

CALCS PLUS ORIGINAL

INDOOR ENVIRONMENTAL CONSULTANTS

417-F Commercial Court

Venice, FL 34292

www.calcs-plus.com

RECEIVED-FPSC

04 NOV 15 PM 3:08

COMMISSION

FAX (941) 488-3834 CLERK

(941) 488-1700

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power & Light)	Docket No. <u>040660</u>
Company for Approval of)	
Modifications to its BuildSmart™)	
Program)	November 12, 2004

PROTEST OF MODIFICATIONS TO FLORIDA POWER & LIGHT COMPANY BUILDSMART™ PROGRAM APPROVED BY THE PUBLIC SERVICE COMMISSION

This protest is filed by Compliance Data Services, Inc. (dba Calcs-Plus), a business incorporated in the State of Florida providing Indoor Air Quality (IAQ) services, State Energy Code (600-A) and Manual-J Mechanical Load calculations, State Building Energy Efficiency Ratings (BERS Audits aka "BERS Ratings", "HERS Ratings" and "Energy Star Ratings").

The grounds for this Protest are:

1. Calcs-Plus address is 417-F Commercial Court, Venice, FL 34292. Correspondence, notices,

orders and other documents concerning this Protest should be sent to:

CMP _____		
COM _____	Dennis J. Stroer	Jon F. Klongerbo
CTR _____	Calcs-Plus	Calcs-Plus
ECR _____	President	Florida East Coast Director
GCL _____	417-F Commercial Court	1351 Park Ave.
OPC _____	Venice, Florida 34292	Titusville, Florida 32780
	Telephone:(941)488-1700	Telephone: (321) 231-0576
	Facsimile: (941) 488-3834	

MMS _____ In the Public Service Memorandum dated September 23, 2004 (Colson, Brown) it is our strong

RCA _____

SCR _____

SEC _____

OTH _____

DOCUMENT NUMBER-DATE

12176 NOV 15 04

FPSC-COMMISSION CLERK

opinion that PSC Staff failed to conduct an adequate investigation of the facts and issues resulting in multiple errors and violations of State Statutes and Rules if the petition is approved.

In the Memorandum, PSC Staff stated on page 3, Staff Analysis, "*The Florida Energy Efficiency Code requires that newly constructed homes have an energy efficiency performance index (EPI) rating of 100 or less*". Calcs-Plus has performed thousands of State 600-A calculations for new construction. This is also known as "Energy Code Compliance" forms. The Code, interpreted by the Florida Building Commission (FBC), is based upon an e-ratio, which is a ratio of As-built points as constructed divided by the Baseline house points. The house passes code or does not pass code based upon the ratio. A value of 1.00 is exactly passing and everything above 1.00 fails code. It is our strong opinion the PSC staff did not investigate the State's Energy Code, as administered by the Florida Building Commission and relied upon incorrect information fed to them by FPL in their petition to provide Staff findings to the commissioners.

Page 4, under "Introduce a Prescriptive Approach". PSC Staff agrees with FPL that "... *specific prescriptive energy measures targeted to achieve an energy efficiency rating at least 10% better than the rating required by the Florida Energy Efficiency Code*". The Florida Energy Code does not require a "rating" to comply. The exact definitions of a Rating and classifications of those terms from DCA are as follows (Rule 9B-60.002 Definitions):

(17) Rating Class for Residential Buildings -- the category of an energy rating, based on the source of the input data which are used by the Florida Building Energy Rating System to compute the energy and cost estimates of the energy rating, and consisting of the following three Classes:

- (a) Class 1 Rating -- an energy rating, conducted in accordance with Rule 9B-60, using site energy audit and performance test data as the sources for the input data on which the rating is based.
- (b) Class 2 Rating -- an energy rating, conducted in accordance with Rule 9B-60, using site energy audit data as the source for the input data on which the rating is based.
- (c) Class 3 Rating -- a projected energy rating, reserved for new buildings and clearly labeled as "projected rating based on plans" that is conducted in accordance with Rule 9B-60 using plans and construction documents as the sources for the input data on which the rating is based

It appears that both PSC Staff and FPL are confused on the differences between State Code compliance and the Florida Building Energy Rating System. Correspondence with the State Agencies that has been tasked by Statute to interpret Energy Code Compliance and the BERS system would seem to be an elementary requirement for an investigation. Neither FPL nor PSC Staff are authorized by the FBC or DCA to interpret the State's Energy Code or the State's BERS program.

5. Page 4, under *"Eliminate program participation fees...FPL believes that eliminating the basic service fee will not only increase the number of BuildSmart homes built by production builders but will also have a positive effect on the number of custom built homes that participate in the program."*

Florida Administrative Code Chapter 25-17.003(4a) states:

(4) Energy Audit Charges:

(a) Every public utility shall charge an eligible customer for a BERS Audit. The amount of this charge, which shall reflect actual cost, shall first be filed with the Commission as part of the utility's tariff.

There is no provision to excuse FP&L from charging new construction customers for a BERS Audit. It is our contention that FP&L has been violating this Statute with either the PSC's knowledge or because of PSC's ignorance of the Statute. It appears that PSC Staff approves of free ratings to be subsidized by the general ratepayer for new construction customers that may have not even have paid into the ECCR fund (emphasis added).

6. Page 5, paragraph 3. *"FPL has used the Commission-approved cost-effectiveness methodologies required by Rule 25-17.008, Florida Administrative Code, and the planning assumptions out of FPL's 2005 – 2014 Ten-Year Site Plan to determine the cost effectiveness of this program. These analyses show that the benefit-to cost ratios are; 1.77 Participants, 1.05 rate impact measure (RIM), and 1.10 total resource cost (TRC) for the BuildSmart program."*

The PSC Staff accepted FPL's analysis of the cost effectiveness of their BuildSmart™ program without requiring an independent verification of the results. It is interesting to note that Municipal Utilities required to comply with the Florida Energy Efficiency Conservation Act (FEECA) have found these programs cost ineffective. These methodologies are inadequate to measure the effect of a free market program whereas customers pay for a BERS Audit (as required by law) versus the inefficiency of a State-subsidized, Investor Owned Utility program and the actual cost of the program to the ratepayer.

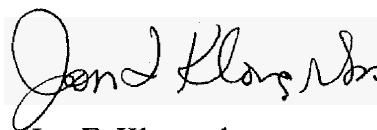
CONCLUSION

It is our strong opinion that the PSC Staff has failed to provide the Commissioners with a satisfactory analysis of FPL's BuildSmart™ program. Modifications to this program will not result in any benefits to the ratepayers however; elimination of the program will result in substantial savings to the ratepayer. This State-subsidized Program has already drained millions of dollars from ratepayers and has to date been responsible for only labeling only 301 homes in their entire service area as *Energy Star* as of this date. Based upon the exorbitant cost to the ratepayer for "Free" BERS Audits provided to new construction builders in apparent violation to State Statutes, it is respectfully requested by the Commissioners to re-evaluate FPL's request on modifications and to further investigate apparent violations of State Statutes by FPL.

Signed,



Dennis J. Stroer
President
Calcs-Plus



Jon F. Klongerbo
East Coast Director
Calcs-Plus

Copy To:

Ann Stanton (DCA)
Philip Fairey III (FSEC)