

137 FERC ¶ 61,150
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Florida Power Corporation

Docket No. ER11-3584-001

ORDER DENYING REHEARING

(Issued November 21, 2011)

1. In this order, the Commission denies Florida Power Corporation's (Florida Power) request for clarification and rehearing of the order issued in this proceeding on July 15, 2011.¹ The July 15 Order rejected Florida Power's depreciation reserve adjustments and directed Florida Power to account for its retail rate adjustments as regulatory assets and to re-file its 2010 FERC Form No. 1 to reflect the restatement of its depreciation reserves.

I. Background

2. On May 16, 2011, Florida Power filed its revisions to its open access transmission tariff (OATT) formula rates to reflect the impact of retail rate depreciation reserve adjustments. Florida Power stated that, pursuant to Florida Public Service Commission (Florida Commission) orders and a May 10, 2010 stipulation and settlement agreement, it reduced the cost of removal portion of its depreciation reserve for production and distribution accounts by \$ 65,840,613. Florida Power further stated that these reductions resulted in reductions to allocated deferred income taxes attributable to wholesale rate base and would result in a \$79,986 rate increase under Florida Power's OATT formula rate for 2010.²

3. The Commission found Florida Power's adjustment of its depreciation reserves to be inconsistent with the Commission's accounting and reporting requirements and directed Florida Power to recognize the economic effects of the Florida Commission's rate actions as regulatory assets in Account 182.3, Other Regulatory Assets, rather than as adjustments to its depreciation reserve. The Commission also found that under Order

¹ *Florida Power Corp.*, 136 FERC ¶ 61,033 (2011) (July 15 Order).

² July 15 Order, 136 FERC ¶ 61,033 at P 4.

No. 618, the cost of property used in utility operations should be allocated in a “systematic and rational manner” over the property’s remaining estimated useful life, and that changes in depreciation estimates, including cost of removal, should be made prospectively over the asset’s remaining life.³ The Commission found that Florida Power’s proposed depreciation reserve adjustments do not conform to these requirements for allocating the costs of utility plant. It therefore directed Florida Power to reinstate all such adjustments to its depreciation reserves and to re-file its 2010 FERC Form No. 1 to reflect the restatement of its depreciation reserves.

II. Request for Rehearing

4. On August 15, 2011, Florida Power filed a limited request for rehearing of the July 15 Order.⁴ Florida Power requests clarification of the Commission’s requirement that it restate its 2010 FERC Form No. 1. Florida Power argues that the approach it proposes in Exhibit 2 of its filing, which is discussed further below, fully serves the Commission’s regulatory purposes and provides the necessary public transparency of Florida Power’s 2010 FERC Form No. 1 information. If, however, the Commission disagrees and still finds that Florida Power must revise and replace its FERC Form No. 1, Florida Power requests rehearing, arguing that the approach taken in Exhibit 2 involves substantially less regulatory cost and that the Commission’s requirement creates an undue regulatory burden.

5. Florida Power argues that its proposed approach in Exhibit 2 provides all the necessary information for the final entries of the affected accounts and items on the Comparative Balance Sheet and Income Statement in its 2010 FERC Form No. 1. It states that all of this information will be explained in a comprehensive Note in the Financial Statements, entitled “Supplemental Footnote for Subsequent Events,” which will provide that:

In FERC Docket ER11-3584, dated July 15, 2011, the FERC found that [Florida Power] must recognize certain economic effects of the [Florida Commission’s] . . . rate actions in Docket 090079-EI, March 5, 2010 and June 18, 2010, as Other Regulatory Assets (account 182.3), rather than as adjustments to its Accumulated Depreciation reserves (account 108). As such, [Florida Power] was directed to reinstate the adjustments to Accumulated Depreciation reserves and it will be recording the cumulative effect of these adjustments in its August 2011 general ledger and

³ *Depreciation Accounting*, Order No. 618, FERC Stats. & Regs. ¶ 31,104, at 31,694-95 (2000).

⁴ Florida Power August 15, 2011 Rehearing Request (Rehearing Request).

prospectively as ordered. Additionally, [Florida Power] was ordered to re-file its 2010 FERC Form 1 to reflect the restatement of these Accumulated Depreciation reserves and to record the Other Regulatory Assets; therefore, the proforma impacts of these changes are included on the applicable pages for Accumulated Depreciation reserves and Other Regulatory Assets, as seen in the supplemental footnotes for these pages. Additionally, the [Florida Power] 2011 FERC Form 1 will reflect the cumulative impact of the change.⁵

6. Additionally, Florida Power states that this approach, unlike the Commission's July 15 Order, would not require it to reopen its closed historical accounting periods, nor require it to update the documentation of its financial statements for each period. Florida Power claims that if it were required to revise and replace, in total, the applicable entries in its 2010 FERC Form No. 1, the process would be time- and resource-intensive and driven by internal control considerations outlined in Florida Power's Sarbanes-Oxley Documentation. Consequently, it asserts that the process could take approximately three to five days and could involve ten or more employees in several departments. Further, Florida Power claims that the process would require a blackout period of all processing of Florida Power's current business activities until the accounting periods were successfully opened and closed.⁶

III. Discussion

7. As discussed below, we disagree with Florida Power's contention that the July 15 Order requires the reopening of closed historical accounting periods. Further, we find Florida Power's proposal to only include *pro forma* footnote disclosures in its proposed 2010 FERC Form No. 1 resubmission to be unresponsive to our July 15 Order and therefore we will require Florida Power to correct the account balances shown on the various affected schedules.

8. First, the July 15 Order did not direct Florida Power to reopen closed accounting periods in its general ledger for the 2010 reporting period as Florida Power claims. Any journal entries that need to be made for the 2010 reporting year may be recorded through the use of memorandum entries provided for by General Instruction No. 2 *Records*, GI No. 2 of Uniform System of Accounts. The Commission's description of "books and records" contained in GI No. 2, provides for the use of memorandum entries as part of a utility's records. It states:

⁵ Rehearing Request at 4.

⁶ Rehearing Request at 6.

The books and records referred to herein include not only accounting records in a limited technical sense, but all other records, such as minute books, stock books, reports, correspondence, memoranda, etc., which may be useful in developing the history of or facts regarding any transaction.⁷

The Commission considers the use of memorandum entries, while not recorded directly in the general ledger, part of the accounting books and records used to document any changes in amounts reported in the accounts. Consequently, there is no Commission requirement that Florida Power reopen its general ledger for any closed accounting periods. Should Florida Power deem it necessary to do so, any additional burdens are a consequence of its internal processes and not the July 15 Order.

9. Further, public utilities are required to prepare the FERC Form No. 1 and to interpret all accounting words and phrases in conformity with the Uniform System of Accounts.⁸ Therefore, after making the necessary corrections to the various account balances, Florida Power must resubmit its 2010 FERC Form No. 1 to inform the Commission and other users that the corrections have been made to the accounts affected.⁹

10. As an alternative to the Commission's direction in the July 15 Order, Florida Power proposes resubmitting its 2010 FERC Form No. 1 and only adding disclosures to the affected schedules rather than correcting the amounts reported in those schedules. The affected 2010 FERC Form No. 1 schedules are:

- Notes to the Financial Statements – Page 123.1
- Comparative Balance Sheet (Asset and Other Debits) – Page 110
- Footnote Data Page – 450.1
- Statement of Income – Page 114
- Summary of Utility Plant and Accumulated Provisions For Depreciation, Amortization and Depletion – Page 200

⁷ General Instruction Number 2, 18 C.F.R. Part 101 (2011).

⁸ See General Instruction (i) of the 2010 FERC Form No. 1.

⁹ In fact, all of the schedules contained in the FERC Form Nos. 1, 2 and 6 as well as the quarterly reporting forms provide for resubmissions if the data reported is subsequently found to be incorrect or misstated.

- Accumulated Provision For Depreciation of Electric Utility Plant (Account 108) – Page 219
- Other Regulatory Assets (Account 182.3) – Page 232
- Depreciation and Amortization of Electric Plant (Account 403, 404, 405) – Page 336

11. We find that Florida Power’s proposed approach will not provide the necessary transparency regarding the proper amounts that should be reported in the various accounts. The disclosures contained in the schedules’ footnotes should provide additional clarity to the amounts reported instead of indicating that they are inconsistent with Florida Power’s books and records for the period presented. For example, page 110 of Florida Power’s original 2010 FERC Form No. 1 submission currently shows an incorrect amount of \$4,853,553,148 being reported in accumulated provisions for depreciation and amortization as of December 31, 2010. Florida Power proposes to resubmit this page still showing this amount in the schedule along with the following note:

The proforma impacts of the order for FERC Docket ER11-3584-000, dated July 15, 2011, are listed below. Please see the Supplemental Footnote on Subsequent Events on page 123.1:

| | | |
|-------------------|---------------------------------|-------------------------------|
| Page 110, line 5 | Accumulated Reserve, 108 | \$4,919,393,761 |
| Page 110, line 6 | Net Utility Plant, subtotal | \$9,238,166,718 |
| Page 110, line 14 | Net Utility Plant, subtotal | \$9,432,243,021 |
| Page 110, line 72 | Other Regulatory Assets, 182.3 | \$1,749,573,126 |
| Page 110, line 84 | Total Deferred Debits, subtotal | \$2,493,226,248 ¹⁰ |

12. Florida Power’s disclosure of “proforma impacts,” which is meant to show the results as if the corrections had been made, does not add transparency to this matter. Moreover, this disclosure does not correct the amounts reported on various schedules contained in the original 2010 FERC Form No. 1 filing and causes unnecessary confusion as to which amounts are the proper balances as of December 31, 2010.

13. Florida Power’s resubmitted 2010 FERC Form No. 1 schedules should clearly show \$4,919,393,761 on the face of the statement. This change must clarify the appropriate amount of accumulated depreciation and amortization that should have been reported and that the resubmission corrects the reporting error contained in the original filing. Continuing to report \$4,853,553,148 on the FERC Form No. 1 balance sheet’s

¹⁰ Rehearing Request at Ex. 2.

face along with a footnote showing a *pro forma* amount of \$4,919,393,761 creates confusion about which amount is consistent with the Commission's accounting and reporting requirements. For these reasons, we find that Florida Power's proposed approach does not serve the Commission's regulatory purposes under our accounting and reporting regulations and fails to provide the necessary transparency concerning the appropriate balances that should have been recorded in the accounts as of December 31, 2010. Therefore, we will require Florida Power to resubmit its 2010 FERC Form No. 1 within thirty days with the corrected account balances in the accounts shown on the affected form schedules rather than only disclosing the effects of the corrections in *pro forma* footnote disclosures.

The Commission orders:

Florida Power's request for hearing is hereby denied, as discussed in the body of this order.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.