

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Adoption of Numeric) DOCKET NO. 930552-EG
Conservation Goals and) ORDER NO. PSC-95-0383-FOF-EG
Consideration of National Energy) ISSUED: March 21, 1995
Policy Act Standards (Section)
111) by Florida Public Utilities)
Company)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER DECLINING TO IMPLEMENT THE INTEGRATED RESOURCE PLANNING AND
THE INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT STANDARDS
SET FORTH IN THE PUBLIC UTILITIES REGULATORY POLICY ACT OF 1978
(PURPA) AS AMENDED BY SUBTITLE B, SECTION 111, OF THE ENERGY
POLICY ACT OF 1992 (EPACT)

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.

CASE BACKGROUND

This docket, along with Docket Nos. 930548-EG (Florida Power and Light Company or FPL), 930549-EG (Florida Power Corporation or FPC), 930550-EG (Gulf Power Company or Gulf), and 930551-EG (Tampa Electric Company or TECO) was opened to establish the appropriate numeric demand side management goals for the investor-owned electric utilities subject to the Florida Energy Efficiency and Conservation Act (FEECA), 366.80-366.85 and 403.519, Florida Statutes. A hearing is scheduled for April 10-14, 19-21 and 24-26, 1995, in this docket.

The hearing was held in Docket Nos. 930548-EG, 930549-EG, 930550-EG and 930551-EG on the following days: June 1-4, 6-10, 17-18, 20-21, 27, 29-30, and July 12, 1994. In that proceeding, the Commission also considered implementation of two standards set forth in the Public Utilities Regulatory Policy Act of 1978 (PURPA)

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FPSC-RECORDS/REPORTING

as amended by Subtitle B, Section 111, of the Energy Policy Act of 1992 (EPACT). These standards are commonly referred to as the "Integrated Resource Planning" and the "Income Neutrality" standards.

16 U.S.C.S. §2621(a) provides, in pertinent part:

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall consider each standard established by subsection (d) and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this title.

16 U.S.C.S. §2621(d) provides, in pertinent part:

(7) Integrated resource planning. Each electric utility shall employ integrated resource planning. All plans or filings before a State regulatory authority to meet the requirements of this paragraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

(8) Investments in conservation and demand management. The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generation, transmission, and distribution equipment. Such energy conservation, energy efficiency resources and other demand side management measures shall be appropriately monitored and evaluated.

By Order No. PSC-94-1313-FOF-EG, issued October 25, 1994, the Commission declined to adopt the Integrated Resource Planning and the Income Neutrality standards set forth in the Energy Policy Act of 1992. As stated on pages 23 and 24 of that Order:

In compliance with the Public Utilities Regulatory Policy Act (PURPA) as amended by the Energy Policy Act of 1992, we have considered the integrated resource planning

standard set forth in the Act. We have carefully reviewed the integrated resource planning processes employed by each utility in these dockets. We find that the process employed by each utility is consistent with the intent embodied in the federal standard and that our review process has been in furtherance of the intent of the Act. We embrace the concept of integrated resource planning that in general utilities should incorporate both demand-side and supply-side resources (including non-utility resources) into their plans to the extent they are cost effective. We do not adopt the federal IRP standard because of definitional uncertainties associated with the standard and uncertainties as to the role of the Federal government in interpretation and enforcement of the standards.

We embrace the concept of the Investments In Conservation and Demand Management standard as set forth in the Energy Policy Act, but do not adopt the Federal standard. Uncertainty exists as to the effect of adopting the Federal standard, and as to the role of the Federal government in interpretation and enforcement of the Federal standard for those states adopting it.

On December 20, 1994, the Commission approved the joint stipulation between Florida Public Utilities Company (FPUC) and the Department of Community Affairs (DCA), in Docket No. 930552-EG, which provided for the establishment of conservation goals for FPUC. Order No. PSC-95-0065-S-EG approving the stipulation became final on February 2, 1995. The stipulation between FPUC and DCA did not address the EPACT standards. The Commission is required to consider the EPACT standards for FPUC, as an electric utility for which the Commission has "rate-making authority."

The Commission declined to implement the IRP standard "because of definitional uncertainties associated with the standard and uncertainties as to the role of the Federal government in interpretation and enforcement of the standards." These same concerns exist with respect to FPUC. For these same reasons, we decline to implement the EPACT IRP standard for FPUC.

The Commission declined to implement the Investments in conservation and demand management standard because "Uncertainty exists as to the effect of adopting the Federal standard, and as to the role of the Federal government in interpretation and enforcement of the Federal standard for those states adopting it." These same concerns exist with respect to FPUC. For these same reasons, we decline to implement this standard for FPUC.

While declining to implement the Investments in conservation and demand management standard for FPL, FPC, Gulf, and TECO, the Commission did approve an incentive for these utilities to pursue certain energy conservation measures:

Upon petition from a utility, lost revenue recovery and stockholder incentives shall be considered on a case-by-case basis for solar, renewables, natural gas substitution, high efficiency cogeneration and other measures or programs that may have high savings and negligible rate impacts.

After goals are adopted, the utilities shall be allowed to propose selected programs that fail RIM for lost revenue recovery and stockholder incentives. Utilities have ample incentives to pursue programs that pass RIM. (Tr. 2551) The decision to allow incentives and recovery of lost revenues shall be made on a case-by-case basis.

We believe that the same reasoning regarding lost revenue recovery and stockholder incentives is applicable to FPUC, an investor-owned utility, as it was to the other IOUs: FPL, FPC, Gulf, and TECO. Therefore, upon petition from FPUC, lost revenue recovery and stockholder incentives shall be considered on a case-by-case basis for solar, renewables, natural gas substitution, high efficiency cogeneration and other measures or programs that have high savings and negligible rate impacts.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that we decline to implement the Integrated Resource Planning and the Investments In Conservation and Demand Management standards set forth in the Public Utilities Regulatory Policy Act of 1978 (PURPA) as amended by Subtitle B, Section 111, of the Energy Policy Act of 1992 (EPACT) for Florida Public Utilities Company. It is further

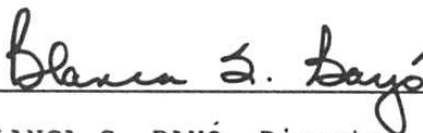
ORDERED that upon petition from FPUC, lost revenue recovery and stockholder incentives shall be considered on a case-by-case basis for solar, renewables, natural gas substitution, high efficiency cogeneration and other measures or programs that have high savings and negligible rate impacts. It is further

ORDERED that this Order shall become final and effective unless an appropriate petition for formal proceedings 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.

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ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 21st
day of March, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on April 11, 1995.

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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.

If this order becomes final and effective on the date described above, any party substantially 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.