

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of) DOCKET NO. 951536-EG
BuildSmart Program by Florida) ORDER NO. PSC-97-0556-PCO-EG
Power & Light Company.) ISSUED: May 16, 1997
_____)

ORDER GRANTING MOTION FOR LEAVE TO FURTHER AMEND PETITION

On April, 11, 1997, Florida Power & Light Company (FPL), by and through its undersigned attorneys, filed a Motion For Leave To Further Amend Petition in Docket No. 951536-EG. FPL requests that the Commission allow it to amend its July 17, 1996, petition for approval of its BuildSmart Program.

Order No. PSC-93-0339-FOF-EG, Docket No. 921034-EG, March 4, 1993, approved cost recovery for the New Home Construction Research Project as part of FPL's Conservation Plan. The BuildSmart Pilot Project and resulting BuildSmart Program (Program) are a significant part of the New Home Construction Research Project.

On December 7, 1995, FPL filed a petition seeking approval of its BuildSmart Program. On April 18, 1996, the Commission staff issued a Recommendation that the Commission deny the Program because the Program was not cost-effective when analyzed using FPL's current planning assumptions.

On July 17, 1996, FPL filed a motion to amend its December 7, 1995, petition for approval of the Program. On September 11, 1996, the Prehearing Officer granted FPL leave to amend its petition.

The Commission considered FPL's amended petition at the regularly scheduled Agenda Conference on January 7, 1997, and denied program approval. Order No. PSC-97-0092-FOF-EG. On February 14, 1997, FPL petitioned the Commission for a hearing on the amended Program, protesting the Commission's denial in the Proposed Agency Action Order.

FPL seeks to further amend the BuildSmart Program by restoring the costs of the final inspection to the BuildSmart Program and updating the cost-effectiveness analysis underlying the Program filing to reflect FPL's most recently completed planning process. In addition, FPL seeks to allay concerns about whether the Program is marginally cost-effective and about shifting part of the costs of the Program to the FPL's Residential Conservation Service Program.

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Both of these positions are listed as bases for issuing the Proposed Agency Action Order denying approval of the amended Program.

The time for filing a responsive pleading to FPL's Motion For Leave To Further Amend Petition has passed with no objection having been filed. Pursuant to Rule 25-22.036(8), Florida Administrative Code, FPL may amend its initial pleading after the designation of the presiding officer only upon order of the presiding officer.


Good cause having been shown, FPL's request to amend the BuildSmart Program petition in order to allow further review of the program under more current planning assumptions is granted.

Based on the foregoing, it is

ORDERED by Commissioner Joe Garcia, as Prehearing Officer, that Florida Power & Light Company's Motion For Leave To Further Amend Petition is granted.

ORDERED that this docket remain open pending final resolution of the docket.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 16th day of May 1997.


JOE GARCIA, Commissioner and
Prehearing Officer

(S E A L)

LJP

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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.

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 25-22.0376, 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.