

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Adoption of Numeric)
Conservation Goals and)
Consideration of National Energy)
Policy Act Standards (Section)
111) by:)
)
)
)

FLORIDA POWER & LIGHT COMPANY) DOCKET NO. 930548-EG
FLORIDA POWER CORPORATION) DOCKET NO. 930549-EG
GULF POWER COMPANY) DOCKET NO. 930550-EG
TAMPA ELECTRIC COMPANY) DOCKET NO. 930551-EG
ORDER NO. PSC-94-0287-PCO-EG
ISSUED: 3/11/94

ORDER ON PROCEDURAL MOTIONS

On February 10, 1994, Tampa Electric Company (TECO) filed a Motion to Modify Schedule and Confirm Cancellation of Workshop. In its motion TECO stated that the participants in the February 4, 1994, workshop in this docket reached a consensus that the pre-settlement workshops for the individual utilities should be cancelled and that the schedule of events in this docket be modified as follows:

February 24, 1994 - Integrated Resource Report
February 25, 1994 - Issues Identification Conference
February 28, 1994 - Goals Report - CANCELLED
March 3, 1994 - Settlement Workshop
LIMITED TO IRP PRESENTATIONS
March 18, 1994 - Petition and Direct Testimony

After March 18, 1994, but before Staff/Intervenor Testimony - Settlement Workshop.

Also on February 10, 1994, the Legal Environmental Assistance Foundation, Inc. (LEAF) filed a Motion For Supplemental Prehearing Order. LEAF's motion requests the issuance of an order granting the following relief:

1. Deleting the requirement that Intervenor file a Cost-Effectiveness Goal Results Progress Report;
2. Deleting the requirement that parties participate in the Settlement Workshop II;

DOCUMENT NUMBER-DATE

02418 MAR 11 1994

FPSC-RECORDS/REPORTING

3. Initiating a Commission review of the utilities' generation and expansion plans either in these dockets, or in the 940004-EU docket (and if so, consolidating the dockets), and requiring the utilities to file such plans on March 18, 1994;
4. Deleting the requirements contained in the Fifth Order on Procedure;
5. Limiting the issues to be addressed in the hearings scheduled for June and August, 1994, to the review of the utilities' planning process vis a vis Energy Policy Act issues of integrated resource planning and revenue neutrality; and
6. Delaying the filing of goals petitions and setting a subsequent fast-track schedule to review those goals petitions;
7. Establishing a new date for the filing of DSM plans which is consistent with the aforementioned rescheduling.

On February 17, 1994 the Florida Department of Community Affairs (DCA) filed a Motion to Extend Due Date for Filing of Cost-effectiveness Goals. In its motion DCA requests that the Commission issue a Supplemental Prehearing Order granting the remedies specified in the Motion for Supplemental Prehearing Order by the LEAF in this proceeding. In the alternative, DCA moves the Commission to postpone the due date for its Cost-Effectiveness Goal Results Reports until the utilities have filed adequate Code-Utility Evaluation Measures and supporting testimony.

On February 17, 1994, Florida Power and Light Company (FPL) filed a Motion to Modify Schedule and to Confirm Cancellation of Intervenor Meeting. In its motion FPL asks the Commission to modify its procedural schedule in Docket No. 930548-EG by (1) deleting the requirement of FPL scheduling by February 28th meetings with intervenors, (2) deleting the requirement of intervenors to file Cost Effectiveness Goals Progress Reports by February 28th, (3) scheduling a settlement workshop between March 18, 1994 and April 5, 1994, and (4) moving the date for utility rebuttal testimony so that utilities are given as much time as intervenors to file responsive testimony (under the current schedule intervenors file testimony on April 5th, 18 days after

utility testimony, so this would move the current date for utility rebuttal from April 18th to April 25th).

Also on February 18, 1994, FPL filed a response to LEAF's Motion For Supplemental Prehearing Order. In its response FPL takes the following positions on LEAF's requests:

1. Does not oppose deletion of the intervenors cost-effectiveness goal results progress report, with the consent that FPL be given additional time to file rebuttal testimony;
2. Opposes deleting the requirement that parties participate in the Settlement Workshop II;
3. Opposes LEAF's request to consolidate the conservation goals dockets with Docket No. 940004-EU;
4. Opposes deleting the requirements contained in the Fifth Order on Procedure;
5. Opposes limiting the June hearings in these docket to a review of the utilities' planning process vis a vis Energy Policy Act issues; and
6. Opposes delaying the filing of goals petitions and DSM plans.

On February 18, 1994, Gulf Power Company (Gulf) filed a Response to LEAF's Motion for Supplemental Prehearing Order. In its Response Gulf stated that it opposed the relief requested in LEAF's Motions, except for LEAF's request that intervenors be relieved of the obligation to file a cost-effectiveness goal results progress report. Gulf also expressed its support for the relief requested in TECO's motion.

On February 21, 1994, the Florida Client Council (FCC) filed a Response to Motions by LEAF and DCA. In its response FCC stated that it supports the motions filed by LEAF and DCA.

Order No. PSC-93-0953-PCO-EG, issued on June 28, 1993, required the parties to these dockets to conduct themselves as follows:

Before February 28, 1994, each utility shall schedule meetings with the intervenors in a good faith effort to reach a consensus on the cost-effectiveness of the conservation measures analyzed by the utilities. The meetings may be held in the Fletcher Building in Tallahassee. Staff shall be invited to attend each meeting. Sufficient notification shall be given so that if staff decides to attend appropriate notice may be served pursuant to Rule 25-22.033, Florida Administrative Code. By February 28, 1994, each intervenor shall file with the Commission's Division of Records and Reporting, and shall serve on each of the parties to this docket, a Cost-Effectiveness Goals Results Progress Report. This progress report shall indicate for each measure listed in the Cost-Effectiveness Goal Results Report filed by each utility whether the intervenor agrees with the utility's cost-effectiveness analysis. If the intervenor disagrees with the analysis, an explanation shall be given.

I find that the requirement that each utility schedule meetings with the intervenors in an effort to reach consensus on cost-effectiveness, and the requirement that intervenors participate in said meetings, shall be deleted. I also find that the requirement that intervenors file a cost-effectiveness goal results progress report shall be deleted. These requirements place a difficult burden on the parties at a labor intensive stage of the proceedings.

In deleting these requirements I do not wish for efforts to reach a consensus to cease. In place of the deleted meetings, and in order to facilitate settlement, the Commission staff shall conduct a meeting on Thursday, March 24, 1994, in room 106 of the Fletcher Building at 9:30 a.m. Attendance at this settlement meeting shall be mandatory for all parties that contest the cost-effectiveness analysis performed by the utilities. The purpose of this meeting shall be for all parties to make a good faith effort to reach a consensus on the cost-effectiveness of the conservation measures analyzed by the utilities.

The information that was to have been provided in the deleted Cost-Effectiveness Goal Results Progress Report shall now be filed on or before April 15, 1994, with the prefiled direct testimony of each intervenor that chooses to file testimony contesting a utility's cost-effectiveness analysis. In order to clarify areas of agreement and disagreement between the parties, those intervenors shall indicate for each measure listed in the Cost-Effectiveness Goal Results Report filed by each utility whether the intervenor agrees with the utility's cost-effectiveness analysis. If the intervenor disagrees with the analysis, an explanation shall be given.

I also find that the time for filing staff and intervenor testimony, and rebuttal to staff and intervenor testimony, should be modified to allow the parties additional time to prepare. The due date for filing staff and intervenor testimony shall be moved to April 15, 1994. The due date for filing rebuttal to staff and intervenor testimony shall be moved to May 6, 1994. An original and 21 copies of all testimony and exhibits shall be prefiled with the Director, Division of Records and Reporting, by the close of business, which is 4:45 p.m., on the date due.

LEAF has requested that the Commission delay setting goals until after a Commission review of the utilities' generation and expansion plans. LEAF proposes that the hearings scheduled for June of 1994 in these dockets be limited to the review of the utilities' planing process vis a vis Energy Policy Act issues of integrated resource planning and revenue neutrality. LEAF proposes that the filing of goals petitions and Commission review of goals petitions be rescheduled for a subsequent hearing.

I do not believe that delay of these proceedings is in the public interest. These proceedings were initiated in June of 1993. Even if the current schedule is adhered to, numeric conservation goals for Florida's investor owned electric utilities will not be voted on by the Commission until August 18, 1994. DSM plans will not be filed by the companies until December of 1994.

I agree with LEAF that in order to set reasonable goals, the Commission must evaluate the planning process which the utility uses to project the energy and demand savings which are reasonably achievable. I believe that the Commission can reasonably conduct this evaluation, as well as evaluation of the companies' goals petitions, at the June, 1994 hearings. I also believe that adequate time exists for the parties to conduct discovery related

to the companies' planning processes, before the May 25, 1994 discovery cut-off. The requests for relief numbered three through seven in LEAF's February 10, 1994, Motion For Supplemental Prehearing Order, related to delaying goals-setting until after review of generation and expansion plans, are therefore denied.

CONTROLLING DATES

The following dates have been established to govern the key activities in these dockets.

- | | |
|---|----------|
| 1. Gas Cost-Effectiveness Analysis Filed | 03-15-94 |
| 2. Utility's Petition Filed | 03-18-94 |
| 3. Utility's Direct Testimony Due | 03-18-94 |
| 4. Settlement Meeting, Room 106 | 03-24-94 |
| 5. Pre-Prehearing | 04-11-94 |
| 6. Staff and Intervenor Testimony Due | 04-15-94 |
| 7. Commission Workshop | 04-22-94 |
| 8. Prehearing Statements Due | 04-27-94 |
| 9. Utility Rebuttal Testimony Due | 05-06-94 |
| 10. Prehearing 5/9-10/94 | 05-09-94 |
| 11. Last Day to Send Out Written Discovery Requests | 05-10-94 |
| 12. Public Hearing, Tampa | 05-13-94 |
| 13. Last Day to Conduct Discovery | 05-25-94 |
| 14. Hearing FPL 6/1-2, FPC 6/3+6, TECO 6/8-9,
GPC 6/9-10 | 06-01-94 |
| 15. Briefs Due | 07-08-94 |
| 16. Special Agenda | 08-18-94 |
| 17. DSM Plan Filed | 12-07-94 |

It is therefore,

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that the requirement that intervenors file a cost-effectiveness goal results progress report is hereby deleted. It is further

ORDERED that the requirement that each utility shall schedule meetings with the intervenors in a good faith effort to reach a consensus on cost-effectiveness, and the requirement that intervenors participate in the individual utility meetings, are hereby deleted. It is further

ORDER NO. PSC-94-0287-PCO-EG
DOCKETS NOS. 930548-EG, 930549-EG, 930550-EG, 930551-EG
PAGE 7

ORDERED that the staff of the Florida Public Service Commission shall conduct a settlement meeting on Thursday, March 24, 1994. Attendance at the settlement meeting shall be mandatory for all parties. It is further

ORDERED that the information that was to have been provided in the deleted cost-effectiveness goals result progress report shall be filed on or before April 15, 1994, with the prefiled direct testimony of each intervenor that chooses to file testimony contesting the utility's cost-effectiveness analysis. It is further

ORDERED that the testimony of staff and intervenors shall be filed with the Director, Division of Records and Reporting, by the close of business on April 15, 1994. It is further

ORDERED that any rebuttal to the testimony of staff and intervenors shall be filed with the Director, Division of Records and Reporting, by the close of business on May 6, 1994. It is further

ORDERED that the pertinent dates set forth in the body of this Order shall be controlling and shall govern this proceeding unless modified by the Commission. It is further

ORDERED that the request of the Legal Environmental Assistance Foundation, Inc. for the issuance of an order initiating a Commission review of the utilities' generation and expansion plans either in these dockets, or in the 940004-EU docket (and if so, consolidating the dockets), and requiring the utilities to file such plans on March 18, 1994; deleting the requirements contained in the Fifth Order on Procedure; limiting the issues to be addressed in the hearings scheduled for June and August, 1994, to the review of the utilities' planning process vis a vis Energy Policy Act issues on integrated resource planning and revenue neutrality; delaying the filing of goals petitions and setting a subsequent fast-track schedule to review those goals petitions; and establishing a new date for the filing of DSM plans which is consistent with the aforementioned rescheduling, is hereby denied.

ORDER NO. PSC-94-0287-PCO-EG
DOCKETS NOS. 930548-EG, 930549-EG, 930550-EG, 930551-EG
PAGE 8

By ORDER of Chairman J. Terry Deason, as Prehearing Officer,
this 11th day of March, 1994.


J. TERRY DEASON, Chairman and
Prehearing Officer

(S E A L)
MAP:bmi

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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.