

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light Company for approval of residential on-call research project and for waiver of Rule 25-6.0438(4)(c), F.A.C., or for issuance of order stating rule does not apply.

DOCKET NO. 010561-EI
ORDER NO. PSC-01-1802-PAA-EI
ISSUED: September 6, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING PETITION FOR APPROVAL OF
RESIDENTIAL ON-CALL RESEARCH PROJECT

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

On April 20, 2001, Florida Power and Light Company (FPL) filed a petition for approval of a residential load management research project and associated tariffs. FPL's existing On Call program is a Commission-approved residential load management program, the expenses of which are recovered through the Energy Conservation Cost Recovery Clause. The proposed research project would test

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the effect lower monetary credits and different marketing strategies would have on participation in the On Call program.

FPL seeks to determine, through the proposed research project, whether lower credits, in conjunction with a new marketing strategy, would not adversely affect participation in its residential load management program (On Call). On Call is FPL's largest Demand Side Management (DSM) program, in terms of costs. Expenses associated with the On Call program, in calendar year 2000, amounted to \$65,868,592 which is approximately 42 percent of FPL's total expenses recoverable through the Energy Conservation Cost Recovery (ECCR) Clause. FPL's market survey research indicates that credits could be reduced which would lessen ECCR expenses by approximately \$23 million per year.

FPL's market survey research was conducted from August - September 1999 by ACNielsen BASES under contract with FPL. Surveys were mailed to a sample of On Call participants and non-participants. Each respondent was provided a new description of the On Call program, one of four possible credit levels for eligible equipment, and a questionnaire designed to measure the customer's acceptance of the program. Survey results indicated that reducing average credits from \$79 to \$45 per year, combined with a new program description, would result in a loss of ten percent of FPL's On Call participants. As of April 2001, 667,500 customers participated in the program. FPL estimates that the On Call program will amount to 784 MW in the summer of 2001, and 1,403 MW in the winter of 2001/2002. The survey research also found that new program sign-ups would not be harmed, in fact may slightly increase, with lower credits and the new program description. Program participation, within the past year, has increased between 2,000 and 3,000 customers per month.

The total cost for the ACNielsen BASES survey was \$135,200. FPL was not required to, and did not seek prior approval to perform this survey. FPL charged \$96,800 to ECCR Common Expenses, and \$38,400 to the On Call program. These expenses have been recovered through the ECCR Clause.

FPL proposes to identify three groups of customers to be involved in the research project. A group of 750 existing On Call customers would be selected and notified of a credit reduction.

The monthly water heating credit would be lowered from \$3.50 to \$1.50. The monthly air conditioning credit for the period April-October would be lowered from \$6.00 to \$3.00. Included in the notice would be the new program description.

A second group of 625 new On Call customers would be selected and offered the program with the lower credits described above, and the new program description. A third group of 625 customers who are moving into locations where On Call equipment has been installed would be offered the program with the lower credits and new program description. FPL believes the sample sizes are appropriate in order to have a statistically significant result. Approximately 500 customers are needed in each group. A larger number of existing On Call customers has been targeted due to an expected higher drop-out rate, since these customers will actually have their credits reduced.

On June 27, 2001, we suspended FPL's proposed tariff RSLX by Order No. PSC-01-1376-PCO-EI, to obtain more supporting data and to allow additional time to evaluate the petition.

In its petition, FPL also seeks a waiver of Rule 25-6.0438(4)(c), Florida Administrative Code, or in the alternative, a ruling that the rule does not apply. This rule requires that when a utility proposes a change to any of its non-firm services, it must provide written notice to each affected customer.

Pursuant to Section 120.542(6), Florida Statutes, notice of FPL's petition was submitted to the Secretary of State for publication in the July 20, 2001, Florida Administrative Weekly. The 14-day comment period provided by Rule 28-104.003, Florida Administrative Code, expired on August 3, 2001. No comments were received.

FPL agreed to waive the requirements of Section 120.542(8), Florida Statutes, which requires an agency to grant or deny a petition for waiver within 90 days after receipt of the original petition.

This order addresses both the petition for approval of the proposed research project and the requested rule waiver. We have jurisdiction over these matters pursuant to Sections 120.542,

366.81 and 366.82, Florida Statutes. By this order, we deny the petition for approval of the proposed research project. Based on this determination, we find that the requested rule waiver is moot.

RESIDENTIAL ON CALL RESEARCH PROJECT

FPL believes that despite the findings of its survey research, a field test research project designed to measure customer response to actual changes in credits and marketing changes, or program description changes, should be conducted prior to implementing system-wide program changes.

FPL proposes to conduct the research from November 1, 2001 to October 31, 2002. At the conclusion of the research, each participating customer will receive a credit equal to the difference between the credit under rate schedule RSL and the credit under the proposed rate schedule RSLX, times the number of months the customer took service under RSLX. The credits shall be paid with interest pursuant to Rule 25-6.109(4),(5), Florida Administrative Code.

Critical to the success of this research project is the extent to which participants are kept "in the dark" regarding the nature of the research. This despite the existence of public records at this Commission on the project, as well as potential word-of-mouth from other customers which could bias the research. Participants will not be told of the research, or that they will be made whole with interest at the end of the project. An existing On Call customer, who experiences a reduction in his or her credits and is aware of this provision, may respond differently from those customers who are unaware of the make whole provision. FPL is essentially banking on enough participants not having knowledge of the research in order to achieve statistically significant results.

FP&L's On Call program remains cost-effective even under today's assumptions of avoided generation cost. At issue is not whether FP&L should reduce the credits, but should FP&L expend additional monies on a pilot program to supposedly test customer response to a reduced credit. When Florida Power Corporation (FPC) petitioned the Commission to reduce the credits contained in its residential load management program, the program was no longer cost-effective. Therefore, FPC was faced with two choices: either

close the program to new participants and allow attrition to reduce the amount of current customers, or reduce the credits to all customers and continue to offer the program. The Commission and FPC were deluged with customer complaints regarding the reduced credits. Many customers believed that it was their right to retain the credit, even if it resulted in higher costs to other ratepayers. Ultimately, the reduced credit was approved and FPC experienced a net decrease in total customers for a period of only two months. Within six months, new customer participation quickly overcame the short term drop-off rate such that the total customer participation levels were once again increasing. The lessons learned from the FPC experience are valuable. It is clear that when credits are reduced, some customers will be unhappy. However, FPC was forced to reduce credits to at least a certain level in order to make the program cost-effective to all ratepayers while FP&L has the discretion to reduce credits in small increments.

FP&L contends that a reduction in credits could result in approximately \$23 million in savings and that spending \$247,500 up front to solidify this estimate is money well spent. While the amount of the pilot program pales in comparison with the estimated savings, it is not clear that the pilot will result in more accurate estimates of drop-offs than the initial survey. The initial survey concluded that a reduction in credits coupled with a new program delivery method, should yield a drop-off rate of approximately 10%. A 10% drop-off would result in approximately 80 MW of additional summer load on FP&L's system. While not trivial, this additional load would result in a decrease in reserve margin of approximately 0.5%. We question how the pilot program could yield any clearer results when participants will receive a refund of all reduced credits, including interest. FPL would like the customers to be unaware of this fact, but the proposed tariff includes the refund with interest language. Therefore, FPL is hoping that customers do not read the Commission's Order or the tariff before signing in order to obtain valid experiment results. At the agenda conference, FPL offered to eliminate the refund provision. We still do not believe that this proposed pilot is a prudent course of action. To truly test customer reaction, the credits should be reduced across the board. Therefore, we deny FPL's petition for approval of the proposed residential On Call research project. In reaching this decision, we are not unmindful of the potentially significant savings to ratepayers associated

with increasing the cost-effectiveness of this program. To that end, we direct staff to work with the utility to explore alternatives to the proposed research project.

REQUESTED RULE WAIVER

Given our decision to deny the proposed research project, FPL's request for a waiver of, or alternative determination that Rule 25-6.0438(4)(c), Florida Administrative Code, does not apply is moot.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that FPL's petition for approval of the proposed residential On Call research project is denied. It is further

ORDERED that FPL's request for a waiver of, or alternative determination that Rule 25-6.0438(4)(c), Florida Administrative Code, does not apply, is moot. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

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ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 6th day of September, 2001.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

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Commissioner Baez dissents.

NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

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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.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 27, 2001.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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.