

MEMORANDUM

MARCH 8, 1995

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (ERSTLING) *MP*
RE: DOCKET NO. 950121-EI - PETITION FOR APPROVAL OF REVISED
TERMS FOR RATE SCHEDULE BY FLORIDA POWER CORPORATION

6330-FOF

Attached is an ORDER APPROVING TARIFF REVISIONS, with attachments, to be issued in the above-referenced docket. (Number of pages in Order - 5)

SLE/js
Attachment
cc: Division of Electric and Gas (Meeter)
I: 950121OR.SLE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of) DOCKET NO. 950121-EI
revised terms for rate schedule) ORDER NO. PSC-95-0330-FOF-EI
by FLORIDA POWER CORPORATION.) ISSUED: March 10, 1995
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER APPROVING TARIFF REVISIONS

BY THE COMMISSION:

On January 27, 1995, Florida Power Corporation (FPC or "the company") filed a petition for approval of revisions to its rate schedules and to correct certain technical terms and abbreviations and service classifications to conform to current approved usage and practice.

FPC serves customers who reside within the jurisdictional limits of a municipal or other governmental body which requires the payment of a fee pursuant to a franchise ordinance. This franchise fee is basically a charge by the city or other governing body to permit the company's use of the rights-of-way within the jurisdiction. The rate schedule for Billing Adjustments, BA-1, currently provides for the recovery of these franchise fees by the application of a franchise fee to the charges for electric service provided to these customers. As phrased, the provision for the recovery of franchise fees applies for the recovery of fees imposed only by franchise agreements.

Limited or special purpose units of local government, such as Community Development Districts, exist in the State of Florida. These special purpose governmental units may own rights-of-way but may not have the authority under Florida law to grant franchises. FPC, however, needs to be able to use the rights-of-way within the jurisdictional limits of these local governments to provide electric service to customers located inside the jurisdictional limits.

DOCUMENT NUMBER-DATE

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We find that the rights-of-way utilization fees paid pursuant to rights-of-way utilization agreements are virtually identical to the franchise fees addressed in Rate Schedule BA-1. In Order No. 6752, issued June 26, 1975, in Docket No. 750361-CI, the Commission determined that franchise fees would be disallowed as an operating expense and would instead be stated as a separate item on the bills of those customers residing within the jurisdiction of the governmental body. The Commission's reason for this decision was that

We view the utility as nothing more than a conduit through which it collects the fees and pays them to the governmental body. We do not perceive any benefits being derived by ratepayers residing in an area outside the jurisdiction of the governmental body which imposes the fees. Conversely, it is clear that the fees collected are utilized for services rendered to residents within the jurisdiction of the governmental body, and it is they who should bear the incidence of such fees.

The same reasoning is applicable to the rights-of-way utilization fees. Therefore, we approve this tariff provision to allow recovery of the rights-of-way utilization fees through charges to the customer served within the governmental jurisdiction affected.

The company has added proposed language to a number of rate schedules that provides for a billing adjustment for state sales tax to be applied to the charges for electric service and equipment rental unless a qualified sales tax exemption status is on record with the utility. FPC asserts that the state sales tax will be determined according to state sales tax laws. The company is already applying the state sales tax as required by statute.

We find the revisions to be appropriate. Adding the proposed language will make the customer aware that the state sales will be collected and that it is the customer's responsibility to provide the documentation for a sales tax exemption, where applicable.

The company has proposed modifications and the addition of new definitions of technical terms and abbreviations on Sheet No. 3.1. The stated intent of these modifications and added definitions is to make the information on this sheet conform to current practice.

The proposed revisions on Sheet Nos. 4.010 and 4.011 update the classifications of service to conform with the rate redesign approved by the Commission in Docket No. 910890-EI and the addition of the Residential Load Management (RSL-1) and Residential Time of

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Use (RST-1) rate schedules in the 1980's. We find that these revisions are appropriate and conform with current practice and rate design.

On March 4, 1993, FPC filed a petition to revise the applicability and penalty clauses of its curtailable rate schedules (CS-1 and CST-1) to remedy rate design flaws in the two rate schedules. The requested change in the penalty clause was to increase the penalty percentage from 115 percent to 125 percent. The Commission approved FPC's request to revise both the applicability and penalty clauses in Order No. PSC-93-0756-FOF-TI, issued May 19, 1993, in Docket No. 930229-EI.

FPC inadvertently did not include the curtailable standby service rate schedule in its petition in Docket 930229-EI. The company is now requesting that the penalty provision on that rate schedule also be changed to the 125 percent. In Docket 930229-EI, the Commission found that the two changes were reasonable remedies for the existing flaws in the rate schedule. Therefore, we find that the penalty on SS-3 schedule shall be increased so as to be consistent with the Commission's earlier decision.

The company has also proposed including standby service in the types of service not permitted under the Limitation of Service provisions of GSDT-1, IST-1, GST-1 and RST-1. Standby service is not permitted under the Limitation of Service provisions of the companion nontime of use rate schedules, GSD-1, IS-1, GS-1 and RS-1. In Docket 850673-EU, Generic Investigation of Standby Rates for Electric Utilities, the Commission determined that the standby service rate schedules resulting from that proceeding shall be mandatory for all self-generating customers unless there is evidence to demonstrate that their load characteristics resemble those of normal full requirements customers. (Order No. 17159) We find it is appropriate to add this exclusion to the four rate schedules.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Florida Power Corporation's Petition for Approval of Revised Terms for Its Rate Schedule filed January 27, 1995, is hereby approved as discussed in the body of this Order. It is further

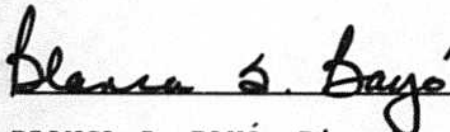
ORDERED that the tariff revisions approved herein are effective upon Commission vote at Agenda Conference of March 7, 1995. It is further

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ORDERED that if a protest is filed in accordance with the requirements set forth below, the tariff shall remain in effect with any increase in revenues held subject to refund pending resolution of the protest. It is further

ORDERED that this Order shall become final and the 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 day indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission, this 10th day of March, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

SLE

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 Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal

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proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 31, 1995.

In the absence of such a petition, this order shall become final on the day subsequent to the above date.

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 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 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 of the date this Order becomes final, 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.