



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: May 14, 2007

TO: Lisa Polak Edgar, Chairman
Matthew M. Carter II, Commissioner
Katrina J. McMurrin, Commissioner
Nancy Argenziano, Commissioner
Nathan A. Skop, Commissioner

FROM: Cindy Miller, Office of the General Counsel
Jim Dean, Office of Strategic Analysis & Governmental Affairs

RE: 2007 Legislative Wrap-Up – Summary of Key Bills

KEY BILLS THAT PASSED

These bills have passed and will be sent to the Governor for final action.

ENERGY BILLS

HB 7123, Omnibus Energy Bill

A. Provisions affecting the FPSC

Section 1: Creates the Energy Policy Governance Task Force to recommend a unified approach to state energy policy including energy conservation and research, development, and the deployment of alternative and renewable energy technology. The task force shall review the programs and policies of the Department of Agriculture and Consumer Services (DACCS), the Department of Environmental Protection (DEP), the State University System, the Florida Public Service Commission (FPSC), and other relevant entities in preparing its recommendations.

The task force shall be composed of two members selected by the Governor, two members selected by the President of the Senate, two members selected by the Speaker of the House of Representatives, the Commissioner of Agriculture, the DEP Secretary, a V.P. of research from the university system, the chair of the Energy Commission, the chair of the FPSC or designee, and the Public Counsel.

In developing its recommendations, the task force shall determine the appropriate approach to provide a coordinated statewide effort to:

- a) promote the state as a location for businesses having operations related to alternative and renewable energy technologies;

- b) promote alternative fuels and technologies for electric power plants and motor vehicles, energy conservation, distributed generation, advance transmission methods, and pollution and greenhouse gas control;
- c) administer funding of matching grants for projects relating to bioenergy and renewable energy technologies;
- d) assist the state universities and the private-sector in determining the areas to focus research in alternative and renewable energy technology, and in coordinating research among the state universities and the private-sector;
- e) assist universities, other state entities, and private-sector entities in raising funds for alternative and renewable energy technology research.

Recommendations are to be submitted to the Governor and the Legislature by February 2, 2008. The task force shall expire on June 30, 2008.

Sections 14 and 15: Deletes the requirement that the FPSC approve meters to be used in commercial solar thermal systems as part of the Solar Thermal System Incentive program administered by the DEP. Specifically, the definition of “approved metering equipment” is deleted from the Florida Renewable Energy Technologies and Energy Efficiency Act (Section 377.803, F.S.). This was defined as “...a device capable of measuring the energy output of a solar thermal system that has been approved by the commission.” Also, deletes the requirement that “Btu must be verified by approved metering equipment” from the Commercial Solar Thermal System Incentive program (Section 377.806(3)(b)(2), F.S.).

Section 39: The FPSC shall conduct a study in conjunction with the Energy Commission, the DEP and the DACS to recommend an appropriate renewable portfolio standard for the state. The study shall include current and future availability of renewable fuels, incentives to attract large scale renewable energy development, proposed changes to current regulatory and market practices to encourage renewable energy development, the impact on utility costs and rates, environmental benefits of a renewable portfolio standard, and economic development associated with renewable energy in the state. The FPSC is to hold public hearings and submit a report containing specific recommendations to the Legislature by January 1, 2008.

Section 40: The FPSC shall conduct a study in conjunction with the Energy Commission, the DEP and the DACS to recommend the establishment of an energy efficiency and solar energy initiative. The study shall include recommendations for the administration, design, implementation, and ongoing measurement and evaluation of programs that promote energy efficiency and conservation activities and market transformation efforts for solar energy technologies through a public benefits fund. The study shall include incentives for investment in energy efficiency and customer-sited solar energy systems, suggest changes to current regulatory and market practice to encourage solar energy and energy efficiency investment in residential and commercial applications, including standards for net metering and interconnection. The FPSC is to hold public hearings and submit a report containing specific recommendations to the Legislature by February 1, 2008.

Section 41: The FPSC shall submit to the Legislature by February 28, 2008, a report that provides a detailed description of the methods used to evaluate the conservation goals, plans, and

programs of the FEECA utilities (Florida Power and Light, Progress Energy, Tampa Electric, Gulf Power, Florida Public Utilities, Orlando Utilities Commission, and JEA). The FPSC shall compare methods and policies employed in other states that could be implemented to ensure that utilities in this state acquire all energy efficiency resources that cost less than new electric power generation. As used in the section, the term “energy efficiency resources” means a reduction in kilowatt hours use by the existing and emerging fleet of buildings and equipment in this state that is achieved by providing incentives to producers, distributors, sellers, or consumers that promote the development of, and investment in, energy-efficient technologies.

B. Other Provisions

Section 2: Amends the property tax exemption provision for the installation of a renewable energy device by exempting the installed cost of the device.

Section 4: Allows for the transferability of any renewable energy technologies investment tax credit.

Section 16: Requires the DEP to develop greenhouse gas inventories that account for annual greenhouse gases emitted to and removed from the atmosphere, and forecast gases emitted and removed, for all major greenhouse gases, for time periods determined sufficient by the DEP to provide for adequate analysis and planning. The DEP is authorized to require all major emitters of defined greenhouse gases to report emission according to methodologies and reporting systems approved by the DEP.

Sections 17-28: Procedural changes to the Power Plant Siting Act and the Electrical Transmission Line Siting Act.

Section 29: Amendments to the guaranteed energy performance savings contracting to encourage government agencies to make investments to reduce energy consumption.

Section 30: Creates the Farm-to-Fuel Grants Program to encourage the development and use of bioenergy.

Section 31: Creates the Biofuel Retail Sales Incentive Program. Establishes annual percentages for replacement of petroleum with biofuels used in transportation. Provides incentives for the sale of biofuels to retailers.

Section 32: Creates the Florida Biofuel Production Incentive Program.

Section 33: The Florida Building Commission is to convene a workgroup including the Energy Commission, the DCA, the Energy Office in the DEP, and other stakeholders to develop a model residential energy efficiency ordinance that provides incentives to meet energy efficiency standards. A report is due to the Legislature by March 1, 2008.

The Florida Building Commission, in consultation with other agencies and stakeholders is to revisit the cost-effectiveness analysis that serves as the basis for energy efficiency levels for

residential buildings, and identify cost-effective means to improve energy efficiency in commercial buildings.

The Florida Building Commission, in consultation with other agencies and stakeholders is to develop and implement a public awareness campaign that promotes energy efficiency and the benefits of building green by January 1, 2008.

Section 43: The Department of Community Affairs shall convene a workgroup to identify and review new or updated energy conservation standards for products that consume electricity.

The act takes effect July 1, 2007.

HB 549, Integrated Gasification Combined Cycle (IGCC) Power Plants

IGCC plants are added to Section 366.93, F.S., regarding early cost recovery. An IGCC plant uses synthesis gas produced by integrated gasification technology. This statute had previously been created for nuclear power plant cost recovery. The provision on a required rulemaking within 6 months is amended to add the IGCC alternative cost recovery mechanisms. Language is added to Section 403.502, F.S., on legislative intent that actions will be based on the premise “to assure the citizens of Florida that renewable energy services and technologies, as well as conservation measures are utilized to the extent reasonably available.”

The FPSC’s determination of need for new power steam plants greater than 75 MW is amended to add a criterion the FPSC must take into account. The additional criterion is “whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available.”

The act takes effect upon becoming a law.

TELECOMMUNICATIONS BILLS

HB 7159, Lifeline Public Records Exemption

Personal identifying information of a participant in a telecom carrier’s Lifeline Assistance Plan held by the FPSC is confidential and exempt from public records law. The information may be released to the applicable telecom carrier for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

An officer or employee of a telecom carrier shall not intentionally disclose information made confidential and exempt except as: (1) authorized by the customer; (2) necessary for billing purposes; (3) required by subpoena, court order, or other process of court; (4) necessary to disclose to an agency or governmental entity for purposes directly connected with

implementing service for, or verifying eligibility of, a participant in a Lifeline Assistance Plan or auditing a Lifeline Assistance Plan; or (5) otherwise authorized by law.

Nothing in the Section precludes a telecom carrier from disclosing information made confidential to the extent such information is otherwise publicly available or from disclosing to a customer his or her own account through telephonic means. Any officer or employee of such carrier who intentionally discloses information in violation commits a misdemeanor of the second degree.

The legislature finds that it is a public necessity that personal identifying information of a Lifeline participant be confidential. The FPSC must be able to maintain the confidentiality of the information because disclosure could have a chilling effect on participation.

The act takes effect upon becoming a law.

CS/CS/SB 1818, FPSC Telecommunications Annual Report

The FPSC shall submit, on August 1, 2008, and on an annual basis thereafter, a report on the status of competition in the telecommunications industry. (Previously, the date was December 1.)

The FPSC must make an annual request by March 1 to providers of local exchange telecom services for the data it requires to complete the report. The local exchange telecom provider must file its response with the FPSC by April 15. In lieu of the quantitative part of the information requested in the FPSC annual data request, a provider may file: a copy of the FCC Form 477 filed with the FCC which must identify Florida-specific access line data; and provisioned Florida access line data identified by telephone exchange location.

The act takes effect July 1, 2007.

HB 529, Video Franchising Reform – “The Consumer Choice Act of 2007”

This is a major bill that shifts video franchise authority from the municipalities and counties to the state. The Department of State is given authority to issue statewide cable and video franchises. The Department of Agriculture and Consumer Services will make recommendations regarding workload and staffing requirements associated with consumer complaints on video and cable.

Upon becoming law, HB 529 will repeal Section 364.164, F.S., relating to rate rebalancing, portions of Section 364.163, F.S., addressing access charge reductions associated with 364.164, F.S., and paragraphs (6), (7), and (8) of Section 364.051, F.S., also associated with Section 364.164. The effect of these changes is to eliminate the ability of ILECs to petition the Commission, pursuant to the rate re-balancing structure, to reduce intrastate switched network

access charges and increase basic local service rates in a revenue neutral manner. It also eliminates the provisions that permitted ILECs to request relaxed quality of service standards following completion of the intrastate access charge reductions. In addition, the provisions which permitted an ILEC to petition the Commission to have its retail services treated the same as the retail services of competitive local exchange companies have also been repealed.

Section 364.163, F.S., is amended to cap intrastate switched network access rates at levels that are in effect July 1, 2007 and provides that the rates remain capped until July 1, 2010.

Amended Section 364.385, F.S., provides that rates and charges for basic local telecommunications service and network access service approved by the Commission in the rebalancing cases which are in effect as of July 1, 2007, shall remain in effect. These rates may not be changed except in accordance with the provisions of Sections 364.163 and 364.051, F.S.

Also, there is language in 364.10, F.S., authorizing state agencies to forward information to the FPSC once they determine a person is eligible for Lifeline. The FPSC is to ensure the person is automatically enrolled in Lifeline with the appropriate eligible telecom carrier. The state agency must include an option for an eligible customer to choose not to subscribe to Lifeline. The FPSC and the Department of Children and Family Services must, by December 31, 2007, adopt rules creating procedures to automatically enroll eligible customers in Lifeline.

The FPSC, the Department of Children and Family Services, and the Office of Public Counsel must enter into a memorandum of understanding establishing their respective duties by December 31, 2007.

The act takes effect upon becoming a law.

CS/CS/HB 919, Emergency Communications (E911) System

The number "911" is designated as the statewide emergency communications number. A public safety agency may not advertise or otherwise promote the use of any number for emergency response other than 911. The lead office is the Technology Program within the Department of Management Services.

It is the intent that enhanced 911 (E911) be available throughout the state. Expenditures by counties of the E911 fee should support this intent to the greatest extent feasible within the context of local service needs and fiscal capability.

"Voice communications service" is defined, for purposes of this law, as two-way voice service, through the use of any technology, which provides access to E911 services. It includes communications services which actually provide access to E911 services and are required to be included in E911 services pursuant to FCC rules and orders. The term includes Voice-over-Internet-Protocol service; thus, these providers must also collect the E911 fee from their customers.

The act takes effect upon becoming a law.

OTHER BILLS

HB 7183, Administrative Procedures Act

This 48-page bill bolsters the authority of the Joint Administrative Procedures Committee (JAPC) to review agencies' "unadopted rules"—policies that have not been adopted as rules. Agencies must immediately discontinue all reliance upon a policy as a basis for agency action when there is a challenge. It changes the cap on attorney's fees from \$15,000 to \$50,000 for challenges to proposed agency rules and challenges to agencies' action pursuant to Section 120.56(4). The act takes effect July 1, 2007. Let us know if you would like a 2-page list of all the changes in the bill.

HB 7177, Sunset Review Bill

It creates the Joint Legislative Sunset Committee to oversee the agency Sunset review process. It will be composed of ten (10) members: five members of the Senate appointed by the Senate President and five members of the House appointed by the House Speaker. The bill sets out the dates for review of each agency. All of the dates were moved further into the future, with the FPSC's date of review moved to 2022. In its report on a state agency, the joint committee shall make recommendations on the abolition, continuation, or reorganization of each state agency, as well as on the consolidation or reorganization of programs within state agencies. The act takes effect July 1, 2007.

KEY BILLS THAT FAILED

• SB 2050, Reliable Electricity Enhancement Act / Underground Electric

The bill had legislative findings that underground distribution service is the preferred standard of service in Florida. It directed the FPSC and public utilities to seek, promote and encourage all means of enhancing and maximizing the reliability of the electric supply system. The FPSC and utilities were directed to aggressively promote and encourage the installation of underground to the maximum extent feasible, and to progressively promote and encourage the conversion of existing overhead infrastructure to underground.

• SB 2446, Climate Action Partnership

The bill created the Florida Climate Action Partnership (FCAP) to serve as a catalyst for facilitating a cooperative dialogue about what needs to be done within Florida to comply with proposed federal limits to lower carbon emissions in the atmosphere over time. The Partnership would be composed of 25 members, including the Governor, Senate President and House Speaker. The goal was to develop a comprehensive Florida Climate Mitigation Action Plan that includes a full range of policy recommendations addressing all state economic sectors, as well as recommendations for meeting short- and long-term greenhouse gas reduction goals. They were to provide policy recommendations by February 1, 2008.

• **SB 2186, Florida Alternative Energy Technology Center**

The bill created the Florida Alternative Energy Technology Center as a unified approach to promote research on the use of renewable energy resources, energy conservation, distributed generation, advanced transmission methods, and pollution control. The Center was created as a not-for-profit corporation, which was not to be a unit of state government.

• **HB 1385, Net Metering Conservation Act**

The bill directed the FPSC to require all electric utilities to develop net metering programs. It required electric utilities to make certain meters available to customers, and provided for customers to receive credit for electricity generated by renewable energy systems owned by customers.

CBM:tf

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