

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Determination of whether) DOCKET NO. 940349-GU
Florida should adopt standards) ORDER NO. PSC-94-0855-FOF-GU
for gas utilities from Federal) ISSUED: July 14, 1994
Energy Policy Act of 1992,)
related to integrated resource)
planning and conservation and)
demand management)
_____)

Pursuant to Notice, a hearing was held on May 18, 1994, at Tallahassee, Florida. The following Commissioners participated in the disposition of this matter:

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

APPEARANCES:

KATHERINE COWDERY, Esquire, and WAYNE L. SCHIEFELBEIN, Esquire, Gatlin, Woods, Carlson & Cowdery, 1709-D Mahan Drive, Tallahassee, Florida 32308
On behalf of Chesapeake Utilities Corporation

JOSEPH A. MCGLOTHLIN, Esquire, and VICKI GORDON KAUFMAN, McWhirter, Reeves, McGlothlin, Davidson and Bakas, 315 South Calhoun Street, Suite 716, Tallahassee, Florida 32312
On behalf of City Gas Company of Florida

ROBERT SCHEFFEL WRIGHT, Esquire, Fine, Jacobson, Schwartz & Nash, P.A., 215 South Monroe Street, Suite 804, Tallahassee, Florida 32301-1859
On behalf of Peoples Gas System, Inc.

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On behalf of Florida Power & Light Company.

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On behalf of Gulf Power Company.

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REGISTRATION REPORTING

ORDER NO. PSC-94-0855-FOF-GU
DOCKET NO. 940349-GU
PAGE 2

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**ORDER DECLINING TO ADOPT STANDARDS FOR FLORIDA'S
INVESTOR-OWNED NATURAL GAS UTILITIES FROM FEDERAL ENERGY POLICY
ACT OF 1992, RELATED TO INTEGRATED RESOURCE PLANNING AND
CONSERVATION AND DEMAND MANAGEMENT**

I. CASE BACKGROUND

On October 24, 1992 the Energy Policy Act (the Act) of 1992 became law. The Act amended the Public Utility Regulatory Policies Act of 1978 (PURPA), the 1935 Public Utility Holding Company Act of 1935 (PUHCA) and enacted many new laws addressing energy conservation, competition and deregulation. The Act required numerous policy determinations by the state utility regulatory agencies. Among these determinations are a consideration of Integrated Resource Planning and Investments in Conservation/Demand Management for Natural Gas utilities with annual sales of 100,000,000 therms or more.

This docket was opened to enable the Florida Public Service Commission to make the required determinations with respect to Integrated Resource Planning and Investments in Conservation/Demand Management for Florida's Natural Gas Utilities prior to the October 24, 1994 deadline imposed in the Act. Currently, only Peoples Gas System, Inc. exceeds the 100,000,000 therm annual sales threshold.

At the Prehearing Conference on May 9, 1994, all parties agreed to a stipulated resolution of the issues identified for consideration in this proceeding. On May 11, 1994, a written stipulation reflecting that agreement was filed with the Commission. This agreement is appended to this Order as "Attachment A". Therefore, the case was considered by the Commission as a stipulation.

Section 115 of the Energy Policy Act of 1992 requires this Commission to consider the adoption of the following policies as retail policies for natural gas utilities with annual sales in excess of 100,000,000 therms per year:

INTEGRATED RESOURCE PLANNING - Each gas utility shall employ, in order to provide adequate and reliable service to its gas customers at the lowest system cost (an integrated resource plan). All plans or filings of a State regulated gas utility before a State regulatory authority to meet the requirements of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented after approval of the State regulatory authority.

INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT - The rates charged by any state regulated gas utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other demand-side management measures which are consistent with the findings and purposes of the Energy Policy Act of 1992 are at least as profitable (taking into account the income lost due to reduced sales resulting from such programs) as prudent investments in, and expenditures for, the acquisition or construction of supplies and facilities. This objective requires that (A) regulators link the utility's net revenues, at least in part, to the utility's performance in implementing cost-effective programs promoted by this section; and (B) regulators ensure that, for purposes of recovering fixed costs, including its authorized return, the utility's performance is not affected by reductions in its retail sales volumes.

If the Florida Public Service Commission either of the standards described above, the Commission must -

(1) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand-side management measures, and

(2) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.

II. INTEGRATED RESOURCE PLANNING

We decline to adopt the Integrated Resource Planning standard from Section 115 of the Energy Policy Act of 1992 for Florida's investor-owned natural gas utilities at this time. The uncontroverted evidence contained in the record of this proceeding suggests that, currently, the expected incremental benefits do not appear to exceed the expected incremental costs. Open access gas transportation pursuant to FERC Order 636 has been in place for less than a year for pipelines serving Florida's natural gas utilities. Adopting the proposed standard might limit a natural gas utility's ability to obtain gas supplies at the lowest possible cost.

The stipulation filed by the parties also recommended declining to adopt the Integrated Resource Planning standard. We accept and approve this stipulated resolution as appropriate to the disposition of the question at issue in this proceeding.

III. INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT

We decline to adopt the Investments in Conservation and Demand Management standard from Section 115 of the Energy Policy Act of 1992 for Florida's investor-owned natural gas utilities at this time. Currently other Commission forums, including conservation program approval/cost recovery, revenue requirements proceedings, and purchased gas cost recovery are available to any interested party to address individual conservation/demand management issues.

The stipulation filed by the parties also recommended declining to adopt the Investments in Conservation and Demand Management standard. We accept and approve this stipulated resolution as appropriate to the disposition of the question at issue in this proceeding.

IV. SMALL BUSINESS IMPACTS

Given our decision concerning the Integrated Resource Planning and Conservation and Demand Management standards, these issues are moot.

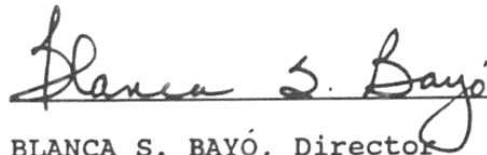
It is therefore,

ORDERED that the stipulation filed by the parties recommending not adopting the Integrated Resource Planning and Investments in Conservation/Demand Management standards is accepted and approved as appropriate to the disposition of the matters at issue in this proceeding. It is further

ORDERED that we decline to adopt the Integrated Resource Planning standard from Section 115 of the Energy Policy Act of 1992 for Florida's investor-owned natural gas utilities at this time. It is further

ORDERED that we decline to adopt the Investments in Conservation and Demand Management standard from Section 115 of the Energy Policy Act of 1992 for Florida's investor-owned natural gas utilities at this time.

By ORDER of the Florida Public Service Commission, this 14th day of July, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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ORDER NO. PSC-94-0855-FOF-GU
DOCKET NO. 940349-GU
PAGE 6

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Determination of whether) DOCKET NO. 940349-GU
Florida should adopt standards) FILED: May 10, 1994
for gas utilities, from Federal)
Energy Policy Act of 1992,)
related to integrated resource)
planning and conservation and)
demand management.)
_____)

STIPULATION

City Gas Company of Florida, Peoples Gas System, Inc., Chesapeake Utilities Corporation, Florida Power and Light Company, Tampa Electric Company and Gulf Power Company (collectively the "Parties"), by and through their undersigned counsel, hereby stipulate and agree to resolve all issues contained in Order No. PSC-94-0478-PCO-GU, which constitutes all issues in this docket as follows:

1. At this time, the Commission should not adopt the integrated resource planning (IRP) standard set forth in Section 115 of the Energy Policy Act of 1992 for gas utilities. The gas utilities have submitted testimony to the effect that currently, the expected incremental benefits to the gas utilities and their customers of adopting this standard do not appear to exceed the expected incremental administrative costs.

2. At this time, the Commission should not adopt the investment in conservation and demand management standard set forth in Section 115 of the Energy Policy Act of 1992 for gas utilities. Currently, there are Commission forums in which these matters can be addressed.

3. In view of the above stipulation, the parties further stipulate that the Commission need not address small business impact considerations.

Each of the provisions set forth in paragraphs 1 through 3 above have been negotiated as essential, interdependent components to a comprehensive settlement of all issues in this proceeding and, therefore, collectively constitute a single stipulation among the Parties. As such, the Parties agree that if this stipulation is not approved by the Commission in its entirety, it shall be null and void and of no binding effect on the Parties. The Parties further agree that this stipulation is for settlement purposes only, shall have no precedential value, and shall be without prejudice to the right and opportunity of any party to raise, defend or otherwise litigate any issues or positions as to matters of policy or fact in any appropriate proceeding before the Commission. It is anticipated that the Commission will open a docket to consider, among other things, the appropriate goals for natural gas conservation and demand side management programs.

Dated: May 9, 1994

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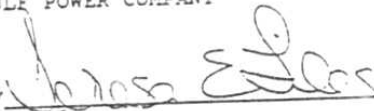
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