FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center ● 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

December 26, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF ELECTRIC & GAS (FUTRELL) TB
DIVISION OF LEGAL SERVICES (WAGNER) RVE For LW JDJ

RE: DOCKET NO. 961002-EI - FLORIDA POWER AND LIGHT COMPANY - PETITION FOR APPROVAL OF MARKETING CONSERVATION RESEARCH AND DEVELOPMENT PROGRAM

AGENDA: 01/07/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\EAG\WP\961002EI.RCM

CASE BACKGROUND

In Order No. PSC-94-1313-FOF-EG issued on October 25, 1994, the Commission set numeric demand-side management (DSM) goals for the four largest investor-owned electric utilities (IOUs), including Florida Power and Light Company (FPL). In setting FPL's goals, the Commission acknowledged that research and development (R&D) efforts may produce additional energy and demand savings.

By Order No. PSC-95-0691-FOF-EG issued June 9, 1995, the Commission approved the DSM plans of the four largest investor-owned electric utilities. Included in FPL's DSM plan were four existing R&D programs, four new R&D programs, and its Conservation Research and Development (CRD) program. The CRD program serves as an umbrella program to research developing technologies for possible inclusion in future DSM programs.

In approving FPL's plan in 1995, the Commission required FPL to file detailed program participation standards. Staff was directed to administratively approve the standards if they conformed to the program descriptions approved by the Commission. These standards include participation requirements, details on how rebates or incentives are processed, technical specifications on eligible equipment, and reporting requirements. FPL timely filed its participation standards which staff reviewed and administratively approved.

The majority of FPL's DSM programs target the replacement of existing electric equipment with more energy efficient electric equipment. These types of programs include a monetary incentive to be paid or credited to the end-use customer, building owner, or designee for participating in the program. In approving these programs, the Commission reviewed the proposed incentives which are an input to the cost-effectiveness analysis for each program. Incentives directly affect the cost-effectiveness of the program, and ultimately the dollars to be recovered from the ratepayers in the Energy Conservation Cost Recovery Clause (ECCR).

FPL has now filed three additional R&D programs for Commission approval, including the instant Marketing Conservation Research and Development (MCRD) program. The MCRD program petition was filed on August 29, 1996.

FPL states in its petition that it has attempted to reduce the administrative cost of its DSM programs to be able to compete with less costly supply alternatives. Through its petition, FPL seeks to research and implement when proven, alternative incentive and marketing approaches to further reduce the overall cost of existing DSM programs. FPL has expressed a concern regarding lower than anticipated participation in some existing programs. FPL sees the MCRD as an opportunity to find incentive and marketing approaches which may increase participation in existing DSM programs.

As proposed, FPL's MCRD program allows FPL the flexibility to develop specific projects to test alternative incentive and/or marketing strategies for existing DSM programs. FPL states that examples of alternative incentive and marketing strategies include increasing or decreasing the incentive, when the incentive is paid (in season/off season), to whom the incentive is paid (sales person, distributor, manufacturer), types of incentives (financing, bill credits), adjunct incentives (providing duct repair if an HVAC unit is replaced), and communications approaches (such as promoting different incentive levels during different times of the year).

Details of each research project would be provided to staff in the form of modified program participation standards for the affected programs. The modified standards would indicate the strategy change, location of the test, test duration, projected costs, and other details pertinent to the test. At the end of the test project a decision would be made whether to include the results from the test project in the approved DSM program. After the test is completed, FPL would seek Commission approval of a program change to incorporate the new strategy within the program.

FPL proposes that staff review the modified program participation standards for each test project for several reasons: (a) none of the research efforts contemplated warrant an individual research and development project; (b) an umbrella effort avoids duplicative administrative costs and efforts associated with individual research projects; (c) individual program modification filings for approved programs for limited scope and duration research efforts would be costly and would delay research efforts; and (d) the filing of amended program standards before each test project would provide advance notice of ongoing research efforts.

FPL proposes that total cost for the MCRD be capped at $2,646,000 for the time period of October 1996 through September 1999, with an annual cap of no more than $1,134,000. FPL provided staff with additional information showing it is planning approximately seven individual test projects, with each project having a budget of approximately $378,000. These plans would be subject to change depending on the scope and nature of each test project.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve Florida Power and Light Company's Marketing Conservation Research and Development program, including approval for conservation cost recovery?

RECOMMENDATION: No. Approval of this program would be inconsistent with Section 366.82(3), Florida Statutes, as staff would have unprecedented authority to administratively approve monetary incentive changes to existing Commission-approved programs that affect cost-effectiveness. In addition, FPL's petition contains no clear proposal as to how results from sample points will be extrapolated to the whole system nor does the petition state whether any kW or kWh savings from the research will count toward meeting goals.

STAFF ANALYSIS: Staff recommends the program be denied for the following reasons:

- **Program unlawfully delegates statutory authority from the Commission to staff**

Approval of this petition gives staff authority to review and approve modifications to DSM programs in the form of changes to program participation standards. Section 366.82(3), Florida Statutes, states "Prior approval by the Commission shall be required to modify or discontinue a plan, or part thereof, which has been approved."

The Commission, not staff, has exercised authority over the review and approval of DSM programs and modifications to programs which affect cost-effectiveness. Staff has only reviewed DSM program participation standards for consistency with the program description approved by the Commission. In the past, changes to DSM programs such as changes to monetary incentives, and equipment changes have been proposed to the Commission in the form of a program modification petition.

By Order No. PSC-95-0398-FOF-EG, issued March 23, 1995 in Docket No. 950002-EG, the Commission disallowed recovery of certain incentive expenses for Peoples Gas System, Inc. (Peoples). The expenses disallowed were those incentives paid by Peoples prior to receiving Commission approval of a modification to one of its programs. The Commission stated in the order that utilities are responsible for obtaining prior approval of program changes before the utilities institute them if they wish to recover the program costs.

Approval of FPL's petition could result in FPL and possibly other IOUs bypassing the Commission by requesting staff approval of DSM program changes under the guise of changes to program participation standards. Staff believes that any change to a DSM program which affects cost-effectiveness should be reviewed by the Commission. Changes such as those proposed by FPL for staff approval could affect substantial interests. Final agency action which affects substantial interests requires a clear point of entry to a Section 120.57, Florida Statutes proceeding. FPL's proposal does not contemplate an approval process which affords persons whose substantial interests are affected the necessary opportunity for a hearing.

- **Approval of FPL's petition will likely result in numerous customer complaints**

FPL's petition is silent as to whether incentives will be increased or decreased. Low interest loans may be utilized requiring only staff approval. FPL would have the flexibility to target specific customer segments, and geographic areas for example. Staff believes that giving some customers an incentive pursuant to an existing approved program and another customer a different incentive for essentially the same thing begs for complaints from those customers receiving lower incentives.

- **FPL's petition contains no clear proposal as to how results from sample points will be extrapolated to the whole system**

Staff questions the statistical validity of the research proposal. Due to the sheer size of FPL's system, and the diversity of the commercial/industrial market, staff does not believe the project will generate data transferrable to all applicable customers.

- **FPL's petition does not state whether any kW or kWh savings from the research will count toward meeting goals**

Most FPL programs serve to reduce demand (kW). However, these kW saving programs may result in a kWh increase. An off-peak thermal storage program is one example. This leads staff to question that if the kW savings are counted toward the utility's DSM goals, should corresponding increases in kWh also be included? FPL's petition does not address this issue.

In a meeting with FPL, the above question was posed to which staff verbally received an unclear response. We understand that FPL wants to include kW and any kWh savings toward meeting its goals irrespective of whether a cost-effective program ever results.

- **Status of FPL's DSM Goals**

Staff recently asked the electric IOU's, in Docket No. 960002-EG, to evaluate each DSM program using the Commission's cost-effectiveness tests and each company's most recent planning assumptions. FPL stated that currently, 13 of its 15 DSM programs fail the Rate Impact Measure (RIM) test. FPL maintains that additional analyses would be necessary in order to determine whether any or all of the programs should continue to be offered. FPL states that it is in the process of reanalyzing all of its DSM programs, and that program modifications, changes to FPL's DSM goals, or other actions may be necessary when FPL has completed its work.

Competition at the wholesale level has lowered generation costs. The permanence of these lowered costs appear to be long lasting in the time frame of DSM programs and the time to which the goals are re-set. All things being equal, lower avoided generation cost makes DSM less cost-effective. Despite lower avoided costs, and the anticipated restructuring of the electric utility industry, FPL is faced with meeting its DSM goals. If FPL does not believe it can meet its goals with cost-effective programs, staff believes FPL should request that its goals be modified.

The fundamental issue is that the goals may need re-setting, particularly for FPL. If 13 of FPL's 15 DSM programs remain non cost-effective, staff plans to recommend that FPL's goals be re-set before 1999. Programs are proving to be too inflexible to respond to dramatically changing prices on the wholesale market.

ISSUE 2: If the Commission approves Florida Power and Light Company's Marketing Conservation Research and Development program, should Florida Power and Light Company allocate individual research project cost to the rate class(es) to which research projects are targeted?

RECOMMENDATION: Yes. Allocation of individual research project cost to the rate classes to which the research project is targeted, will diffuse the impact of the Marketing Conservation Research and Development program being used as a competitive tool.

STAFF ANALYSIS: In September 1996, the Commission's Division of Research and Regulatory Review (RRR) published its "Review of Commercial/Industrial Demand-Side Management Programs of Six Florida Utilities." This report in part analyzed the C/I DSM programs of four electric, including FPL, and two gas IOUs. The report also examined the effect of C/I DSM programs on the competitive relationship between the electric and gas industries. One of the conclusions from the study is that the promotion, advertising, and operation of C/I DSM programs play significant roles in the competition between the electric and natural gas utilities examined. It was concluded that FPL takes an aggressive stance that counters the gas industry's marketing of newly developed natural gas appliances. Some of FPL's advertising was deemed not to be fuel neutral. The fact that electricity and natural gas compete for certain customer end-uses is apparent. Page 79 of the report states in part:

> In staff's opinion, it is unrealistic to expect DSM programs to have no effect on the competitive balance, or to expect such programs would not be used as marketing tools....However, the customers targeted by commercial/industrial DSM programs are frequently well-informed energy consumers who are capable of evaluating the claims made by competing energy providers. Many of these customers rely upon the expertise of an on-staff facilities engineer or outside energy services company to control energy-related costs, and are less likely to be confused or misled by an energy providers proposal.

Page 11 of the RRR report states:

> The Commission's policy on fuel neutrality was addressed in FPSC order Nos. 9974 and 12179, issued in 1981 and 1983. In order No. 9974, the Commission raised concerns about the lack of "source neutrality" of certain DSM program incentives. Specifically, the Commission wanted to ensure that customers who choose alternative fuel sources would be eligible to receive financial incentives offered through DSM programs.
>
> An additional concern was raised in order No. 12179 where Commission staff were instructed to examine each utility's fuel source neutrality policies and practices. In that order, the Commission concluded that 'any program that contains rebates or subsidies having the objective of avoiding or eliminating (new or existing) electrical resistance space or water heating should be implemented in a manner that is consistent with the conservation goal of promoting the use of natural gas as a substitute or a replacement for electrical energy where to do so is cost effective.'
>
> In other words, in order to achieve the ultimate goal of 'increasing the efficiency of the electric systems in Florida', DSM programs should be promoted and implemented in a fuel source neutral mode. Alternative fuels should be considered when deemed cost effective. However, the competitive environment of the 1990's has increased the difficulty for both electric utilities and gas utilities to achieve a 'fuel neutral approach' to demand side management.

Page 40 of the RRR report states:

> Staff believes that some of the competitive advertising by FPL is not fuel neutral. FPL appears to believe some gas competitors have misled customers while switching them to gas

> applications. Though the advertisements cited may have some educational value, they also imply to customers that gas is not a viable alternative to electricity. Rather than specifically comparing costs and performance differences, the debate pits one fuel against another. Staff believes this use of conservation programs as a competitive tool was not intended by FEECA or the Commission.

The advertisements cited by the RRR report are contained in Attachment 1 and serve as an example of what has taken place under the current regulatory environment. Conservation ads for which cost recovery is sought should be objective and factual both in content as well as overall context. We agree with the staff of RRR that the ads contained in Attachment 1 contain no facts but instead suggest that the customer consider all of his options before making a choice. This highlights the difficulty in determining if an advertisement is promoting conservation, competing with the "opposite" fuel, or both.

While the Commission may never be able to achieve a scenario in which a customer can receive unbiased advice from either an electric or natural gas utility, staff does believe that program costs that are recovered through the ECCR should not be used as marketing tools or position a utility for competition in a retail access environment. The incentive to use DSM the associated cost recovery for these purposes is lessened by allocating program costs to the customer class that is eligible to participate in the program. Allocating cost recovery of programs to rate classes with "at-risk" customers reduces the incentive for utilities to use DSM for competitive purposes because doing so raises the rates of the "at-risk" customers. If no changes are made to DSM program cost recovery approval requirements, these same types of actions will continue in to the future.

Staff is concerned that approval of the MCRD program will give FPL a greater opportunity to use ECCR dollars for competitive purposes. As proposed, the program could be used to modify existing programs with direct natural gas alternatives, and could allow FPL to target specific at-risk customers. FPL's C/I Heating, Ventilating, and Air Conditioning (HVAC) program provides incentives for the installation of several types of electric equipment which have some natural gas-fired alternatives. Approval of the MCRD program would allow FPL the latitude to offer higher incentives for specific electric equipment in the C/I HVAC program. FPL would also be able to target specific geographic areas where gas is currently available or where gas may expand. The potential also exists for FPL to target specific customers who are at-risk of leaving FPL's system or who have plans for expansion to a gas-fired alternative or self-generation. FPL would only need staff approval for such "test projects" under the MCRD.

There has been an increase in the number of R&D programs offered by utilities. These programs do not require a cost-effectiveness analysis, yet the costs of these programs are paid by all customers. Several of these have been granted extensions in time, sometimes increasing the total time period to twice that originally proposed. Many R&D installations provide benefits to the participating customer for several years, even if the measure turns out not to be cost-effective to the general body of ratepayers under the Rate Impact Measure (RIM) test. Also, R&D programs offer a short term marketing tool to secure customers for the long term.

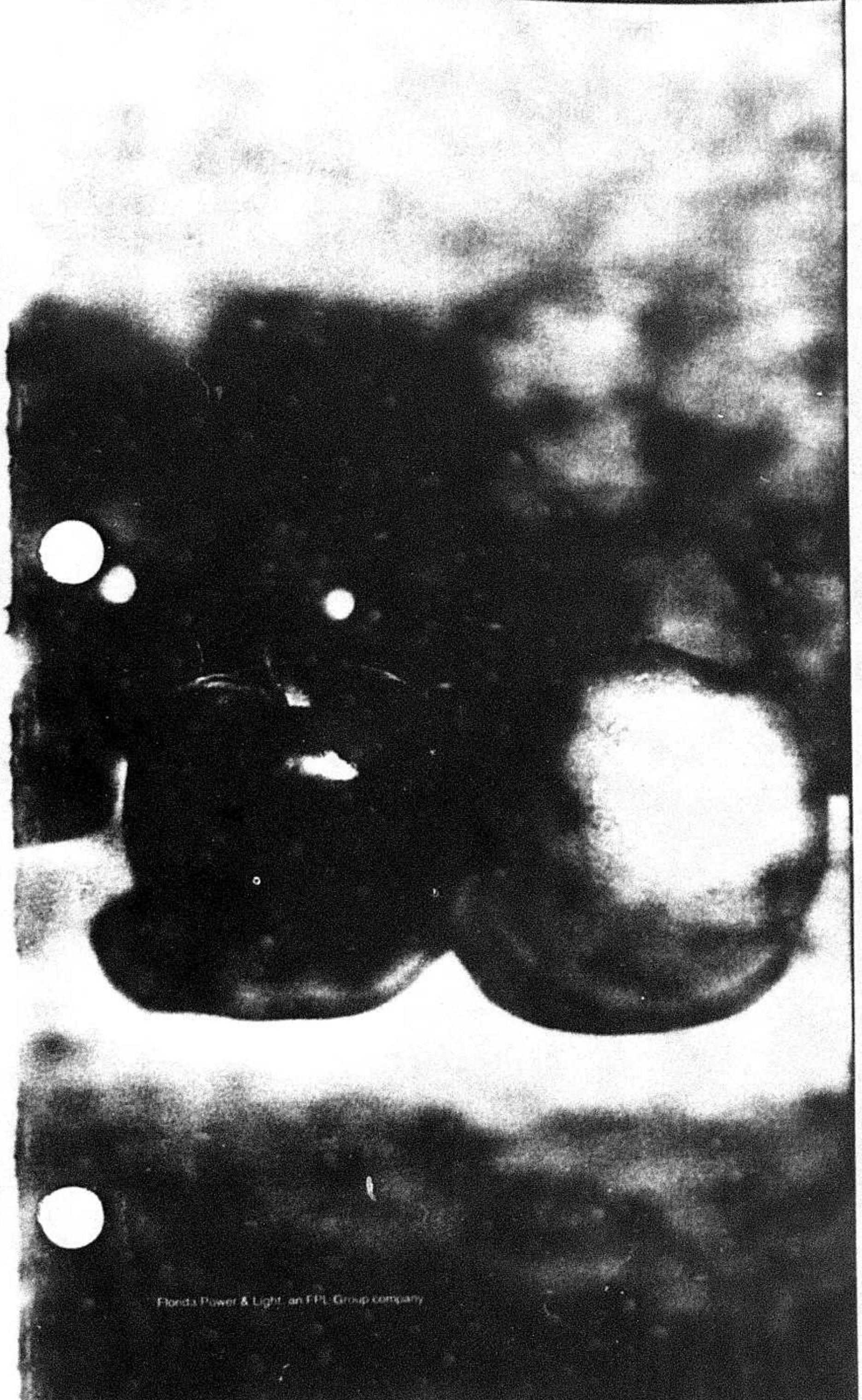
In summary, if the MCRD program is approved, staff recommends that the costs for the MCRD program be allocated to the customer class eligible to participate in individual research projects associated with the program.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the Commission's proposed agency action, files a protest within twenty-one days of issuance of this order, this docket should be closed.

STAFF ANALYSIS: If no person whose substantial interests are affected, files a request for a Section 120.57, Florida Statutes, hearing within twenty-one days of issuance of this order, no further action will be required and this docket should be closed.

OTHER ENERGY SOURCES MAY CLAIM THAT THEY ARE SAVING YOU MONEY, BUT WHAT ARE THEY REALLY COMPARING?



Before you consider switching to gas-fired air conditioning equipment, be sure you are comparing apples to apples. What you're hearing from the gas company may sound good, but it may not be the whole story.

So before you make a decision, call us. We'll analyze the real energy and money-saving potential in your current proposal. Or develop an alternate for you, including how your facility can qualify for our conservation incentives. We'll review your energy usage patterns, month-by-month load, cooling requirements, and load profiles by time of day. We'll calculate comparable capital improvement, financing and operating costs. If their proposal is sound, we'll tell you so. Either way, you'll know you're making a fair comparison.

To schedule an appointment, or to learn whether your facility qualifies for any of our incentives for making energy-saving improvements, call your FPL account manager or *1-800-FPL-5566*.

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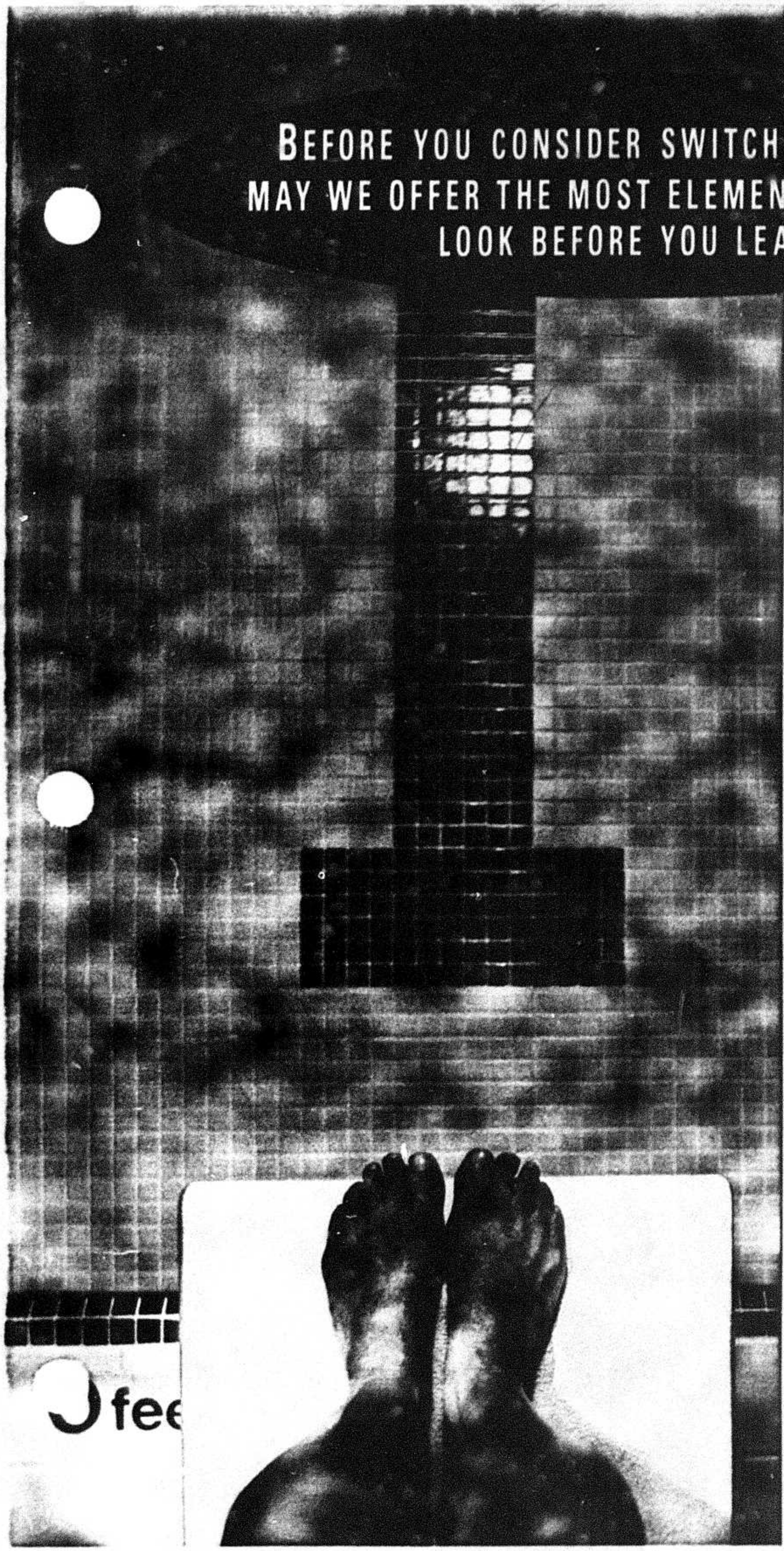
BEFORE YOU CONSIDER SWITCHING TO GAS, MAY WE OFFER THE MOST ELEMENTARY ADVICE: LOOK BEFORE YOU LEAP.



A lot of companies might claim to offer a more cost-efficient alternative to electric power. What you're hearing may sound good, but it may not be the whole story. Before you consider switching, we offer the following advice: Call us.

We'll analyze the real energy and money-saving potential in your current proposal. Or develop an alternate for you, including how your facility can qualify for our conservation incentives. We'll review your energy usage patterns, month by month load, cooling requirements, and load profiles by time of day. We'll calculate comparable capital improvement, financing and operating costs. If their proposal is sound, we'll tell you so. Either way, you'll know you're not jumping to the wrong conclusion.

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