales approved by the Order shall be adjusted to recognize the effects of normal weather in the following manner: One-half¹ of the difference between actual sales and forecast sales shown on Exhibit 37 for the months of January through May 1992 shall be added to the revised 1992 sales shown on Exhibit 148. The resulting adjusted total 1992 sales of 25,576,597 MWHs² (a reduction from the original 1992 forecast of 2.49%, compared to the reduction of 3.59% approved by the Order) shall be utilized to determine revised 1992 billing determinants and cost allocation factors in accordance with the Intervenor Stipulation.

4. The Company and Public Counsel agree that if this stipulation and the Intervenor Stipulation are not approved by the Commission in their entirety, this stipulation shall be null and void and of no binding effect on the Company or Public Counsel. The Company and Public Counsel further agree that this

¹ The 50% adjustment factor is based on Mr. Wieland's testimony that mild weather accounted for less than half of the five-month variance from the original forecast. [Tr. 1857-58]

2	580,144 MWHs	Year-to-date May 1992 reduction in Total Retail sales, per Exhibit 37, p. 10 of 10
x	<u>50%</u>	Weather adjustment factor
	290,072 MWHs	Weather adjustment
+	<u>25,286,525 MWHs</u>	Revised 1992 sales, per Exhibit 148
	<u>25,576,597 MWHs</u>	Adjusted 1992 sales, per stipulation

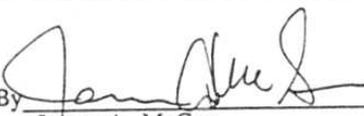
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stipulation is for settlement purposes only, shall have no precedential value, and shall be without prejudice to the right and opportunity of the Company and Public Counsel to present and argue the positions and considerations they deem to be appropriate in future rate proceedings before this Commission.

Dated: January 7, 1993.

FLORIDA POWER CORPORATION

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