

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Consideration of) DOCKET NO. 931011-EI
incentives to encourage supply-) ORDER NO. PSC-94-0601-FOF-EI
side energy efficiency by) ISSUED: May 19, 1994
investor-owned electric)
utilities in compliance with)
Section 111 of the 1992 Energy)
Policy Act.)
_____)

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION

ORDER GRANTING APPROVAL OF STIPULATION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

This docket was opened in compliance with requirements of the Energy Policy Act of 1992, 42 USCA 13201, (EPACT) to consider incentives to encourage supply-side energy efficiency by investor-owned electric utilities. Section 111(b) of the Public Utility Regulatory Policies Act of 1978, 16 USC 2621, (PURPA) proscribes the procedural requirements necessary for consideration and determination respecting certain ratemaking standards. In summary, this section states that "consideration shall be made after public notice and hearing" and "determination shall be in writing, based upon findings included in such determination and upon the evidence presented at the hearing, and available to the public." EPACT did not revise these procedural requirements.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

The Order Establishing Procedure in this docket, Order No. PSC-93-1848-PCO-EI, was issued October 29, 1993. On January 12, 1994, Allied Signal, Inc. petitioned to intervene and on January 28, 1994, an order granting intervention, Order No. PSC-94-0112-PCO-EI, was issued.

In accordance with the order establishing procedure, preliminary issue statements were filed and a pre-prehearing conference was held. Karl H. Wieland, witness for Florida Power Corporation, Gerard J. Kordecki, witness for Tampa Electric Company and Lisa J. Gefen, witness for intervenor Allied Signal, Inc. prefiled testimony with the Commission. A prehearing conference, properly noticed, was held on May 2, 1994. On April 27, 1994, the parties filed a Consented Motion for Approval together with a Stipulation of the Parties, which was dated April 22, 1994. Later, on May 3, 1994, a modified Stipulation together with a new Consented Motion for Approval was filed. At the May 17, 1994 Agenda conference, we approved the modified Stipulation which is the subject of this Order and is attached herein as Attachment A. The modified Stipulation incorporates and admits into evidence the prefiled testimony. Upon the issuance of this Order we have fulfilled the PURPA procedural requirements.

Section 111(d)(9) of EPACT requires that the Commission "consider the disincentives caused by existing ratemaking policies and practices, and consider incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution equipment." The modified Stipulation addresses both of these requirements.

Basically, the stipulation states that the Commission's existing mechanisms and policies are sufficient to encourage investment in more efficient generation, transmission, and distribution equipment. Existing mechanisms include the Energy Conservation Cost Recovery clause, the Capacity Cost Recovery clause, the Oil Backout factor, and the Generation Performance Incentive Factor. The existing policies of the Commission allow for any investor-owned utility to petition the Commission for special regulatory treatment of an investment in supply-side efficiency equipment at any time.

The testimony that was prefiled in this docket by Tampa Electric Company (TECO), AlliedSignal, Inc. and Florida Power Corporation (FPC), focuses on two principles. First, utilities already have an incentive to invest in the most efficient supply-side alternatives. These investments are done in order to keep rates as low as possible and enhance a utility's competitive posture. Second, the investment in efficiency is usually a

tradeoff between higher up-front capital cost that is off-set by lower operating costs. A disincentive, but not a barrier, to these investments may be regulatory lag. The Commission has removed this disincentive in the past by creating several cost recovery mechanisms as needed for specific goals and objectives. However, our acceptance of the modified Stipulation does not mean that the Commission will allow immediate cost recovery of all cost-effective supply-side efficiency measures. To do so would in effect render a rate setting proceeding moot. It would also remove a substantial burden from utility's management to prove that the utility's expenses were prudent. The Commission will, however, on a case-by-case basis determine whether a particular investment is appropriately recoverable under one of the special cost recovery mechanisms.

We approve the modified Stipulation. We find that combined, the mechanisms and policies outlined above, as well as normal ratemaking procedures, give the investor-owned utilities the flexibility to pursue investments in more efficient generation, transmission, and distribution facilities at any time. Therefore, no other incentives or cost recovery mechanisms are required at this time.

While we are satisfied that the procedural requirements of PURPA have been served, in an abundance of caution, this Order is being issued as proposed agency action. In that manner we are assured that substantially affected persons have an opportunity to a hearing and that the public and the parties have been afforded due process.

Based on the foregoing, it is, therefore

ORDERED by the Florida Public Service Commission that the modified Stipulation is hereby approved. It is further

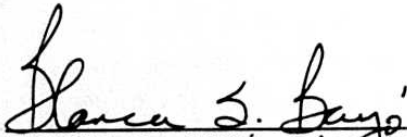
ORDERED that all the matters contained herein or attached hereto, are by this reference, specifically made integral parts of this Order. It is further

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

ORDERED that in the event no protest is timely received, this docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 19th
day of May, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)
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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 action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 9, 1994.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

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If this order becomes final and effective 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 effective date of this order, 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.

ATTACHMENT A
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Consideration of incentives to)
encourage supply-side efficiency)
by investor-owned electric)
utilities in compliance with)
Section 111 of the 1992 Energy)
Policy Act.)
_____)

Docket No. 931011-EI
Filed: May 3, 1994

STIPULATION OF THE PARTIES

This is a stipulation dated as of May 2, 1994, among Florida Power Corporation, Tampa Electric Company, Florida Power & Light Company, Gulf Power Company, and AlliedSignal Inc.

WHEREAS, Section 111 of the Energy Policy Act of 1992 requires state regulatory authorities such as this Commission to consider (1) the disincentives caused by existing ratemaking policies and practices to utility investment in more efficient generation, transmission and distribution equipment, and (2) incentives that would encourage better maintenance and investment in more efficient generation, transmission and distribution equipment;

WHEREAS, the Commission has initiated Docket No. 931011-EI to consider the above-referenced issues as set forth in Section 111 of the Energy Policy Act;

WHEREAS, the Florida Energy Efficiency Conservation Act as codified in Sections 366.80 - 366.85, and 403.519, Florida Statutes ("FEECA"), and existing Commission regulations and policies, including without limitation the Energy Conservation Cost Recovery Clause ("ECCR"), the Capacity Cost Recovery Clause, and the Generation Performance Incentive Factor, establish mechanisms and procedures for electric utilities to increase the efficiency of utility power delivery systems to the extent cost effective;

WHEREAS, parties and the public have been given opportunity to prefile testimony in Docket No. 931011-EI and Florida Power Corporation, Tampa Electric Company, and AlliedSignal have prefiled testimony in the proceeding;

WHEREAS, the Commission staff and the parties have identified four issues to be addressed in Docket No. 931011-EI and the parties have reviewed the prefiled testimony in an effort to resolve these issues;

NOW, THEREFORE, in consideration of the foregoing, the parties hereby agree as follows:

1. There are no material issues of fact or law in this proceeding;

2. The parties stipulate to the substance and admission of all testimony prefiled as of this date in Docket No. 931011-EI;

3. The parties stipulate that the issues identified in the docket are resolved as follows:

Issue 1: Does the Florida Public Service Commission presently encourage utilities to make investments in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation, transmission, and distribution?

Stipulation: FEECA and current Commission regulations and policies provide the Commission flexibility to encourage utilities to make investments in, and expenditures for, cost effective improvements in the energy efficiency of power generation, transmission and

distribution. Commission encouragement of all generation, transmission and distribution efficiency investments may be accomplished by finding that existing regulatory policies and recovery mechanisms, including the Capacity Cost Recovery Clause, the ECCR, the GPIF and the Oil-Back Out regulations, are available to investor-owned electric utilities upon petition to the Commission on a case-by-case basis.

Issue 2: What existing ratemaking policies and practices of the Florida Public Service Commission, if any, present disincentives or barriers for electric utilities to make investment in more efficient power generation, transmission, and distribution equipment?

Stipulation: Regulatory lag may be one regulatory disincentive for electric utilities to invest in more efficient power generation, transmission, and distribution equipment. However, this disincentive can be minimized under existing Commission regulatory mechanisms and policies, including without limitation the ECCR, which allow investor-owned electric utilities to petition for recovery of cost-effective efficiency investments.

Issue 3: Should the Florida Public Service Commission adopt additional incentives to encourage better maintenance, and investment in more efficient power generation, transmission, and distribution equipment?

Stipulation: Additional incentives may be unnecessary provided that the Commission finds that existing regulatory mechanisms and policies, including the ECCR, the Capacity Cost Recovery Clause, the GPIF and the Oil Backout regulation, may be used by investor-owned electric utilities to petition the Commission on a case-by-case basis for recovery of cost effective generation, transmission and distribution efficiency investments.

Issue 4: If so, what kind of incentive mechanism should be utilized?

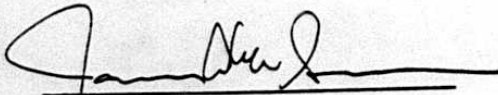
Stipulation: As indicated above, the Commission should find that existing regulatory mechanisms and policies are available to investor-owned electric utilities to petition for recovery of cost-effective investments in all supply-side efficiency technology.

4. By approving this Stipulation and confirming the positions on the issues as set forth herein, the Commission has considered the issue of supply-side investment incentives in accordance with the requirements of Section 111 of the Energy Policy Act of 1992;

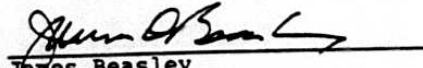
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5. Upon Commission approval of this Stipulation, continuation of formal administrative proceedings in this docket is not necessary.

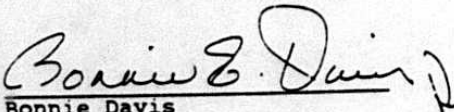
Respectfully submitted,



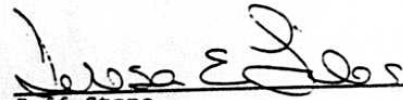
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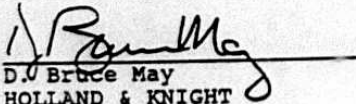
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