



Florida Power
A Progress Energy Company

ORIGINAL

JAMES A. MCGEE

ASSOCIATE GENERAL COUNSEL

February 26, 2002

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

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Re: Docket No. 020084-EI

Dear Ms. Bayó:

Enclosed for filing in the subject docket are an original and fifteen copies of Florida Power Corporation's answer to the complaint of the National Energy Rater's Association.

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/scc
Enclosure

cc: Mr. Dennis J. Stroer
Mr. William Feaster

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by National Energy Rater's Association against Florida Power & Light Company, Florida Power Corporation, and any other utility engaged in the practice, for alleged violation of Rule 25-17.003(4)(a), F.A.C., which requires every public utility to charge for a Building Energy Efficiency Rating System (BERS) Audit.

Docket No. 020084-EI

Submitted for filing:
February 26, 2002

ANSWER OF FLORIDA POWER CORPORATION

Florida Power Corporation ("Florida Power" or "the Company"), pursuant to Rule 28-106.204, F.A.C., hereby answers¹ the above-styled complaint of the National Energy Rater's (sic) Association (NERA) and states as follows:

1. The essence of NERA's complaint is its allegation that Florida Power is providing Building Energy-Efficiency Rating System (BERS) audits at no charge, contrary to the requirements of Commission Rule 25-17.003(4)(a), F.A.C. This allegation is absolutely wrong. Florida Power has charged the tariff-prescribed fee for every BERS audit it has performed.

¹ Because NERA's complaint is written in a narrative format rather than in a series of specific allegations in separately numbered paragraphs as would be the case under the Florida Rules of Civil Procedure, Florida Power is unable to answer the complaint with a corresponding series of specific admissions or denials. Therefore, this answer will be presented in a format comparable to the complaint.

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2. Although it is not completely clear from its complaint, NERA appears to have confused Florida Power's BERS audit program with an audit-like certification procedure conducted under one of Florida Power's other separate and distinct Demand-Side Management (DSM) programs. In fact, Florida Power offers a number of different energy audits under its various Commission-approved DSM programs, and except for BERS audits, none of them are required by Rule 25-17.003(4) to impose a fee. In addition to the fee-based BERS audits (also referred to as "Energy Gauge" audits), these offerings include home energy walk-through audits and home energy mail-in audits that are performed at no charge, and home energy computer-assisted audits and commercial/industrial energy audits that are performed for a fee. While not characterized as an audit, Florida Power also conducts energy rating inspections under its ACT new construction program to determine a builder's eligibility for certification in accordance with the "Energy Star" initiative sponsored by the federal Environmental Protection Agency (EPA). Consistent with Commission-approved program procedures, no fee is charged for these certification inspections.

3. This Energy Star certification feature of Florida Power's new construction program appears to be the source of NERA's confusion. This is somewhat perplexing, however, since Florida Power's BERS audit program and its new construction program are readily distinguishable. In fact, the most notable distinction is apparent from NERA's complaint itself, which includes the Company's BERS tariff as Exhibit F. At the top of this short, one-page tariff is the statement that it is

applicable “to *residential customers* with single family homes (mobile, manufactured homes excluded).” (Emphasis added.) Clearly, the BERS audit program and Energy Star certifications under the new construction program are mutually exclusive; the former is for residential customers, while the latter is for builders of new homes. As such, the builders participating in Florida Power’s new construction program, who NERA claims are the recipients of free BERS audits, are not even eligible for these audits.

4. Another more practical distinction is that BERS audits are a limited, stand-alone program, *i.e.*, the audits are the program’s sole activity and achieve benefits only one house at a time, and in fact, are requested by customers very infrequently. Given the relatively high cost of the BERS audits (\$195), Florida Power in all likelihood would charge a fee for performing these audits even if a fee were not mandatory. The Energy Star certification inspections, on the other hand, are only one aspect of a comprehensive overall program offering enormous potential benefits because of wide and growing builder participation that Florida Power has devoted great effort to achieve. Unlike the BERS audit program, enlisting a single builder to participate in Florida Power’s new construction program can effect the energy efficiency of hundreds, and in some cases, thousands of new homes.

5. There are several reasons Florida Power does not charge a fee to participating builders for Energy Star certification inspections. To begin with, unlike BERS audits, new construction program participants do not request Florida Power to perform the certification inspection. Instead, Florida Power *requires* the

inspection as part of the Energy Star certification procedure that the builder must satisfy in order to be eligible for the program's highest rating. Convincing a prospective participant to comply with the program's stringent requirements is difficult enough, without the awkward task of trying to convince the builder that it must also pay Florida Power a fee for complying with the Company's own requirements.

6. In addition, Florida Power does not charge a fee for Energy Star certification inspections because a fee is unnecessary. The cost of certification inspections is a very small portion, less than 5%, of the new construction program's overall costs. These total program costs are themselves sufficiently small compared to total program benefits that they easily satisfy the Commission's RIM cost-effectiveness test.

7. The converse of this rationale indicates another reason a fee is not charged for these inspections. If a fee were to be charged, further growth in the program -- where its real benefit potential lies -- would be stymied and worse. Florida Power's extensive experience with cost-conscious program participants, particularly the tract builders who contribute the bulk of new homes to the program and operate in an extremely competitive market, leaves the Company with no doubt that imposing such a fee would not only eliminate growth in program participation, but would actually result in a significant reduction in participants. This would diminish the program's benefits and thus its cost effectiveness, which in turn would require the program to be scaled back to achieve necessary cost reductions, which would further detract

from the program's attractiveness to existing and potential participants, and so on. In other words, all the characteristics of the classic "death spiral" would be brought into play.

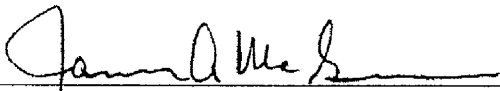
8. This is not simply a doomsayer's rhetoric. The considerable time and effort invested by Florida Power to achieve the program's current level of participation has been widely recognized (including EPA's Energy Star Trade Ally of the Year award for 2000), and it is uniquely situated to appreciate the program's vulnerabilities to continued growth in the future. To the extent NERA's complaint is perceived as seeking the imposition of a fee for certification inspections conducted under Florida Power's new construction program, it is essential to understand the serious risk that this unwarranted and unnecessary action would impose on the program's future viability. Moreover, even if such a fee were charged, it would not resolve the kind of competitive disadvantage NERA erroneously alleges from free BERS audits performed by Florida Power. The Commission's rules require that utility audit fees be cost based, while NERA's independent raters perform their audits for a profit. If Florida Power were to perform Energy Star certification inspections at the equivalent cost-based fee of \$195 charged for BERS audits, compared to NERA raters' fees of approximately \$300 to \$400, a substantial competitive disadvantage would remain.

9. In summary, NERA's allegation that Florida Power performs BERS audits for free is simply wrong. In addition, Florida Power's Energy Star certification inspections under its new construction program, which NERA apparently confuses

with the Company's BERS audits, are conducted by Florida Power without a fee to participating builders in accordance with Commission-approved program procedures, which are based on sound and compelling reasons. Moreover, the absence of a fee for these certification inspections does not materially affect the competitive interests of NERA raters, since they would remain at a substantial competitive disadvantage even if Florida Power imposed a cost-based fee.

Respectfully submitted,


FLORIDA POWER CORPORATION

By 

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer of Florida Power Corporation has be sent to Dennis J. Stroer, 145 Wekiva Springs Road, Suite 187, Longwood, FL 32779, by U.S. mail this 26th day of February, 2002.



Attorney