

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of )  
modifications to BuildSmart Program )  
by Florida Power & Light Company )  
\_\_\_\_\_ )

Docket Nos. 040660-EG and 040029-EG  
Consolidated

Dated: July 22, 2005

COMPLIANCE DATA SERVICES, INC. ("Calcs-Plus") RESPONSES TO  
FLORIDA POWER & LIGHT COMPANY'S ("FPL")  
FIRST REQUEST FOR ADMISSIONS (NOS. 1- 10)

Compliance Data Services, Inc. ("Calcs-Plus") and its principals, Dennis J. Stroer and Jon F. Klongerbo, file the following responses to FPL's first request for admissions dated June 22, 2005.

Florida Power & Light Company requests that Calcs-Plus admit to the truth or not of the following statements:

- 1. Participation in BuildSmart is not mandatory for FPL's customers.

Answer: True.

- 2. A criterion of "maximizing the potential for energy efficiency" is not part of the Commission's three-pronged test for approval of utility conservation programs.

Answer: Although not part of the three prong test articulated in several documents, it should certainly be a consideration when reviewing and approving an individual demand side management program that involves requiring ratepayers to pay cost recovery to the utility for the costs associated with the program. It is certainly flows from the purpose found in Sections 366.80 through 366.85, Florida Statutes, also known as the "Florida Energy Efficiency and Conservation Act" (FEECA).

- 3. The objectives of FPL's demand-side management programs are dictated by the Florida Energy Efficiency Conservation Act.

Answer: True in part. They certainly flow from the purpose found in Sections 366.80 through 366.85, Florida Statutes, also known as the "Florida Energy Efficiency and Conservation Act" (FEECA); however, other portions of chapter 366 are relevant to the objectives as well as PSC Rule Chapter 17, Florida Administrative Code ("F.A.C.").

- 4. The revised BuildSmart Program is designed to encourage builders to consider pursuing heightened energy efficiency levels, including ENERGY STAR certification, which will serve as an enabler for state-certified rater services.

*Answer: False. The revised BuildSmart program, as modified, reduces already weak support for heightened energy efficiency level and for achieving Energy Star certification and certainly serves the opposite of an enabler for state-certified rater services.*

**5. FPL's revised BuildSmart Program does not require a BERS Rating.**

*Answer: True. It attempts to avoid providing a true, individual measurement of building performance that is the hallmark of a BERS rating and instead tries to establish "free" services (to the participating builder; not the ratepayer) that are often similar to rating services and avoids the quality control implicit in the BERS rating system.*

**6. FPL's BuildSmart Program is not regulated by the Florida Department of Community Affairs.**

*Answer: Not necessarily true. On the face, the program is clearly regulated (and cost recovered) through the Florida Public Service Commission. But the failure to follow BERS rating system regulation for establishing proper measurement and monitoring of residential energy efficiency is also the subject matter of the Florida Department of Community Affairs whether done by a government agent, a utility employee or an independent small Florida businessperson.*

**7. BuildSmart and BERS are different programs.**

*Answer: Partially true to the extent that direct measurement of residential energy efficiency performance is not performed; however, in order to evaluate the performance of a residence vis a vis the Florida Building Code requires a "de facto," if not "de jure," rating.*

**8. This docket is related to the BuildSmart Program.**

*Answer: Not true; it is now also related to the Residential Conservation Service Program.*

**9. The objective of FPL's BuildSmart Program is to promote the objectives of FEECA.**

*Answer: True in part. See the answer to item 3 above.*

**10. The Commission does not have statutory authority to design and establish conservation programs, including BuildSmart.**

*Answer: False. Under certain conditions the Commission does have the power; however, in this case, we believe the Commission clearly has the power to reject any program design that fails to meet the tests of Florida law and further that imposes unnecessary costs on all ratepayers subject to the compulsory cost recovery mechanism.*

I HEREBY CERTIFY that I am an authorized representative of Compliance Data Services, Inc. ("Calcs-Plus") and its principals, Dennis J. Stroer and Jon F. Klongerbo, and that the responses to this request for admissions are true and correct to the best of my knowledge.

\s\William J. Tait, Jr.  
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CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing COMPLIANCE DATA SERVICES, INC. ("Calcs-Plus") RESPONSES TO FLORIDA POWER & LIGHT COMPANY'S ("FPL") FIRST REQUEST FOR ADMISSIONS (NOS. 1- 10) was served by electronic mail (\*) and U.S. Mail this 22<sup>nd</sup> day of July, 2005, to Florida Power & Light Company with a courtesy copy to the Office of General Counsel at the Florida Public Service Commission as follows:

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\s\William J. Tait, Jr.  
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