

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to limit) DOCKET NO. 960130-EG
availability of) ORDER NO. PSC-96-0468-FOF-EG
Commercial/Industrial Load) ISSUED: April 4, 1996
Control Program by Florida Power)
& Light Company.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER APPROVING TARIFF CHANGE

BY THE COMMISSION:

CASE BACKGROUND

Florida Power & Light Company's (FPL or the Company) optional Commercial/Industrial Load Control (CILC) program has been in effect as a permanent rate since October 1990. Under this non-firm rate, customers pay a rate lower than their otherwise applicable firm rate in return for allowing FPL to control (i.e. interrupt) a portion of their load during certain emergency situations, such as capacity shortages.

On February 5, 1996, FPL petitioned the Commission for a proposed tariff change to limit CILC customers to those who were either taking service under the rate schedule or had a fully executed CILC contract to take service as of that date. This proposed change would close the tariff to new customers as of February 5, 1996.

DECISION

FPL's CILC program has reached the cost-effective level of participation established in the conservation goals hearing in Docket No. 941170-EG. In that hearing, we set DSM goals for FPL's approved conservation programs based upon analyses submitted by FPL. The analysis for the CILC program indicated that in the years 1995 through 2000, FPL could cost-effectively add up to a total of

DOCUMENT NUMBER-DATE

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FPCO-RECORDS/REPORTING

137 Megawatts (MW) of incremental CILC load at the meter. This was in addition to the existing 1994 CILC load of 335 MW.

Rule 25-6.0438(6), Florida Administrative Code, requires that a utility maintain its non-firm loads at or below their maximum cost-effective levels. The rule also states that the Commission in a rate proceeding can penalize those utilities whose efforts to maintain their subscribed non-firm load below the maximum cost-effective level are not prudent.

FPL has indicated that, as of the date of its petition, it has received executed CILC agreements totaling about 150 MW. Thus, FPL has exceeded the 137 MW target it expected to reach over the next five years in slightly more than one year. Based on the foregoing, we find that it is appropriate to close the CILC rate schedule to new customers at this time. Failure to do so will result in a level of CILC load which is in excess of what FPL projected to be cost-effective, and will inappropriately shift costs to FPL's remaining body of ratepayers.

The Company has requested that the CILC rate be closed effective on February 5, 1996, the date their petition was filed. We believe that date is inappropriate because it requires us to retroactively close a rate schedule. The closure of the tariff shall be effective March 19, 1996, the date of the agenda conference when we approved the change.

FPL asserts that the February 5, 1996, closure date is appropriate because as of that date the CILC rate is already oversubscribed, and they do not wish to exacerbate the situation. An adequate remedy in this situation exists under Rule 25-6.0438(4)(c), Florida Administrative Code. Under the rule, if a utility believes that providing interruptible service to a customer who otherwise qualifies will not result in benefits to the general body of ratepayers, the utility may apply to the Commission for authorization to refuse service to the customer. We believe that this rule provides adequate opportunity for FPL to justify not offering the rate to customers who made application between February 5, 1996, and March 19, 1996, the date of closure, based on the contention that their addition will result in a level of participation that is not cost-effective.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's Petition to Limit Availability of the Commercial/Industrial Load Control Program is granted. It is further

ORDER NO. PSC-96-0468-FOF-EG
DOCKET NO. 960130-EG
PAGE 3

ORDERED that the effective date of the closure of the tariff is March 19, 1996. It is further

ORDERED that if a protest is filed in accordance with the requirements set forth below, the tariff shall remain in effect with any increase in revenues held subject to refund pending resolution of the protest. It is further

ORDERED that if no protest is filed in accordance with the requirements set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 4th day of April, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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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 Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the action proposed files a petition for a formal proceeding, as provided by Rule 25-22.036(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)(d) and (e), Florida Administrative Code. This petition must be received by the Director, Division of Records and

ORDER NO. PSC-96-0468-FOF-EG
DOCKET NO. 960130-EG
PAGE 4

Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 25, 1996.

In the absence of such a petition, this order shall become final on the day subsequent to the above date.

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.

If this Order becomes final 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 date this Order becomes final, 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.