



**Florida
Power**
CORPORATION

JAMES A. MCGEE
SENIOR COUNSEL

September 22, 1998

Ms. Blanca S. Bayó, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

981214-EI

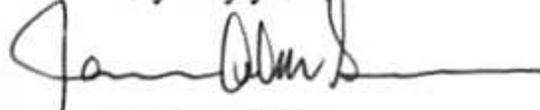
Re: Petition of Florida Power Corporation for Waiver of Rule 25-6.0437(7), F.A.C., to Obtain Additional Time to Submit Results of Load Research Study

Dear Ms. Bayó:

Enclosed for filing are an original and fifteen copies of the Petition of Florida Power Corporation for waiver of Rule 25-6.0437(7), F.A.C., to obtain additional time to submit results of load research study.

Please acknowledge your receipt of the above filing on the enclosed copy of this letter and return to the undersigned. Also enclosed is a 3.5 inch diskette containing the above-referenced document in WordPerfect format. Thank you for your assistance in this matter.

Very truly yours,



James A. McGee

JAM/kma
Enclosure

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A Florida Progress Company

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power Corporation for waiver of Rule 25-6.0437(7), F.A.C., to obtain additional time to submit results of load research study.

Docket No. 981214 ET

Submitted for filing:
September 23, 1998

PETITION

Florida Power Corporation (Florida Power, or the Company), pursuant to Section 120.542, F.S., and Rule 28-104.002, F.A.C., hereby petitions the Florida Public Service Commission (the Commission) for a waiver of the time requirements contained in Rule 25-6.0437(7), F.A.C., for performing load research studies and submitting the results thereof to the Commission. In support of this petition, Florida Power states as follows:

Introduction

1. Petitioner, Florida Power, is a public utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes. Florida Power's General Offices are located at 3201 34th Street South, St. Petersburg, Florida, 33711.

2. All notices, pleadings and other communications required to be served on petitioner should be directed to:

James A. McGee, Esquire
Post Office Box 14042
St. Petersburg, FL 33733-4042
Facsimile: (727) 866-4931

For express deliveries by private courier, the address is:

3201 34th Street South
St. Petersburg, FL 33711

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Background

3. Rule 25-6.0437 (the Load Research Rule, or the Rule), delineates the procedure utilities are required to follow in performing load research studies used in ratemaking proceedings to allocate costs among the various retail customer classes. Section (7) of the Rule establishes a two-year cycle for the preparation and submission of updated load research data. The section provides in pertinent part as follows:

"Load Research Data to be Reported. Each utility subject to this rule shall perform a complete load research study in accordance with the specifications of this rule by December 31, 1985 and no less often than every two years thereafter. Each utility shall, within 120 days following completion of the study, submit to the Commission the results of each load research study completed after the effective date of this rule."

4. Florida Power's last load research study was conducted during the period from April 1995 through March 1996, which, pursuant to Section (7) quoted above, requires a new study to be completed by March 1998. However, because of two significant and persistent problems that have prevented Florida Power from commencing the new load research study, Florida Power will be unable to complete the study and submit its results within the two-year interval required by Section (7). Unfortunately, since load research studies prescribed by Rule 25-6.0437 require the collection of data over a full 12-month period, the results of the completed study cannot be compiled and submitted until late 1999.

5. The data collected by load research studies is used to develop allocation factors for assigning fixed production, transmission, and distribution costs to the individual customer classes in ratemaking proceedings. To collect this data, standard meters are replaced with special test meters that continuously record consumption

over time, allowing each customer class's demand at the time of system peak demand (coincident peak demand) to be determined. Because of the expense involved, these test meters are only installed for a randomly selected statistical sample of customers in the large customer classes, in Florida Power's case, Residential, General Service - Non-Demand, and General Service - Demand. Nonetheless, well over 1,500 sample points throughout the Florida Power system still must be metered to perform a statistically valid load research study. This number includes between 250 to 300 large-demand customers (over 1 MW) with time-differentiated recording meters installed for normal billing purposes.

6. The first of the two problems that delayed commencement of the current load research study was the inability of the Company's new Customer Service System (CSS) to generate a statistically valid sample of customers for the study. CSS has major structural differences from the computer system it replaced, which had been used to produce customer samples for all previous load research studies. Repeated attempts to adapt two different standard CSS data extraction programs to provide the specific customer information needed for load research were unsuccessful. In the end, an entirely new extraction system had to be developed specifically for load research purposes. In addition, the ability to track the sample from the previous load research study was lost until the new extraction system became available, resulting in delays in removing the test meters from the previous sample for redeployment in the new sample, once it was finally produced. The combined effect of the need to develop a new data extraction system and the inability to track the previous sample was a delay of approximately eight months.

7. The second problem that delayed commencement of the current load research study involved the implementation of a protocol for the retrieval of data from a new type of recording meter used for a number of large-demand customers. These new, high technology meters were installed because of the considerable costs saving they provide over the older, less advanced meters they replaced. However, problems were encountered with the protocol in the devices used to read the meters that prevented the retrieval of certain data required for load research purposes. These problems persisted for over a year and were finally resolved only recently. As a result, even if the problems in producing a valid customer sample described in paragraph 6 above had not delayed commencement of the load research study, the loss of data from these large-demand customers would have seriously degraded the accuracy of the study results for the General Service - Demand and Non-Demand classes to a level below the requirements of the Load Research Rule.

8. The installation of the special load research meters at the new sample points is now complete. With the recent resolution of the problem with data retrieval from large-demand customers, the formal load research study is scheduled to begin with the calendar month of October 1998 and extend through the month of September 1999. The load research data will then be compiled and analyzed on an expedited basis and submitted to the Commission no later than December 1999. In the interim, Florida Power offers to submit quarterly status reports on the progress of the study, including any preliminary results and trend analyses (based on comparable data from the previous study) that may become available during the course of the study.

9. Finally, Florida Power recognizes that the significant delays in the commencement of its load research study should have been brought to the Commission's attention at a much earlier time. The failure to do so is the subject of serious and ongoing scrutiny by the Company's senior management, which has committed to the implementation of safeguards sufficient to ensure that such an oversight will not reoccur. An officer of Florida Power with management responsibility over the performance of the Company's load research studies will address the Commission regarding the actions undertaken to fulfill this commitment when it considers this petition at Agenda Conference.

Basis for Waiver

10. Section 120.542 (2), F.S., establishes the substantive criteria for the granting of waivers or variances to the requirements of agency rules:

Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

11. The purpose of the statute underlying the Load Research Rule, Sections 366.05 (1) and 366.06 (1), F.S., is the establishment of fair and reasonable rates for electric service provided by public utilities. In particular, with respect to the Load Research Rule, Section 366.06 (1) provides that:

In fixing fair, just, and reasonable rates for each customer class, the commission shall, to the extent practicable, consider the cost of providing service to the class, as well as ... the consumption and load characteristics of the various classes of customers

Consistent with this statutory language, Section (2) of the Load Research Rule states the following as its purpose:

The primary purpose of this rule is to require that load research that supports cost of service studies used in ratemaking proceedings is of sufficient precision to reasonably assure that tariffs are equitable and reflect the true cost of serving each class of customers. Load research data gathered and submitted in accordance with this rule will also be used by the Commission in evaluating proposed and operating conservation programs, for research, and for other purposes consistent with the Commission's responsibilities.

12. The requested waiver allowing Florida Power to submit the results of its load research study by December 1999 will achieve the above-stated purpose of the underlying statute by ensuring that updated load research data will be available to support the cost of service study used in Florida Power's next ratemaking proceeding. Pursuant to the stipulation approved by the Commission in Docket No. 970261-EI, a rate freeze will be in effect and binding on Florida Power and the other parties to the stipulation until July 2001, some 18 months after the updated load research data will have been submitted. With respect to any secondary use of load research data contemplated by the Rule, the table contained in the attached Exhibit A shows that each customer class's 12-month coincident peak (12 CP) load factors derived from Florida Power's last four load research studies have remained relatively stable. This historical trend suggests that Florida Power's currently available load research data will continue to provide a reasonably accurate indication of the coincident peak demand for each customer class until the results of the new study become available.

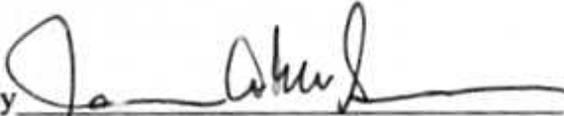
13. Application of the Rule's two-year cycle for the preparation and submission of load research data would subject Florida Power to a substantial hardship. In order to prepare and submit the load research data by December 1998, it would be necessary for Florida Power to perform its load research study using an improperly prepared and statistically invalid customer sample, contrary to its Sampling Plan approved pursuant Section (4) and (6) of the Load Research Rule and in violation of Section (5) of the Rule, requiring the use of such an approved Sampling Plan for all load research submitted to the Commission. It would also be necessary for Florida Power to perform its load research study collecting incomplete data from its large-demand customers, rendering the study results for the General Service - Demand and Non-Demand classes inadequate to satisfy the accuracy standards of its approved Sampling Plan and Section (3) of the Load Research Rule.

14. As a result, attempting to perform a load research study under these circumstances in order to comply with the Load Research Rule's two-year cycle would impose a legal hardship on Florida Power by necessitating that it violate or act contrary to other provisions of the Rule and the Sampling Plan approved pursuant to the Rule. In addition, because such a study would yield inaccurate and/or invalid results, it would be necessary to repeat the study after the sampling and data retrieval deficiencies had been corrected. This would impose an economic hardship on Florida Power by requiring it to duplicate the expenditure of time and resources on a pointless initial study, instead of first resolving the study deficiencies and then expending only the time and resources needed for a single, properly performed study, as the requested waiver would permit.

WHEREFORE, Florida Power Corporation respectfully requests that the Commission grant this petition and waive the time requirements contained in Rule 25-6.0437(7), F.A.C., for performing and submitting the results of load research studies in order to allow Florida Power to submit the results of its current load research study by December 1999, subject to such interim reporting requirements as the Commission may deem appropriate.

Respectfully submitted,

OFFICE OF THE GENERAL COUNSEL
FLORIDA POWER CORPORATION

By 

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EXHIBIT A

**Load Research Study Results
12 CP Class Load Factors**

	Study Year			
	<u>'89</u>	<u>'91</u>	<u>'93/'94</u>	<u>'95/'96</u>
Residential	0.497	0.496	0.516	0.515
GS Non-Demand	0.692	0.729	0.662	0.662
GS Demand	0.780	0.837	0.802	0.807