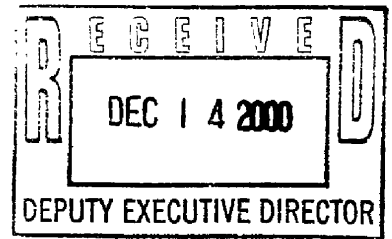


MEMORANDUM

December 14, 2000



TO: CHAIRMAN DEASON

FROM: DIVISION OF LEGAL SERVICES (STERN) *RVE*
 DIVISION OF ECONOMIC REGULATION (E. DRAPER)
 DIVISION OF SAFETY AND ELECTRIC RELIABILITY (LEE)

RE: REQUEST TO MODIFY RECOMMENDATION OF ITEM 29 OF THE
 DECEMBER 19, 2000, AGENDA CONFERENCE

Staff must make a revision to its recommendation in Item 29 of the December 19, 2000, Agenda Conference. Item 29 is staff's recommendation in Docket No. 001579-EI - Petition for Approval of a Performance Guaranty Agreement by Florida Power & Light. This is a tariff filing under Section 366.04, Florida Statutes. This statute requires that the Commission either suspend, approve or deny the proposed tariff within 60 days of its being filed. The December 19, 2000, Agenda Conference is the last agenda conference in the 60 day period. Therefore, staff requests permission to revise the recommendation.

The modification is minor. Staff recommended that the tariff be approved with monitoring of projected revenues. After discussion with Florida Power & Light, staff believes that actual revenues should be monitored in addition to projected revenues. The page of the recommendation that would be changed is attached to this memo.

MKS
 cc: Division of Legal Service
 Division of Economic Regulation
 Division of Safety and Electric reliability

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demonstrating the level of load that must materialize over the three-year period in order to offset the Performance Guaranty. FPL believes that the agreement provides an incentive to the applicant to correctly identify the level of service needed. Staff has reviewed sample analyses provided by FPL that demonstrate that if the projected loads of these types of customers do materialize, they most likely will receive a full refund of the Performance Guaranty.

While the staff believes that FPL's proposed agreement is appropriate, the staff has some concerns that the agreement includes no precise mechanism for determining when a performance guaranty will be required from a customer. Deciding when to require a performance guaranty is left entirely to FPL's discretion. For this reason, FPL's use of the agreement should be monitored for a minimum of two years.

To monitor the application of the tariff, the staff proposes that FPL file with the Commission annual monitoring reports that include the following information: 1) for each agreement executed, FPL should provide the amount of the performance guaranty requested and the total projected and earned revenues for a 3-year period, and 2) for all telecommunications and internet service providers, or similar customers, who request service which requires a significant upgrade of existing facilities as envisioned under the tariff language, and who were not required to execute an agreement, FPL should provide an explanation as to why the applicant was not required to sign the agreement. The purpose of the second filing requirement is to ensure that all similarly customers are being treated fairly.

The reports should be submitted once a year for at least two years. The reports should be filed with the Commission for the staff to review no later than March 1 for the previous year's monitoring.

In summary, the staff believes that FPL's proposed Performance Guaranty Agreement is appropriate, and should be approved. The agreement should ensure that the general body of ratepayers will not be burdened with an investment in facilities that are not needed, and will provide incentive to customers to realistically estimate their need for electric service.