

ORIGINAL  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Approval of Demand-Side )  
Management Plan of FLORIDA )  
POWER & LIGHT COMPANY )  
\_\_\_\_\_ )

DOCKET NO. 941170-EG

FILED: AUGUST 7, 1995

**PETITION FOR FORMAL PROCEEDING OF  
PEOPLES GAS SYSTEM, INC.**

Peoples Gas System, Inc. ("Peoples"), pursuant to Commission Rules 25-22.036 and 25-22.037, Florida Administrative Code, hereby files this petition for a formal proceeding on issues relating to the Commission's interim decision, via Order No PSC-95-0865-FOF-EG, to approve Florida Power & Light Company's Commercial and Industrial Load Control ("CILC") Program and the associated tariffs implementing that program. In summary, Peoples requests a hearing on the terms and conditions under which FPL's CILC program is to be offered and on the propriety of including the CILC program as an energy conservation program

eligible for cost recovery through the Energy Conservation Cost Recovery factor. In support of its Petition, Peoples states as follows.

ACK ✓  
AFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
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LEG 1  
LIN 5  
OPC \_\_\_\_\_  
RCH \_\_\_\_\_  
SEC 1  
WAS \_\_\_\_\_

**BACKGROUND**

1. The name and principal mailing address of the Petitioner are:

Peoples Gas System, Inc.  
111 Madison Street  
Post Office Box 2562  
Tampa, Florida 33601-2562 .

**OTH** For deliveries by hand or by courier service, the ZIP Code for

111 Madison Street is 33602.

RECEIVED & FILED

EPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

07516 AUG-7 95

FPSC-RECORDS/REPORTING

2. The person to whom notices, orders, and pleadings in this docket should be addressed is:

Robert Scheffel Wright  
Landers & Parsons  
310 West College Avenue  
Post Office Box 271  
Tallahassee, Florida 32302 .

For deliveries by hand or by courier service, the ZIP Code for 310 West College Avenue is 32301. Peoples also requests that a courtesy copy of all notices, orders, and pleadings be furnished to:

Mr. Vernon I. Krutsinger  
Manager, Energy Utilization  
Peoples Gas System, Inc.  
Post Office Box 2562  
Tampa, Florida 33601-2562 .

For deliveries by hand or by courier service, the ZIP Code for 111 Madison Street is 33602.

3. By petition dated November 21, 1995, Peoples sought intervention in this proceeding. The Commission granted Peoples' petition to intervene herein by Order Nos. PSC-94-1574A-PCO-EG, issued January 13, 1995. In an earlier Proposed Agency Action order, Order No. PSC-95-0691-FOF-EG (the "PAA Order"), the Commission proposed to approve FPL's other proposed DSM programs, as well as those of Florida Power Corporation and Tampa Electric Company filed in their companion dockets. Peoples timely filed a protest of the PAA Order; that PAA Order, however, left the matter of FPL's CILC program for later action by the Commission. Order No. PSC-95-0691-FOF-EG at 13.

4. Peoples received notice of the Commission's interim decision when its counsel received a copy by facsimile

transmission from the Commission's Division of Records and Reporting on July 18, 1995.<sup>1</sup>

5. Peoples is a natural gas distribution company and a public utility as defined in Section 366.02(1), Florida Statutes, subject to the Commission's jurisdiction. Peoples provides natural gas service to approximately 210,000 residential, commercial, governmental, and industrial customers in 211 Florida cities in several geographic areas within the State. In accord with its Commission-approved Energy Conservation Plan, Peoples provides energy conservation information, advice, support, and services to eligible home-builders and homeowners who install gas appliances under specified conditions.

6. Florida Power & Light Company ("FPL") is a public utility subject to the Commission's jurisdiction under Chapter 366, Florida Statutes, providing retail electric service in most of the eastern half of Peninsular Florida and southwest Florida. FPL's and Peoples' service areas overlap in several geographic

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<sup>1</sup> Peoples includes this statement of how it received notice of the Commission's decision because of possible ambiguity in the procedural treatment of the approval of the CILC program per se, as distinguished from the tariff sheets by which FPL will implement the rates associated therewith. The Notice of Further Proceedings or Judicial Review provided at pages 5-6 of Order No. PSC-95-0865-FOF-EG refers only to the Commission's interim decision on the tariff. The procedural treatment of the approval of the CILC program is unclear, i.e., it is unclear whether (1) the CILC program is approved, on an interim basis subject to the filing of a request for formal proceeding, as an adjunct to the CILC tariffs, or (2) the Commission proposes to approve the CILC program by Order No. PSC-95-0865-FOF-EG in the manner of a Proposed Agency Action. The substantive pleading requirements are effectively the same, and the relief that Peoples requests (a formal proceeding pursuant to section 120.57) would be the same, for either procedural scenario, and Peoples has framed its Petition for Formal Proceeding accordingly.

areas. FPL's address is 9250 West Flagler Street, Miami, Florida 33174.

**SUBSTANTIAL INTERESTS AFFECTED**

7. Peoples has been granted intervention in this docket by Order No. PSC-95-1574A-PCO-EG. Consistent with the procedural requirements of Rule 25-22.036(7), F.A.C., for petitions, Peoples here essentially restates its substantial interests as discussed in its petition to intervene.

8. Peoples presently provides energy conservation advice, support, and services through ten energy conservation programs that comprise Peoples' Commission-approved Energy Conservation Plan. These programs provide significant energy conservation benefits via the efficient use of natural gas to displace electric generating capacity and energy.

9. The instant docket involves the review and approval of a conservation plan and programs by which FPL will be expected to achieve its established goals. Many of these proposed programs, including the CILC program, would, if implemented, affect Peoples' conservation programs by providing incentive payments, bill credits, and other inducements to customers to select electric end-use measures, with the practical effect of favoring such electric measures over natural gas appliances that serve the same end use applications. For example, electric "conservation" measures that provide incentives to commercial and industrial customers to use only electric water heating and space conditioning technologies will reduce the cost to such customers



of using electric technologies and will thereby induce some of those customers to select electric end use equipment over natural gas equipment, including those for which Peoples provides incentives, advice, and support via its Commission-approved conservation plan and programs. Such electric measures, including FPL's CILC program, will conflict with and undermine Peoples' approved energy conservation programs by inappropriately restricting and inhibiting customer choice of more efficient gas applications and technologies. Thus, the approval of a conservation plan and programs, and the CILC program in particular, for FPL will directly affect the substantial interests of Peoples and its general body of ratepayers.

10. The Commission Staff correctly noted in their May 4, 1995 recommendation and in subsequent correspondence that FPL's commercial-industrial load control program (as well as the comparable programs offered or proposed by Florida Power Corporation and Tampa Electric Company) may increase both peak electric demands and electric energy consumption and thus may be more correctly classified as load building or load retention programs. The Commission directed the Staff to conduct a workshop on these issues on September 5, 1995; this workshop was again noted in Order No. PSC-95-0865-FOF-EG. Peoples understands that this workshop has been cancelled since that Order was issued; even had it not been cancelled, such an undocketed workshop would not be sufficient to protect Peoples' interests: unless Peoples requests a formal proceeding on FPL's CILC program, by operation of law, Order No. PSC-95-0865-FOF-EG will

become final on August 8, 1995, and Peoples will be left without a point of entry to challenge the approval of FPL's CILC program.

**RENEWAL OF PAA PROTEST REGARDING  
PROGRAM PARTICIPATION STANDARDS**

11. To the extent necessary and applicable, Peoples renews its protest of the provisions of the Commission's earlier PAA Order issued in this docket, by which the Commission directed the Staff to administratively approve FPL's program participation standards "if they conform to the description of the programs contained in each utility's DSM plan." Order No. PSC-95-0691 at 13. Because the program participation standards for the CILC program are not specifically referenced in Order No. PSC-95-0865-FOF-EG, it may be ambiguous as to whether the Commission's directive to the Staff in the earlier PAA Order extends to the yet-to-be-filed program participation standards for the CILC program. Therefore, to the extent required to preserve its right to a hearing on those program participation standards, Peoples renews its protest of the applicable provisions of the PAA Order.

**ULTIMATE FACTS ALLEGED**

12. Gas technologies are available for many energy end use applications, including applications that would reduce electric peak demands and electric energy consumption and that would also reduce the use of petroleum as an electric generating fuel.

13. FPL's CILC program provides incentives to customers to choose electric end use technologies where the customers could otherwise choose gas end use technologies that would reduce

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13. FPL's CILC program provides incentives to customers to choose electric end use technologies where the customers could otherwise choose gas end use technologies that would reduce

electric peak demands and electric energy consumption. This DSM offering will therefore likely result in increased peak electric demands and increased energy consumption in violation of section 366.81, Florida Statutes. Accordingly, this DSM offering would more properly be classified as a load retention or load building program.

14. FPL's CILC program provides incentives to customers to choose electric technologies while denying comparable incentives to customers who would choose gas end use technologies that would similarly reduce electric peak demands and energy consumption. FPL's CILC program is discriminatory and therefore in violation of section 366.81, Florida Statutes.

15. For these reasons, FPL's CILC program is not appropriate for inclusion in an energy conservation program pursuant to the Florida Energy Efficiency and Conservation Act.

#### **DISPUTED ISSUES OF MATERIAL FACT**

16. Peoples believes that FPL will dispute Peoples allegations regarding the effects of its CILC program.

17. Peoples also believes that there will likely be mixed issues of fact and policy regarding the terms and conditions under which the CILC program is to be offered.

18. Peoples reserves its rights to raise additional specific issues relating to the above-described issues, and to provide its positions thereon, at the appropriate times and points in the proceeding.



19. Peoples will diligently review the proposed program participation standards for the CILC program when they are filed and will work with FPC and the Commission Staff to resolve disputes regarding those standards. Peoples enters this endeavor with the intent of resolving disputes without a hearing and of minimizing the scope of any hearing that will be held on irreconcilable disputes.

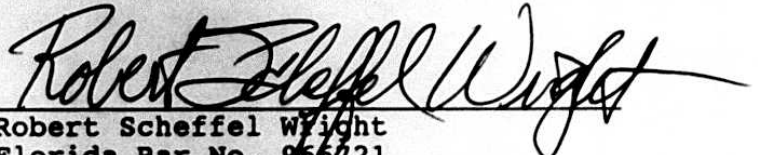
**STATUTES PROVIDING BASIS FOR RELIEF**

20. Peoples is entitled to relief under the Florida Energy Efficiency and Conservation Act. Section 366.81, Florida Statutes, prohibits discrimination on the basis of customers' use of efficient technologies, such as many natural gas applications. Section 366.81 is to be liberally construed to promote reduction in the growth of electric energy consumption and weather-sensitive peak electric demand. Pursuant to Section 366.82, Florida Statutes, Peoples has implemented its Commission-approved Energy Conservation Plan; as described above, approval of FPL's CILC program will conflict with and undermine Peoples' approved energy conservation programs.

**RELIEF REQUESTED**

**WHEREFORE**, Peoples Gas System respectfully prays the Commission to set this matter for hearing pursuant to section 120.57(1), Florida Statutes.

Respectfully submitted this 7th day of August, 1995.



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Attorneys for  
Peoples Gas System, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery (\*) or by United States Mail, postage prepaid, on the following individuals this 7th day of August, 1995:

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