

[ATTACHMENT A]

UNITED STATES OF AMERICA, FEDERAL POWER COMMISSION

OPINION NO. 517

Before Commissioners: Lee C. White, Chairman; L. J. O'Connor, Jr., Charles R. Ross, Carl E. Bagge, and John A. Carver, Jr.

Florida Power & Light Company—Docket No. E-7210

OPINION AND ORDER DETERMINING JURISDICTION

(Issued March 20, 1967)

WHITE, Chairman:

This is a proceeding to determine whether the Florida Power & Light Company (FPL) is a public utility within the meaning of Section 201 of the Federal Power Act, and whether it should be required to maintain its accounts in accordance with the Commission's Uniform System of Accounts for Public Utilities and Licensees.

The Commission instituted the investigation in this docket on February 26, 1965. The Florida Public Service Commission (Florida Commission) filed notice of intervention dated March 17, 1965, and thereafter the City of Clewiston, Florida (Clewiston), was granted limited intervention.¹ Hearings were held on October 4, 5, 7, 8, and 12, 1965, and again on November 3, 1965. On July 12, 1966, the Presiding Examiner, Seymour Wenner, issued an initial decision in which he found that FPL owns and operates facilities, among others, for the transmission of electric energy transmitted from points of generation in the States of Georgia and Florida to points of consumption outside the state in which it is generated, and therefore is a public utility under Section 201 of the Act, subject to the Commission's jurisdiction. He further held that FPL must file original cost statements as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, and that it must comply with all other requirements of the Commission's Regulations under such Act.

The proceeding is before the Commission on the examiner's decision, exceptions filed by FPL and the Florida Commission, and staff's opposition to these exceptions. FPL and the Florida Commission contend that there is no substantial evidence in the record to support the examiner's finding that FPL transmits electric energy in interstate commerce, and they urge that the Commission, in the exercise of its discretion, should in any event decline jurisdiction over FPL. Oral argument was held before the Commission on November 28, 1966.

For the reasons set forth below we find that FPL's and the Florida Commission's exceptions are not persuasive and do not warrant our reversal of the examiner's decision. It is our opinion that the basic findings of fact and the conclusions of law in the examiner's comprehensive initial decision are fully supported by the evidence of record, and that these findings and conclusions, as supplemented by our discussion herein, should be approved. We agree with the examiner that FPL owns and operates facilities for the transmission of electric energy in interstate commerce, that these facilities do not fall within the local distribution exemption provisions of Section 201(b) of the Federal Power Act, and that FPL must file original cost statements and comply with all other requirements of the Commission's Regulations under such Act.

Inasmuch as the examiner's decision sets forth in detail the factual background of this proceeding and the legal principles applicable thereto, we shall not recite the factual details in full, but shall refer essentially to those raised by FPL and the Florida Commission in their exceptions.

The record shows that FPL is engaged in the generation, transmission, distribution, and sale at wholesale and at retail of electric energy in the State of Florida. It is the largest electric utility in the state, with a net dependable generating capacity of 2.8 million kw, and it supplies service to about 931,400

¹ On September 7, 1965, Clewiston filed a complaint in Docket No. E-7243, requesting that the Commission order FPL, pursuant to Section 202(b) of the Act, to connect its facilities with those of Clewiston and render direct wholesale service at reasonable rates. After the hearings, Clewiston negotiated a rate settlement with its power suppliers (U.S. Sugar Corporation and Glades Electric Cooperative, Inc.), and moved for the dismissal of its application in Docket No. E-7243. The motion was granted on July 6, 1966.