

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of  
green power pricing research  
project as part of Demand Side  
Management Plan by Florida Power  
& Light Company.

DOCKET NO. 030752-EI  
ORDER NO. PSC-03-1442-TRF-EI  
ISSUED: December 22, 2003

The following Commissioners participated in the disposition of  
this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER APPROVING PETITION BY FLORIDA POWER AND LIGHT  
FOR APPROVAL OF GREEN POWER PRICING RESEARCH PROJECT  
AS PART OF DEMAND SIDE MANAGEMENT PLAN

BY THE COMMISSION:

On June 9, 1995, Order No. PSC-95-0691-FOF-EG was issued in  
Docket No. 941170-EG, In Re: Approval of demand-side management  
plan of Florida Power and Light Company, approving Florida Power  
and Light Company's numeric demand-side management (DSM) plan. In  
the order, we encouraged Florida Power and Light (FPL or utility)  
to consider green pricing options "to promote the installation of  
solar water heating and other renewable measures during the program  
development and submittal stage of the conservation goals process."  
At the time, green pricing was a relatively new concept. In  
general, green pricing programs allow interested customers to  
voluntarily contribute towards purchasing energy produced by  
renewable resources, which is typically a higher cost than energy  
produced by fossil-fuel based generation.

In response to that Order, on May 17, 1996, FPL filed a  
request for the approval of a two-year Green Pricing Research and  
Development Project as part of the Company's DSM Plan. This  
project was designed to test FPL customer response to a Green

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Pricing initiative by soliciting funds for FPL to purchase photovoltaic modules. By Order No. PSC-97-0528-FOF-EG, issued May 7, 1997, in Docket No. 960624-EG, In Re: Petition for approval of Green Pricing Research and Development Project by Florida Power and Light Company, we approved a stipulation between FPL and the Legal Environmental Assistance Foundation (LEAF) regarding the project. We approved the project and allowed for the recovery of reasonable and prudent expenditures through the Energy Conservation Cost Recovery Clause (ECCR), to be capped at \$475,000 over two years. As a result of this project, FPL collected \$89,500 in voluntary contributions from participating customers. These contributions were used to construct a 10 kW photovoltaic system at FPL's Martin generating site.

On August 6, 1997, we opened Docket No. 971004-EG to set new numeric DSM goals for FPL. LEAF intervened in this docket, which resulted in a Joint Motion to Approve Stipulation by FPL and LEAF. In Order No. PSC-99-1412-S-EG, issued July 23, 1999, we approved the stipulation between FPL and LEAF, in which LEAF agreed to withdraw from FPL's DSM proceeding. In exchange, FPL agreed to:

Investigate and, if feasible, implement a Green Energy Program under which FPL would purchase energy generated from new renewable resources. The Program would offer to meet all or a part of a customer's load with generation from the new renewable resources for an additional charge calculated to recover no more than FPL's related Program expenses and its incremental cost to purchase the energy.

On May 8, 2000, we issued Order No. PSC-00-0915-PAA-EG, approving FPL's DSM Plan. The Plan included the Green Energy Research and Development Program with an approved budget of \$700,000 over a three-year period. Under this research program, FPL planned additional research on customer preferences regarding renewable energy and the potential for developing a Green Energy Program. In order to gauge cost and availability of renewable energy sources, FPL issued a request for proposals (RFP) in September 2001. FPL received four responses; two were from existing qualifying facilities, while two were from new projects. Each of the four proposals was priced above FPL's avoided energy costs. FPL then requested and received a declaratory statement in Order No. PSC-02-1059-DS-EQ, issued August 6, 2002, in Docket No. 020397-EQ, In Re: Petition for declaratory statement by FPL that

FPL may pay a Qualified Facility for purchases of renewable energy an amount representing FPL's full avoided cost plus a premium borne by customers voluntarily participating in FPL's Green Energy Project. In that Order, we found that FPL is authorized to pay a qualifying facility more than FPL's avoided costs, if those excess costs are borne by the voluntary participants in a utility sponsored green pricing program. We ruled that if the costs in excess of avoided costs were funded through voluntary customer contributions, then the federal Public Utility Regulatory Policy Act requirements regarding payments to qualifying facilities would not be violated.

On August 4, 2003, FPL filed its petition for approval of the Green Pricing Research Project. On October 15, 2003, FPL filed a revised tariff for the Green Power Pricing Research Project. According to FPL's petition, after further investigation, FPL "discovered an alternate means of potentially supplying energy from renewable resources that offered several advantages over the proposals FPL had received in its RFP." FPL's proposed Green Power Pricing Research Project is based on Tradeable Renewable Energy Certificates, or TRECs. FPL requests approval of the Green Power Pricing Research project and its associated tariff sheet, and further requests approval for the project to be incorporated into FPL's DSM Plan. FPL has proposed reporting all expenditures and revenues through the ECCR clause and requests approval to recover reasonable and prudent expenses in excess of program revenues through the clause.

We have the authority to consider these matters pursuant to Sections 366.82(2), 366.05, 366.06, and 366.075, Florida Statutes.

FPL'S PROPOSED GREEN POWER PRICING RESEARCH PROJECT

According to FPL's petition, "The purpose of the Green Power Pricing Research Project is to develop a cost-effective means of fostering renewable energy development." FPL's proposed Green Power Project will provide residential customers interested in promoting renewable energy with the option of participating in this voluntary program. The customer costs and guidelines for the project will be established by a special tariff, the Green Power Pricing - ECCR Rider, Original Tariff Sheet No. 8.841. Each participating customer will be charged \$9.75 per month in addition to the customer's charges under the Residential Service rate

schedule. Customers may exit the program at any time. In return for each \$9.75 customer contribution, FPL will purchase the TRECs associated with 1,000 kWh of renewable energy. FPL intends to purchase its supply of TRECs from Green Mountain Energy Company, a third-party TREC supplier. FPL has also committed to the development or purchase of 150 kW of photovoltaic capacity within Florida for every 10,000 participating customers.

TRECs, also referred to as 'green tags' or 'renewable credits,' are a relatively new marketing concept used to promote renewable energy resources. TRECs are essentially formed by separating the non-electricity attributes, such as the environmental attributes, from the actual energy produced by qualifying renewable generating resources. The energy produced is purchased and flows over the grid in the same manner as any other energy, while the environmental attributes are sold separately in the form of tradeable financial instruments. TRECs may be marketed directly by renewable energy generators, or by utilities which have purchased renewable energy and TRECs as a bundled product. However, TRECs are often marketed by private vendors, such as Green Mountain Energy Company or Sterling Planet. These vendors contract with green energy producers to obtain contracts for the marketable environmental attributes of the actual renewable energy produced. Interested utilities, or, in some cases, interested individuals, may then purchase these environmental attributes in the form of TRECs. Once a TREC is sold to a final customer, for example, a participant in FPL's proposed Green Power Pricing Research project, the TREC is retired. This prevents the same environmental attributes from being sold more than once.

According to FPL's petition, the renewable resources that will be eligible for its proposed project include "photovoltaic facilities, facilities utilizing biomass fuel, facilities using land-fill gas, facilities using wind, ocean currents, tides and other hydrological applications, and other renewable energy sources as approved by FPL and FPL's TREC supplier." Although FPL's petition does not explicitly exclude municipal solid waste and waste heat, FPL has indicated that these resources will not be eligible for this program.

FPL's initial TREC purchases will be "associated with new (after 1998) and existing renewable energy facilities in the Southeastern Electric Reliability Council (SERC) geographic area,

Florida, and such other geographic areas as FPL and its TREC supplier mutually agree." As the market for TRECs develops in Florida, FPL anticipates purchasing additional TRECs associated with in-state renewable resources. However, FPL has committed to us that FPL will have a preference for "affordable TRECs from facilities within Florida."

FPL's Green Power Pricing ECCR Rider will terminate on December 31, 2006, unless FPL petitions for an extension to the program. FPL projects program revenues of \$19.2 million and expenses of \$18.9 million over the life of the project. FPL projects that \$17.9 million of the \$18.9 million expenses will be paid to FPL's TREC provider. FPL therefore expects internal expenses of approximately \$1 million.

FPL proposes to record revenues and expenses for the project as a separate project in its ECCR clause filings, and intends to prepare a status report of the project for each of its ECCR true-up proceedings. Assuming FPL's customer participation forecasts are correct, expenses will initially exceed revenues for the project. However, FPL expects revenues to exceed costs within the first two years. FPL proposes to recover costs in excess of revenues through its ECCR clause. FPL expects to return these funds to ratepayers, with interest, as program revenues exceed costs. If FPL's participation forecasts are overstated, and revenues fall short of expenses throughout the project, FPL proposes that its administrative costs be recovered through the ECCR, with a cap of \$1.5 million over the life of the project. If revenues exceed costs, FPL plans to defer excess revenues as a regulatory liability and reinvest these revenues to increase participation, reduce the monthly fee to participants, or invest in renewable resources.

#### PRELIMINARY COMMENTS FROM INTERESTED PERSONS

The City of Tampa, the Florida Solid Waste Authority of Palm Beach County, the Integrated Waste Services Association, the Florida Industrial Cogeneration Association, and the Florida Phosphate Council (Florida QFs) filed preliminary comments on September 17, 2003. The Florida QFs expressed concern that omitting municipal solid waste and waste heat from FPL's proposed green pricing program may set a precedent for the definition of eligible renewable resources for future renewable policy initiatives. The Florida QFs urged that we deny FPL's proposed

program unless FPL modifies its tariff to: 1) include municipal solid waste and waste heat as eligible resources, and 2) exhaust all opportunities for purchasing renewable energy within Florida prior to purchasing out-of-state TRECs.

The Southern Alliance for Clean Energy, Inc. (SACE) filed Preliminary Comments on October 21, 2003. In its Preliminary Comments, SACE commended FPL for its efforts in launching a green pricing program. However, SACE expressed the following concerns regarding the specifics of FPL's program:

- FPL should deploy 150 kW of in-state solar for every 5,000 participants, rather than every 10,000. Solar deployment should include solar thermal resources.
- FPL's TREC purchases should be limited to those associated with new facilities within the SERC region.
- FPL should expand the program to include commercial customers.
- FPL should seek accreditation by the Center for Resource Solutions, to provide third party oversight.
- TRECs associated with municipal solid waste and waste heat resources should be ineligible for the program.

On October 31, 2003, Audubon of Florida provided written comments in support of FPL's proposed green pricing project. Audubon stated that green energy pricing will expand the use of alternative and renewable energy sources which may reduce the use of combustible fuels for generation. Audubon believes its members support green energy pricing and "deserve the opportunity to participate as electricity consumers in this program." Further, Audubon stated that it does not support the inclusion of municipal solid waste in green pricing programs and believes that the inclusion of municipal solid waste would cause a reduction in participation by its members.

ANALYSIS OF FPL'S PROPOSED  
GREEN POWER PRICING RESEARCH PROJECT

FPL's proposed research project is a unique form of green pricing program because it is based primarily on TRECs rather than

actual renewable energy. FPL believes that TRECs are a viable option to encourage renewable generation by providing additional revenue to renewable generators. TRECs can provide a flexible, low cost method of encouraging renewable development because a utility can purchase only enough TRECs to meet customer demand. This reduces the risk of installing high capital cost renewable assets only to find that customer participation does not materialize. Purchasing TRECs from a third party, as proposed by FPL, can also be beneficial because the third party takes on the risk of obtaining the TRECs for a utility for a contracted price.

Further, we note that seven of the 13 states with renewable portfolio standards have included some form of renewable credit trading system. Renewable credits have also been discussed on a national level as a part of potential federal renewable policy initiatives. We believe that the use of TRECs within FPL's Green Pricing Research project can provide valuable understanding of the TREC market. This understanding will benefit Florida's consumers if a federal or state-wide renewable portfolio standard is adopted in the future.

Many of the TRECs purchased by FPL, particularly in the initial stages of the project, may be associated with out-of-state renewable resources. However, FPL has committed to "a preference for affordable TRECs from facilities located within Florida." We believe it is reasonable for FPL to purchase low cost TRECs from outside Florida, particularly in the initial stages of its research project, because Florida's market for TRECs is not fully developed. Both JEA and the City of Tallahassee have included green credits as a part of each city's renewable policy efforts. We are also aware of several renewable developers that intend to sell TRECs associated with planned in-state renewable projects. FPL's proposed program will further encourage the development of the TREC market in Florida, allowing FPL to purchase TRECs associated with Florida based renewable projects in the future. We note that FPL's parent company has numerous wind generators. FPL stated that several of these wind affiliates currently sell TRECs as a bundled product with the energy produced. We believe that the risk of high cost affiliate transactions is reduced because FPL will purchase its TRECs from a third party with the incentive to minimize TREC costs.

FPL based its cost and revenue estimates on an expected participation level of approximately one percent of its residential customers. According to the National Renewable Energy Laboratory, a participation rate of one to two percent is typical for the average green pricing program within the United States. However, FPL's proposed \$9.75 monthly contribution is higher than the average contribution for typical green pricing programs. FPL may therefore experience lower than expected participation and revenues, placing non-participating customers at risk of paying part of the costs for the program. However, we believe this risk is mitigated somewhat because the bulk of the costs of FPL's program are derived from TREC purchases. If FPL finds that participation is lower than expected, FPL has the flexibility to purchase fewer TRECs. FPL has also proposed a cap of \$1.5 million in recoverable expenses over the life of the program.

We believe that FPL's proposal to recover costs in excess of revenues through its ECCR clause is reasonable. It is reasonable to expect that expenses will exceed costs in the initial stages of the project. FPL intends to return these funds to the general body of ratepayers, with interest at the commercial paper rate, as program revenues exceed costs. FPL's proposed cap of \$1.5 million over the life of the project is reasonable. We agree with FPL that it is reasonable to defer excess revenues as a regulatory liability and reinvest these revenues in the project, after the general body of ratepayers has been compensated for any initial cost recoveries.

FPL has stated that TRECs associated with municipal solid waste and waste heat resources will be ineligible for the program. SACE agrees that municipal solid waste and waste heat should be ineligible. We disagree with the Florida QFs that we should require FPL to include municipal solid waste and waste heat resources in its program. FPL's proposed program is voluntary in nature, and therefore we do not believe it sets a precedent for future state-wide renewable policy initiatives. Moreover, our approval of this tariff is in no way an attempt to put forth a definition of renewable resources for the State of Florida, nor is this an approval by this Commission of any definition of renewable resources.<sup>1</sup>

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<sup>1</sup> Furthermore, we recognize that our approval of FPL's Green Power Pricing Research Project does not insulate FPL from any



We also note that FPL's stipulation with LEAF, approved in Order No. PSC-99-1412-S-EG, issued July 23, 1999, explicitly excludes municipal solid waste from green pricing program development. Further, FPL met with several environmental groups during the program development stage, including SACE, the Sierra Club, Florida Audubon, 1000 Friends of Florida, Florida Public Interest Group, and Creative Pursuits, Inc. According to FPL, "There was specific opposition from some groups to include energy created from waste-to-heat, municipal solid waste, and natural gas fuel cells in this program." FPL expressed concern that including municipal solid waste or waste heat in the program could result in reduced participation.

We believe that FPL's tariff and marketing materials must accurately reflect the nature of FPL's program in order to prevent customer deception and to ensure that the data obtained from the program are a true representation of customer preferences. FPL's tariff, as filed with the petition on August 4, 2003, seemed to imply that funds received from participating customers would be used to purchase energy rather than primarily TRECs. This issue was raised by our staff with FPL, and FPL subsequently revised its tariff to clarify this point. We have reviewed FPL's proposed Green Power Pricing tariff, as filed on October 15, 2003, and believe that the tariff clearly represents that the program is based primarily on TRECs, rather than energy. In addition, FPL provided acceptable language to be used in future marketing materials which indicates the program is based primarily on TRECs and some of these TRECs may be obtained out-of-state. We believe that all marketing materials in the future must clearly state these two points. Accordingly, prior to providing customers with any notice of this program, FPL shall submit its noticing language to our staff for administrative approval.

FPL has proposed that progress reports on the project will be provided each year as a part of FPL's ECCR filings. However, because FPL is asking ratepayers to bear the initial cost of a program based on the relatively new TREC market, FPL shall be required to provide semi-annual progress reports. This will facilitate our staff's efforts to monitor the program. FPL's

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future legislation regarding renewable resources that may be enacted.

semi-annual reports shall be filed with the Director of the Commission's Division of Economic Regulation. At a minimum, the progress reports shall include: 1) customer participation data; 2) program revenues and expenses; 3) quantity and sources of TRECs purchased; 4) progress on solar installations; and, 5) copies of marketing materials.

We believe that including TRECs in FPL's proposed voluntary project provides a flexible, low-cost mechanism for interested customers to encourage renewable development. As stated previously, FPL's proposed project will be available only to its residential customers at this time. FPL has indicated that it hopes to extend this program to its commercial customers sometime in the future. To that end, FPL shall be required to provide us with a time-line which will reflect the availability of extending this program to its commercial customers. This time-line shall be submitted within 60 days of the issuance of this Order.

TRECs from out-of-state projects may be purchased, especially in the project's initial stages. However, FPL's committed preference for Florida TRECs should encourage the development of renewable resources and the TREC market in the state. We strongly support FPL's preference for Florida-based renewable sources; however, we also recognize the constraints of availability and costs associated with in-state sources. For that reason, in addition to the reporting requirements discussed above, FPL shall also be required to report, on a semi-annual basis, all of the Florida-based renewable energy sources that were identified for this program, what consideration was given to those sources, and, if those sources were not utilized as part of this program, an explanation for that decision.

FPL has also committed to the development or purchase of 150 kW of photovoltaic capacity within Florida for every 10,000 participating customers. We believe this advances the policy objectives of the Florida Energy Efficiency and Conservation Act, Section 366.80 through 366.82, Florida Statutes, by encouraging renewable development which might not otherwise be cost effective. We also believe the program adequately addresses the intent of FPL's stipulation with LEAF. FPL's proposed cap of \$1.5 million in recoverable project administration expenses over the life of the project is reasonable.

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In consideration of the above, FPL's petition for approval of its Green Power Pricing Research Project as part of its Demand Side Management Plan is hereby approved. FPL shall be authorized to: 1) incorporate the project into its demand-side management plan; 2) report all revenues and expenses through its ECCR clause; 3) recover reasonable and prudent project administration costs through its ECCR clause up to \$1.5 million if project administration costs exceed revenues received; and, 4) defer excess revenues as a regulatory liability until FPL has deferred sufficient revenues to reinvest in the project. FPL shall be required to provide semi-annual progress reports to the Commission, as discussed in this Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power and Light's petition for approval of its Green Power Pricing Research Project as part of its Demand Side Management Plan is hereby approved. It is further

ORDERED that Florida Power and Light shall be authorized to: 1) incorporate the project into its demand-side management plan; 2) report all revenues and expenses through its ECCR clause; 3) recover reasonable and prudent project administration costs through its ECCR clause up to \$1.5 million if project administration costs exceed revenues received; and, 4) defer excess revenues as a regulatory liability until FPL has deferred sufficient revenues to reinvest in the project. It is further

ORDERED that Florida Power and Light, prior to providing customers with any notice of this program, shall submit its noticing language to our staff for its approval. It is further

ORDERED that Florida Power and Light shall be required to provide semi-annual progress reports on this program. The semi-annual reports shall be filed with the Director of the Commission's Division of Economic Regulation, and at a minimum shall include: 1) customer participation data; 2) program revenues and expenses; 3) quantity and sources of TRECs purchased; 4) progress on solar installations; and, 5) copies of marketing materials. It is further

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ORDERED that Florida Power and Light shall be required to report, on a semi-annual basis, all of the Florida-based renewable energy sources that were identified for this program, what consideration was given to those sources, and, if those sources were not utilized as part of this program, an explanation for that decision. It is further

ORDERED that Florida Power and Light shall be required to provide us with a time-line which will reflect the availability of extending this program to its commercial customers. This time-line shall be submitted within 60 days of the issuance of this Order. It is further

ORDERED that the effective date of Florida Power & Light's Green Power Pricing - ECCR Rider, Original Tariff Sheet No. 8.841, shall be December 2, 2003. It is further

ORDERED that Florida Power and Light's Green Power Pricing - ECCR Rider, Original Tariff Sheet No. 8.841, shall terminate on December 31, 2006, unless FPL petitions for an extension to the program. It is further

ORDERED that if a protest is filed within 21 days of issuance of the Order, the tariff shall remain in effect with any charges held subject to refund pending resolution of the protest. It is further

ORDERED that if no timely protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

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By ORDER of the Florida Public Service Commission this 22nd  
Day of December, 2003.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( S E A L )

LAH

NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests

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are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 12, 2004.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

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.