

I. Meeting Packet



State of Florida
Public Service Commission
INTERNAL AFFAIRS AGENDA
9:30 am Wednesday, July 27, 2011
Room 140 - Betty Easley Conference Center

1. Approve June 29, 2011, Internal Affairs Meeting Minutes (Attachment 1)
2. Discussion of PSC Related Legislation for 2011 Session (Attachment 2)
3. Draft Energy Bedrock Principles (Attachment 3)
4. Update of Executive Director Search (No attachment)
5. Other matters.

CH/sc

OUTSIDE PERSONS WISHING TO ADDRESS THE COMMISSION ON
ANY OF THE AGENDAED ITEMS SHOULD CONTACT THE
OFFICE OF THE EXECUTIVE DIRECTOR AT (850) 413-6068.



State of Florida
Public Service Commission
INTERNAL AFFAIRS AGENDA

Wednesday, June 29, 2011

9:30 am - 11:18 am

Room 140 - Betty Easley Conference Center

COMMISSIONERS PRESENT: Chairman Graham
Commissioner Edgar
Commissioner Brisé
Commissioner Balbis
Commissioner Brown

STAFF PARTICIPATING: Hill, Kiser, Miller, Harlow, Shafer, Hunter, Futrell, Trapp,
Maddox, Bass, Willis

OTHERS PARTICIPATING: Ken Hoffman - Florida Power & Light Company
Billy Stiles - Tampa Electric Company
Betina Terry - Gulf Power Company
Paul Lewis - Progress Energy Company
Greg Follensbee & Jerry Hendricks - AT&T
David Konuch - FCTA
Beth Keating - Gunster
Vicky Gordon Kaufman - GAGM

1. Approve June 14, 2011, Internal Affairs Meeting Minutes.

Minutes were approved.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

2. Draft comments to the U.S. Environmental Protection Agency regarding the Notice of Proposed Rulemakings on the Air Toxics Rule and the Cooling Water Intake Structures Rule. Draft letters to the Florida Congressional Delegation on the proposed rules. Critical dates: Comments on the Air Toxics Rule are due July 5, 2011; Comments on the Cooling Water Intake Structures Rule are due July 19, 2011.

Ms. Harlow reviewed the draft comments with the Commissioners and advised that the deadline for filing the comments had been extended by 30 days. After some discussion, the comments and letter were approved with modifications made at the Internal Affairs Meeting. Staff will work with the Chairman's office concerning these changes and they are to circulate the revisions the Commissioners before submitting.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

3. Status of Competition in the Telecommunications Industry as of December 31, 2010.

The Commissioners approved the report with the modifications made by staff and the Commissioners at the Internal Affairs meeting. Staff was given administrative authority to make non-substantive corrections to the report. The final version of the report will be provided to the Commissioners prior to its release. Staff was also asked to look into and provide information concerning Florida's rural area broadband.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

4. Draft Bedrock Principles on Renewable Energy.

After some discussion, staff will research and include Rules, Florida Statutes, orders, and Federal reference background sites to the bullet points made in the draft bedrock principles. The development of a legislative Standard Operating Procedures was also discussed. All comments gathered from outside parties and research information will be brought back to a later Internal Affairs meeting.

Commissioners participating: Graham, Edgar, Brisé, Balbis, Brown

5. Update on Executive Director Search.

Commissioner Brown and Mr. Maddox briefed the Commissioners on the status of the Executive Director search. Each Commissioner has been requested to review the applications and submit a list of the applicants they are interested in interviewing to Mr. Maddox no later than Monday, July 25th. From this information, Mr. Maddox will compile a master list, along with potential interview dates, for discussion at the next Internal Affairs meeting.

6. Other matters.

- a) Commissioner Balbis brought up changes to the shell gas and hedging issues and the most appropriate forum to discuss these changes was talked about. It was decided that staff would schedule a workshop with a limited focus on any new changes since the last workshop. Mr. Willis' staff will be providing a synopsis of the recent NRRI Hedging Conference.
- b) Commissioner Edgar inquired about review of the telecommunication rules given the recent telephone deregulation. Mr. Kiser advised that the rule process must be started by August and that his staff has already begun working on this matter. Mr. Hill advised that three dockets will be opened for rules and that, at the direction of the Chair, all of our rules are being reviewed.
- c) Ms. Salak advised the auditors will be arriving on August 6th to review telecommunications responsibilities as a result of recent deregulations.

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 19, 2011
TO: Charles H. Hill, Deputy, Executive Director
FROM: Katherine Pennington, Government Liaison *KAP*
RE: Discussion of PSC related Legislation for 2011 Session

CRITICAL INFORMATION: Please place on the July 27, 2011 Internal Affairs meeting agenda. Approval is sought regarding the agency's final legislative summary.

At the May 25, 2011, staff from Office of General Counsel provided an oral summary of the 2011 legislative session. The accompanying memorandum memorializes key legislative changes affecting the agency. We are requesting Commission review and approval of this summary.

KAP

Attachment



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 19, 2011
TO: Art Graham, Chairman
Lisa Polak Edgar, Commissioner
Ronald A. Brisé, Commissioner
Eduardo E. Balbis, Commissioner
Julie I. Brown, Commissioner
FROM: S. Curtis Kiser, General Counsel *sc*
Katherine Pennington, Office of General Counsel *KAD*
RE: 2011 Legislative Wrap-Up – Summary of Key Bills

KEY BILLS THAT PASSED

Telecommunications

CS/CS/HB 1231 – The Regulatory Reform Act

CS/CS/HB 1231, the “Regulatory Reform Act,” was signed by the Governor on May 5, 2011, and will become effective July 1, 2011. The bill will eliminate retail regulation of local exchange telecommunications services by the Florida Public Service Commission (FPSC or Commission), including the elimination of rate caps on all retail telecommunications services; elimination of telecommunications related consumer protection and assistance duties of the FPSC; and the elimination of FPSC oversight of telecommunications service quality. The bill also proposes reform to FPSC certification processes, authority over intercarrier matters, and other general provisions.

Other specific areas where PSC retail jurisdiction is reduced or eliminated include:

- Repeal of the requirement to provide a flat-rate pricing option for local service
- Repeal of the authority to designate wireless carriers as Eligible Telecommunications Carriers for the purpose of receiving Universal Service Fund benefits (including Lifeline)
- Elimination of the Commission authority to compel repairs rendering ineffective the Commission ordered pole inspection program
- Repeal of the requirement that the Commission disseminate information to consumers to assist in understanding the competitive market and billing related issues

- Repeal of the requirement that the Commission provide informational materials and conduct outreach to inform consumers of the benefits available through the Lifeline program (the Commission may continue to do so but is no longer required)
- Repeal of specific prohibition against discriminatory pricing of telecommunication services
- Repeal of the requirement to inform new subscribers of the least cost service option
- Repeal of specific consumer protection relating to cramming
- Restriction of slamming complaints to those filed by carriers against other carriers.

Statutes related to the Commission’s authority over intercarrier issues were also amended to consolidate authority into a single section. The Commission retains authority over intercarrier disputes, arbitrations, and interconnection agreements as well as authority over numbering issues such as area code exhaust. Modifications have also been made to the certification process for telecommunications companies.

Finally, the Commission must, by August 1, 2011, initiate rulemaking to reduce the regulatory assessment fee (RAF) factor for telecommunications companies to reflect the reduction in regulation resulting from the amendments to Chapter 364, F.S., that take affect July 1, 2011.

Energy

SB 2106	Relating to the Florida Energy and Climate Commission
SB 2156	Relating to Government Reorganization

Governor Scott vetoed SB 2106 on May 26, 2011. In his veto message, the Governor indicated that SB 2106 was duplicative of language included in SB 2156 relating to Government Reorganization that the Governor fully intended to sign. SB 2156 exceeded 800 pages in length and contained many changes to state agencies, specifically the Department of Community Affairs. The Governor approved SB 2156 on June 14, 2011, now approved as Chapter 2011-142, Laws of Florida.

The legislation abolished the Florida Energy and Climate Commission and transferred most of its existing functions to the Department of Agriculture and Consumer Services (DACS), Department of Environmental Protection (DEP), Department of Management Services (DMS), and the Division of Emergency Management (DEM).

The bill transferred the Governor’s Energy Office and the following responsibilities to DACS:

- Florida Renewable Energy and Efficiency Grants
- Florida Energy Climate Protection Program, which provides policy recommendations to the Governor and Legislature regarding energy use and conservation;
- Administration of the federal State Energy Programs (SEP);
- Provision of educational services;
- Oversight of the Florida Energy Systems Consortium; and
- Implementation of energy programs as directed by the Legislature.

The DEP will have responsibility for the administration of the Coastal Energy Impact Program.

The DMS will have responsibility for coordinating the energy conservation programs for all state agencies.

The Division of Emergency Management, which the legislation relocates to the Executive Office of the Governor, will have responsibilities related to petroleum supply, demand, allocation, security, and the state's energy emergency contingency plan.

Other

HB 993 Relating to Administrative Procedures and Rulemaking

HB 993 amends several sections of Chapter 120, Florida Statutes, and requires additional rule reporting and review by state agencies. Although the Governor approved HB 993 on June 24, 2011 (Chapter 2011-225, Laws of Florida), the Governor also filed a "signing letter" with the Secretary of State. The Governor commented that although he is "committed to the same principles that give rise to the bill, I have some concerns about the burden placed on the agencies by the detailed procedure that is required by the bill. Further, by imposing such a detailed procedure on the agencies, the bill diminishes executive authority over the daily processes within the agencies." This legislation was effective upon becoming a law.

The bill requires that notices required by section 120.54(3), Florida Statutes, must include a statement as to whether, based on the statement of the estimated regulatory costs or other information expressly relied upon and described by the agency if no Statement of Regulatory Costs (SERC) is required, the proposed rule requires legislative ratification pursuant to section 120.541(3), Florida Statutes.

The bill also requires agencies to file by December 1, 2011, a report of its enhanced biennial review of all existing rules. This enhanced biennial review must include the following:

- A review of each rule to determine whether the rule has been reviewed by the Governor's Office of Fiscal Accountability and Regulatory Reform (OFARR).
- A review of each rule to determine if is a revenue rule, to identify the statement authorizing the collection of any revenue, to identify the fund or account into which revenue collections are deposited and to determine if the rule authorizes, imposes or implements (1) registration, license or inspection fees, and (2) fines, penalties, costs or attorney fees.
- A review of each rule to determine if the rule is a data collection rule, including the statute authorizing the bill, the purpose for which the agency uses the data, policies supporting the data reporting and retention, whether the data is exempt for public inspection under Chapter 119, Florida Statutes. This enhanced biennial review also must identify each rule the agency plans to repeal or amend and include a timetable for the repeal or amendment.
- A review of each rule where the agency must prepare a compliance economic review. This requirement also includes rules that the agency does not plan to repeal by December 31, 2012; was effective on or before November 16, 2010, and "probably will have any of

the economic impacts” described in section 120.541(2)(a), Florida Statutes, for five years beginning July 1, 2011, excluding any parts identified for amendment.

- Written certification of the agency head to the Joint Administrative Procedures Committee (JAPC) verifying the completion of the report for all agency rules. If the agency is headed by a collegial body, the certification must be prepared by the chair person or equivalent presiding officer of the collegial body.

The bill also requires a public comment period on the enhanced biennial review and includes requirements for public input, stating objections, and sustaining objections. By July 1, 2012, the agency must deliver a written certification of the agency head or designee to the committee verifying the completion of determination on the objections.

The bill also requires, by May 1, 2012, and again on May 1, 2013, a completed compliance economic review, separated into two reports. Each report must contain the following:

- A completed compliance economic review for each entire rule or subpart of a rule;
- Written certification of the agency head verifying completion of each economic review;
- A published copy of the compliance economic review, with directions on how interested portions may submit lower cost regulatory alternatives to the agency;
- Published notice of the publications; and
- Notice of the compliance economic review transmittal to the Small Business Regulatory Advisory Council for review.

If an agency rule has been reviewed by OFARR, it is exempt from the compliance economic review requirements of the bill if the review found that the rule (1) does not unnecessarily restrict entry into a profession or occupation, (2) does not adversely affect the availability of professional or occupational services to the public, or (3) “is justifiable when the overall cost-effectiveness and economic impact of the regulations, including indirect costs to consumers, is considered.”

KEY BILLS THAT DID NOT PASS

Energy Bills

HB 7217	Relating to Energy Incentives and Initiatives
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House Bill (HB) 7217 was an omnibus energy bill introduced by the House Energy and Utilities Subcommittee. The most significant provision of the bill would have allowed each IOU to petition the FPSC, through July 1, 2015, to recover costs for up to 2 percent of 2010 revenues above avoided cost on renewable energy projects or purchases. The bill also deleted from statute all language relating to a proposed Renewable Portfolio Standard. Additionally, the bill would have exempted all solar power facilities from the Electrical Power Plant Siting Act, disbanded the Florida Energy and Climate Commission, and moved the Energy Office to the Department of Agriculture and Consumer Services.

The renewable energy cost recovery provision in HB 7217 would have allowed generating IOUs to petition to recover costs up to 2 percent of 2010 revenues per year in addition to avoided cost. IOUs could spend this amount on the construction of new renewable energy facilities, conversion of existing resources to renewable energy, or purchases of Florida renewable energy. Costs could continue to be recovered over the useful life of the project. The bill required the IOUs to spend at least 20 percent of the capacity for projects approved under this provision on non-solar sources. Also, 5 percent of the costs spent on solar energy were directed to go to solar programs approved through the FEECA goals process. Projects for which a majority of the energy-producing components were manufactured in-state received a rate of return 50 basis points above the last authorized return on equity. Within these requirements, IOUs would have had sole discretion to determine the renewable projects they pursued. IOUs had to demonstrate that a project was the most cost-effective option for its type of renewable energy, and that it used reasonable and customary industry practices. The need determination process would not have applied to these renewable projects.

HB 7217 passed the House Energy and Utilities Subcommittee by a unanimous vote. It was then referred to the State Affairs committee, but never heard in that committee or withdrawn from the committee. The bill was not taken up again and ultimately died in committee.

SB 2078 Relating to Energy

Senate Bill (SB) 2078 was an omnibus energy bill introduced by the Senate Communications, Energy, and Public Utilities Committee. The bill would have allowed each investor owned electric utility (IOU) to petition the FPSC, through July 1, 2016, to recover costs for up to 2 percent of 2010 revenues on renewable energy projects or purchases. The bill also would have instituted a new ongoing energy planning process, the State Energy Resources Plan. Additionally, the bill made changes to the avoided cost statute that likely would have forced changes in the FPSC's net metering rule for customer-owned rooftop solar systems. Finally, the bill would have made other changes, including deleting the Renewable Portfolio Standard language from statute, and making changes relating to commercial energy audits. Beyond changes affecting the FPSC, the bill would have dissolved the Florida Energy and Climate Commission and moved the Energy Office to the Department of Environmental Protection.

The first major provision of the bill would have allowed each IOU to spend up to two percent of 2010 revenues on renewable energy, including new construction, conversion of existing resources, or renewable energy purchases. This two percent of 2010 revenues represented a total figure, not an amount above avoided cost. The bill also required 25 percent of the total nameplate capacity of projects funded under this section to come from non-solar resources. Due to a later amendment, the bill required five percent of total spending to be directed toward demand-side renewable energy systems, half of which must be under 10 kW in size. Another amendment to the bill capped the customer impact at two percent of a customer's monthly bill. An amendment passed at the bill's final committee stop also capped costs at the IOUs' retail rates. This last version of the proposal gave IOUs sole discretion how to spend these funds. The bill did specify that these projects were subject to the same bid process as conventional generation, but without clarifying to which process it was referring.

The second major provision of the bill would have required the FPSC to develop and review a State Energy Resources Plan with a 10-year timeframe. This plan would have augmented and complemented the Ten-Year Site Plan (TYSP), but not replaced it. The plan required the FPSC to forecast electrical demand and requirements, the ability of the existing electrical system to meet those needs, and what additional resources would be needed. The FPSC would also need to determine potential system constraints and alternatives to current resource types. The plan also would have required the FPSC to identify resource additions to meet energy requirements, costs and risks of energy supply source alternatives, emerging trends in energy markets, and potential future sites for renewable energy generation, as well as transmission and distribution lines. The bill did not specify whether the FPSC was expected to directly acquire this information, or whether the IOUs would provide the information as part of the TYSP review process. Additionally, the bill provided the criteria for the FPSC to consider when determining need for new renewable energy projects. These new projects were not subject to cost constraints if the FPSC determined a need existed.

The third major change would have affected the FPSC's net metering rule. This change was part of the avoided cost statute and would have required IOUs to purchase all electricity offered for sale by property owners with rooftop solar equipment at rates not exceeding the utility's full avoided cost. The FPSC's net metering rule requires any excess energy to be credited to customers on the next month's bill at the equivalent value of the retail rate, with any excess energy remaining after 12 months credited at the avoided fuel cost rate. This change would have resulted in customers with solar equipment receiving less value for any excess energy.

SB 2078 was introduced and passed as a proposed committee bill by the Senate Communications, Energy, and Public Utilities Committee. The bill was taken up by the Senate Budget Committee late in session. There, it was amended before being temporarily postponed. A key amendment tied the cost of producing or purchasing renewable energy that would be eligible for cost recovery to the IOUs' retail rate. The bill was not taken up again or withdrawn from committee, and no bill addressing its major provisions passed either chamber.

Commission Specific

SB 0212 Relating to Public Service Commission

This bill would have revised several sections of the Florida Statutes relating to ex parte communication and the standards of conduct for Commissioners of the Public Service Commission. This bill would have extended the existing ex parte restrictions to direct Commissioner staff. Also, this bill would have required notification to the Office of Public Counsel when the Public Service Commission receives certain communications, and requires published summaries of such communications in certain instances.

This bill would have prohibited former Public Service Commissioners and former members of a Commissioner's direct reporting staff from lobbying the legislative or executive branch of government for four years after termination of Commission service. This prohibition would have applied to Commissioners appointed or reappointed on or after July 1, 2011, and to commissioners' direct reporting staff hired on or after July 1, 2011.

The proposed bill extended the existing post-employment prohibitions for former Public Service Commissioners from two to four years. The bill would extend this post-employment prohibition to former members of a Commissioner's direct reporting staff.

Finally, the bill gave the Office of Public Counsel access to certain utility and company records and provided that, in addition to the Public Service Commission, the Office of Public Counsel may find that certain records are confidential and exempt from the provisions of section 119.07(1), Florida Statutes.

HB 0719 / SB 0804 Relating to Election of PSC Members

This Joint Resolution was sponsored by Rep. Rehwinkel Vasilinda / Sen. Fasano and proposed an amendment to the State Constitution to be submitted to the electors of the State at the next general election. The amendment would have created an elected Commission. The powers and duties of the Commission will be provided by general law. Prohibitions are set out against contributions from certain entities. The Commission would have been placed in the executive branch rather than the legislative branch. The primary elections would have been held in 2012, although the effective date of the Constitutional change and the law would be January 8, 2013.

The proposed constitutional amendment would have revised the process for selecting commissioners from an appointed to an elected process. The current process of gubernatorial appointments with Senate confirmation of the appointees would have been eliminated.

HB 7211 Relating to Organization and Standards of the PSC

This bill sponsored by the House Energy & Utilities Subcommittee would have done the following;

- Adopt certain provisions from the Code of Judicial Conduct as standards of conduct applicable to commissioners.
- Define ex parte communications and prohibits commissioners and their direct staff from engaging in ex parte communications concerning substantive matters and certain procedural matters related to proposed agency action proceedings and formal proceedings under ss. 120.565, 120.569, or 120.57, F.S., or concerning the merits of any issue that he or she reasonably foresees will be filed with the PSC.
- Expand monetary penalties to apply to any individual who makes a prohibited ex parte communication and knowingly fails to comply with the reporting requirements of the law.
- Provide that persons involved in the selection of PSC commissioners, including the Governor and specified legislative members, may not attempt to sway the independent judgment of the commission by bringing pressure to bear upon a commissioner, an applicant to fill a vacancy on the commission, or a commission employee by threat or offer of reward in relation to the commissioner selection or confirmation process, and designates the Commission on Ethics to receive and investigate sworn complaints of violations.
- Provide that an individual commissioner may not demand or require any member of the PSC staff, other than the commissioner's direct staff, to develop, present, or pursue a particular opinion, position, or course of action in relation to a pending substantive

matter, and designates the PSC's inspector general to receive and investigate complaints of violations.

- Establish training and continuing education requirements, concerning substantive and ethical matters, for commissioners and PSC staff.
- Specify the authority of the PSC to employ an executive director, a general counsel, and an inspector general, and specifies the authority of the executive director to serve as the agency head for certain purposes, such as personnel and procurement matters.
- Require each person offering testimony in a PSC proceeding to disclose, at the time the testimony is offered, any financial or fiduciary relationship between the person and any party to the proceeding.

Water and Wasterwater

HB 0223 / SB 950 Relating to Water and Wastewater Utilities

This bill, sponsored by Rep. Hudson and Sen. Bennett, would have created section 367.0819, Florida Statutes (F.S.), to allow water and wastewater utilities to recover, through a surcharge, prudently incurred capital costs for investment in non-revenue producing system improvements. The proposed bill provided a mechanism for water and wastewater utilities to recover appropriate costs without the time and expense of an evidentiary hearing. Instead, a utility would file a tariff for Commission approval to demonstrate the calculation of the surcharge, notify customers of the filing, and disclose the surcharge as a separate line item on a customer's bill. The bill would have defined eligible projects and the appropriate manner in which companies may request cost recovery and how the surcharge would be implemented. The calculation of the surcharge would include recovery of depreciation and return on investment. The surcharge would be reevaluated on a quarterly basis based on supporting data submitted to the Florida Public Service Commission (FPSC, or Commission). The surcharge could not exceed eight percent of otherwise applicable rates and charges approved by the Commission. The surcharge would appear as a separate line charge on a customer's bill and would have been subject to annual true-up based on a period of 12 months.

CBM:tf

cc: Charles H. Hill
Jim Varian
Roberta Bass
Katherine Fleming
Cayce Hinton
Baldwyn English
Mary Anne Helton
Dan Hoppe

Marshal Willis
Beth Salak
Bob Trapp
Greg Shafer
Apryl Lynn
Mark Futrell
Cindy Muir

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 19, 2011

TO: Charles H. Hill, Deputy Executive Director

FROM: Mark Futrell, Division of Regulatory Analysis *mf*
 Judy G. Harlow, Division of Regulatory Analysis *JGH*
 Katherine Pennington, Office of the General Counsel *KAP*
 Larry Harris, Office of the General Counsel *LH*

RE: Draft Energy Bedrock Principles

Critical Information: Please place on the July 27, 2011 Internal Affairs. Approval or further guidance is sought.

During the June 29, 2011 Internal Affairs meeting, staff presented to the Commission draft energy bedrock principles. Staff has revised the initial draft to reflect comments by the Commission. In addition, written comments were provided by stakeholders and staff has taken these comments into consideration in its proposed revisions to the initial draft. This package includes a revised energy bedrock principles document in type and strike format (Attachment A), a clean version that includes the proposed revisions (Attachment B), and the written comments received from Florida Power and Light Company, Gulf Power Company, and the Florida Industrial Power Users Group (Attachment C). If approved by the Commission, these fundamental principles will provide guidance to staff and others in evaluating proposed state and federal energy legislation and preparing bill analyses. Also, the principles will guide staff's responses to legislative information requests. Staff seeks the Commission's approval of the revised energy bedrock principles or further guidance.

**Energy Bedrock Principles
Florida Public Service Commission
July 27, 2011**

Background

Florida Statutes establish the Florida Public Service Commission (FPSC or Commission) as the entity responsible for ensuring that Florida’s citizens receive adequate, reliable ~~and affordable~~ electric service at a reasonable cost from Florida’s public utilities.¹ Pursuant to Section 366.03, Florida Statutes (F.S.), each public utility has a statutory obligation to serve every customer within its service territory. Electric services provided must be reasonably sufficient, adequate, and efficient and provided in a non-discriminatory manner. As such, Florida’s utilities must explore all available measures to ensure the most cost-effective and efficient means of producing and delivering reliable ~~and affordable~~ electricity service at a reasonable cost to their customers.

The Commission has jurisdiction over public utilities to regulate each company’s rates and service.² The Commission is charged to investigate and determine the actual legitimate costs of the public utility.³ In fixing fair, just, and reasonable rates for each customer class, the Commission shall, to the extent practicable, consider the cost of providing service to the class, as well as the rate history, value of service, and experience of the public utility; the consumption and load characteristics of the various classes of customers; and public acceptance of rate structures.⁴ Finally, no public utility shall be denied a reasonable rate of return upon its rate base in any order entered pursuant to an appropriate rate proceeding.⁵

The Commission has jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida.⁶ The Commission also has authority to hold proceedings if there is probable cause to believe that inadequacies exist with the grid and to require installation or repair of necessary generation or transmission facilities. Further, costs associated with infrastructure repair or additions must be distributed in proportion to the benefits received.⁷

In order to monitor and assess the planning functions and results of the Florida utilities, the Commission annually reviews the Ten-Year Site Plans of each utility subject to Section 186.801, F.S., and Commission Rules 25-22.070 through 25-22.072, Florida Administrative Code (F.A.C.). These documents, and the *Regional Load and Resource Plan* prepared annually by the Florida Reliability Coordinating Council, provide the Commission data and information

¹ Chapter 366, F.S.

² Section 366.04, F.S.

³ Section 366.06(1), F.S.

⁴ Ibid.

⁵ Section 366.041(1), F.S.

⁶ Section 366.04(5), F.S.

⁷ Section 366.05(8), F.S.

on the need for electrical power in the area to be served, the effect on fuel diversity of power plant additions, and possible alternatives to the proposed plan.

The Commission is the sole forum for the determination of need for power plant and transmission line additions that meet the criteria established in the Florida Electrical Power Plant Siting Act and the Florida Electric Transmission Line Siting Act, respectively.⁸ In making its determination on power plant additions that exceed 75 megawatts of steam capacity, the Commission must take into account: (1) the need for electric reliability, (2) the need for adequate electricity at a reasonable cost, (3) the need for fuel diversity and supply reliability, (4) whether the proposed plant is the most cost-effective alternative, (5) whether renewable energy sources as well as conservation measures are utilized to the extent reasonably available, and (6) whether conservation measures might mitigate the need for the proposed plant.

Since the early 1980s, the Commission has implemented federal and state laws and policies that encourage renewable energy and other alternative sources of electricity. The federal Public Utility Regulatory Policies Act (PURPA), signed into law November 9, 1978, in part requires electric utilities to interconnect and sell electric energy to qualifying cogeneration and small power production facilities, referred to as Qualifying Facilities (QF), and to purchase electric energy from these facilities at the utility's full avoided cost.⁹ In response to PURPA, in 1981, the Florida Legislature authorized the Commission to establish guidelines for the purchase and sale of capacity and energy from cogenerators and small power producers, which includes renewable generators, at full avoided cost. Section 366.051, F.S., defines avoided cost as the incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source. The Commission implements its statutory authority by identifying an avoided generating unit or power purchase and calculating avoided costs based on the quantifiable costs for this unit or purchase. Avoided cost includes a capacity and energy component based on: (1) the actual capital cost which would have been incurred for the avoided plant, (2) the fuel cost and quantity that would have been used in the plant, and (3) the plant's operating and maintenance expenses. Avoided cost is based on quantifiable costs associated with ~~from~~ the avoided unit or purchase ~~and does not include an estimate for externalities, such as any environmental benefits associated with renewable energy.~~ This policy ensures that customers will pay the same value for electrical energy regardless of whether the energy is produced by the host utility or a QF, including a renewable energy producer.¹⁰

In 2007, the Commission conducted workshops to assess mechanisms to further encourage renewable energy. These discussions ultimately led to the Commission adopting amendments to Rule 25-6.065, F.A.C., requiring the investor-owned electric utilities to expedite the interconnection of customer-owned renewable generation and allowing the additional benefit of carrying forward excess generation month-to-month through net metering.¹¹

⁸ Sections 403.519 and 403.537, F.S.; PPSA: Sections 403.501-.518, F.S.; TLSA: Sections 403.52-.5365, F.S.

⁹ 16 U.S. Code, Section 824a-3

¹⁰ 16 U.S. Code, Section 824a-3(b); FERC Rule 18 C.F.R. 292.301-292.304; Section 366.051, F.S., 366.91(1)-(3), F.S.; Rules 25-17.080-.091 and 25-17.200-.310, F.A.C.

¹¹ Section 366.91(4),(5), F.S.; Rule 25-6.065, F.A.C.

In 2008, the Legislature amended Section 366.92, F.S., requiring the Commission to develop a draft rule, subject to ratification by the Legislature, establishing a Renewable Portfolio Standard for Florida’s investor-owned electric utilities. The Commission submitted its draft rules implementing these provisions on January 30, 2009.¹² To date, the Legislature has not ratified the draft rules.

Energy Policy Bedrock Principles

The following energy bedrock principles are founded upon the statutory framework that establishes the Commission’s authority with respect to Florida’s electric utilities, as well as the Commission’s implementation of these statutes through its rules and orders. These bedrock principles are intended to provide guidance to FPSC staff in evaluating proposed state and federal legislation, preparing bill analyses, and responding to legislative information requests related to energy policy.

REGULATORY OBJECTIVES

The Florida Legislature established the FPSC to implement policy relating to electric utilities and the provision of electric service. Electric utilities are required to provide safe and reliable service to all customers in an efficient manner without undue discrimination. Utilities are granted the exclusive right to provide electric service to end users within their service territories and to recover prudently incurred expenses to provide service, including an opportunity to earn a fair return on investments. The FPSC is given full regulatory authority over investor-owned utilities to balance the interests of customers and the utilities.

*Invest
Owned*

Principles

- The FPSC is responsible for ensuring that Florida’s citizens receive adequate, reliable, and affordable electricity service at a reasonable cost from Florida’s public utilities.¹³
- The rates established by the FPSC must be just, reasonable, and compensatory and reflect the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; and the ability of the utility to improve such service and facilities.¹⁴

¹² See Docket No. 080503-EI.

¹³ Section 366.04, F.S.

¹⁴ Section 366.041, F.S.

INTEGRATED RESOURCE PLANNING

Electric utilities must plan and operate their systems in a cost-effective manner that results in safe, adequate, and reliable service at reasonable rates. Florida utilities must plan to meet existing and future customer requirements in a process that integrates all feasible resources. The planning process and selection of resources must be based on fundamental economic principles whereby the least cost options are pursued first, taking into consideration the need for safe, adequate, and reliable service. Federal and state statutes requiring electric utilities to meet environmental, health, and safety standards, as well as economic and strategic concerns, must be factored into the evaluation of resources and the impact on cost and reliability. Florida statutes require utilities to file results of their annual planning process with the FPSC as part of the Ten-Year Site Plan. The FPSC reviews each plan and assesses the impact on the adequacy and reliability of the statewide grid.

Principles

- Electric utilities must evaluate all alternatives reasonably available to meet customer demand and energy needs, including but not limited to: conservation and demand-side management, transmission and distribution efficiency, renewable energy, modernization and efficiency improvements to existing power plants, and construction of new generating plant capacity.¹⁵
- The evaluation of the cost-effectiveness of alternatives should be based, first and foremost, on quantifiable costs that will ultimately be included in rates paid by consumers using the economic principles of least cost over the useful life of the alternative.¹⁶
- In keeping with the responsibility to protect public welfare and promote the public interest, strategic concerns and societal benefits (such as fuel diversity, job creation, economic development, environmental enhancements, etc.) may be considered ~~on a case-by-case basis~~ consistent with the authority ~~legislative intent~~ provided in state and federal statutes.¹⁷
- In determining the weight to be given to strategic concerns ~~and societal benefits~~ in the selection of energy alternatives, priority ~~should~~ be given to those that promote Florida non-emitting resources (clean energy resources technologies), reasonable affordable electricity rates, and enhanced reliability.

¹⁵ Sections 366.05(7), (8), 366.051, 366.81, 366.82, 366.91, 366.92, 403.519, F.S.

¹⁶ Sections 366.051, 366.91, 366.92, 403.519, F.S.

¹⁷ Sections 366.01, 366.91, 366.92, 366.82, 403.519, F.S.

ENERGY EFFICIENCY, DEMAND-SIDE MANAGEMENT AND CONSERVATION

The Florida Legislature has established that energy efficiency, demand-side management, and conservation are priorities and created a multi-pronged approach to meeting policy goals. This includes encouraging energy consumers to use energy more efficiently which will reduce energy costs. The Florida Building Commission is given authority over the energy efficient building code to improve efficiency of new homes and buildings. Federal and state policies have established minimum appliance efficiency standards for key energy consuming devices. Federal and state resources have been devoted to research and development of energy technologies to improve efficiency and develop alternative energy generating resources. Programs offered by governmental agencies reduce the cost of investment in home and building improvements and technologies that will improve energy efficiency. In 1980, the Florida Legislature recognized electric utilities as the appropriate party to effect additional cost-effective energy savings from customers. The FPSC is given authority to establish goals and approve cost-effective utility plans and programs, taking into consideration the impact on customer rates. Among the FPSC's cost-effectiveness tests used to evaluate utility programs, there is a mechanism in which the FPSC may consider other benefits and costs, including environmental and health impacts, that are not reflected in actual costs borne by the utility and its customers. In addition to implementing the FPSC's specific authority under the Florida Energy Efficiency and Conservation Act (FEECA), the FPSC also supports and encourages state and federal activities that result in more efficient use of energy through building codes and appliance standards.

Principles

- Improving the efficiency of energy usage is ~~Conservation continues to play~~ an important role as a first step in meeting the energy needs of Florida's citizens and should be promoted across a full range of federal, state and local government policy initiatives. This includes energy efficient building codes for new construction, appliance efficiency standards, energy education, research and development of new energy technologies, initiatives to reduce the cost to the consumer of energy efficiency improvements, and utility conservation and demand-side management programs.¹⁸
- Public education and awareness is paramount in promoting wise energy use in Florida and to avoid wasteful consumption practices.¹⁹
- Continued focus should be placed on increasing the efficiency of new and existing structures and energy consuming devices~~equipment~~ in Florida's homes and businesses.²⁰
- Utility sponsored conservation and demand-side management over which the FPSC has

¹⁸ Sections 377.601(1)-(2), F.S.; 366.80-.82, F.S.;

¹⁹ Section 377.601(2)(h), F.S.

²⁰ Section 553.886, F.S.; 553.900-.912, F.S.; 553.951-.975, F.S.

specific authority under FEECA is an important part of the state’s overall energy policy which is aimed at reducing the need for additional power plants, maximizing the efficiency of existing power plants, and reducing overall fossil fuel consumption in the production of electricity.²¹

- In determining the scope of utility conservation efforts, quantifiable ~~the direct economic and indirect societal~~ benefits must be balanced with the costs of conservation and demand side management programs, taking into consideration the rates charged to electric consumers and the cost affordability of electricity.²²

RENEWABLE ENERGY

Federal and state statutes authorize alternative electric generation providers, and establish a paradigm for utilities to purchase energy from these providers while ensuring that customers are not harmed economically. Recent amendments to Florida statutes have established enhanced renewable energy contracts that are continuously offered by the investor-owned utilities. These contracts are intended to provide additional value to renewable generators, yet are grounded in the existing paradigm that the rate paid for electricity not exceed the utility’s cost of production. Policies encouraging renewable energy on customer premises aim to reduce the up-front cost of equipment, enhance the value of energy generated by these systems, and expedite the interconnection of renewable devices with the grid. Finally, legislative policy to encourage utility-owned renewable energy demonstration projects provides an opportunity to assess the feasibility of large-scale renewable installations.

Principles

- Any approach to promote renewable energy resources must be lawful under the Federal Public Utility Regulatory Policies Act (PURPA) and Federal Energy Regulatory Commission regulations, as well as Florida law.²³
- Under current state and federal law, purchases of electric capacity and energy from renewable energy providers and other qualifying facilities must be at or below an investor-owned utility’s full avoided cost.²⁴
- Strategies to provide additional value to renewable energy producers ~~above the utility’s full avoided cost~~ should take into consideration: (1) the impact on the adequacy and reliability of

²¹ Section 366.80-.82, F.S.

²² Section 366.051, F.S.; Rules 25-17.001-.0021, F.A.C.

²³ 16 U.S. Code, Section 824a-3(b); FERC Rule 18 C.F.R. 292.301-292.304

²⁴ Section 366.051, F.S., 366.91(1)-(3), F.S.; Rules 25-17.080-.091 and 25-17.200-.310, F.A.C.

electricity supply, (2) identification and selection of cost-effective resources, and (3) the costs of electric service to customers consumers.²⁵

- Any pPreferences for certain renewable energy technology types should be established through Legislative policy ~~with priority given to those technologies that, consistent with integrated resource planning, result in the least cost over the useful life of the facility.~~
- Renewable technologies that result in a least cost mix of resources and contribute to the provision of adequate, reliable service to customers should be included in each utility's bulk power supply planning portfolio.
- Energy producing devices located on customer premises and utility-owned renewable energy resources are viable means of encouraging further development of renewable energy. ~~Consideration should be given to both customer-owned renewable energy resources as well as utility-owned renewables.~~
- Customer-owned renewable energy resources should be encouraged through mechanisms that enhance the value of these systems to the individual customer, minimize any adverse rate impact on the general body of utility consumers, and maintain the financial viability of the utility.²⁶

²⁵ Section 366.92(1), F.S.

²⁶ Sections 366.91(5),(6), F.S.; Rule 25-6.065, F.A.C.

**Energy Bedrock Principles
Florida Public Service Commission
July 27, 2011**

Background

Florida Statutes establish the Florida Public Service Commission (FPSC or Commission) as the entity responsible for ensuring that Florida's citizens receive adequate, reliable electric service at a reasonable cost from Florida's public utilities.¹ Pursuant to Section 366.03, Florida Statutes (F.S.), each public utility has a statutory obligation to serve every customer within its service territory. Electric services provided must be reasonably sufficient, adequate, and efficient and provided in a non-discriminatory manner. As such, Florida's utilities must explore all available measures to ensure the most cost-effective and efficient means of producing and delivering reliable electricity service at a reasonable cost to their customers.

The Commission has jurisdiction over public utilities to regulate each company's rates and service.² The Commission is charged to investigate and determine the actual legitimate costs of the public utility.³ In fixing fair, just, and reasonable rates for each customer class, the Commission shall, to the extent practicable, consider the cost of providing service to the class, as well as the rate history, value of service, and experience of the public utility; the consumption and load characteristics of the various classes of customers; and public acceptance of rate structures.⁴ Finally, no public utility shall be denied a reasonable rate of return upon its rate base in any order entered pursuant to an appropriate rate proceeding.⁵

The Commission has jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida.⁶ The Commission also has authority to hold proceedings if there is probable cause to believe that inadequacies exist with the grid and to require installation or repair of necessary generation or transmission facilities. Further, costs associated with infrastructure repair or additions must be distributed in proportion to the benefits received.⁷

In order to monitor and assess the planning functions and results of the Florida utilities, the Commission annually reviews the Ten-Year Site Plans of each utility subject to Section 186.801, F.S., and Commission Rules 25-22.070 through 25-22.072, Florida Administrative Code (F.A.C.). These documents, and the *Regional Load and Resource Plan* prepared annually by the Florida Reliability Coordinating Council, provide the Commission data and information

¹ Chapter 366, F.S.

² Section 366.04, F.S.

³ Section 366.06(1), F.S.

⁴ Ibid.

⁵ Section 366.041(1), F.S.

⁶ Section 366.04(5), F.S.

⁷ Section 366.05(8), F.S.

on the need for electrical power in the area to be served, the effect on fuel diversity of power plant additions, and possible alternatives to the proposed plan.

The Commission is the sole forum for the determination of need for power plant and transmission line additions that meet the criteria established in the Florida Electrical Power Plant Siting Act and the Florida Electric Transmission Line Siting Act, respectively.⁸ In making its determination on power plant additions that exceed 75 megawatts of steam capacity, the Commission must take into account: (1) the need for electric reliability, (2) the need for adequate electricity at a reasonable cost, (3) the need for fuel diversity and supply reliability, (4) whether the proposed plant is the most cost-effective alternative, (5) whether renewable energy sources as well as conservation measures are utilized to the extent reasonably available, and (6) whether conservation measures might mitigate the need for the proposed plant.

Since the early 1980s, the Commission has implemented federal and state laws and policies that encourage renewable energy and other alternative sources of electricity. The federal Public Utility Regulatory Policies Act (PURPA), signed into law November 9, 1978, in part requires electric utilities to interconnect and sell electric energy to qualifying cogeneration and small power production facilities, referred to as Qualifying Facilities (QF), and to purchase electric energy from these facilities at the utility's full avoided cost.⁹ In response to PURPA, in 1981, the Florida Legislature authorized the Commission to establish guidelines for the purchase and sale of capacity and energy from cogenerators and small power producers, which includes renewable generators, at full avoided cost. Section 366.051, F.S., defines avoided cost as the incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source. The Commission implements its statutory authority by identifying an avoided generating unit or power purchase and calculating avoided costs based on the quantifiable costs for this unit or purchase. Avoided cost includes a capacity and energy component based on: (1) the actual capital cost which would have been incurred for the avoided plant, (2) the fuel cost and quantity that would have been used in the plant, and (3) the plant's operating and maintenance expenses. Avoided cost is based on quantifiable costs associated with the avoided unit or purchase. This policy ensures that customers will pay the same value for electrical energy regardless of whether the energy is produced by the host utility or a QF, including a renewable energy producer.¹⁰

In 2007, the Commission conducted workshops to assess mechanisms to further encourage renewable energy. These discussions ultimately led to the Commission adopting amendments to Rule 25-6.065, F.A.C., requiring the investor-owned electric utilities to expedite the interconnection of customer-owned renewable generation and allowing the additional benefit of carrying forward excess generation month-to-month through net metering.¹¹

⁸ Sections 403.519 and 403.537, F.S.; PPSA: Sections 403.501-.518, F.S.; TLSA: Sections 403.52-.5365, F.S.

⁹ 16 U.S. Code, Section 824a-3

¹⁰ 16 U.S. Code, Section 824a-3(b); FERC Rule 18 C.F.R. 292.301-292.304; Section 366.051, F.S., 366.91(1)-(3), F.S.; Rules 25-17.080-.091 and 25-17.200-.310, F.A.C.

¹¹ Section 366.91(4),(5), F.S.; Rule 25-6.065, F.A.C.

In 2008, the Legislature amended Section 366.92, F.S., requiring the Commission to develop a draft rule, subject to ratification by the Legislature, establishing a Renewable Portfolio Standard for Florida's investor-owned electric utilities. The Commission submitted its draft rules implementing these provisions on January 30, 2009.¹² To date, the Legislature has not ratified the draft rules.

Energy Bedrock Principles

The following energy bedrock principles are founded upon the statutory framework that establishes the Commission's authority with respect to Florida's electric utilities, as well as the Commission's implementation of these statutes through its rules and orders. These bedrock principles are intended to provide guidance to FPSC staff in evaluating proposed state and federal legislation, preparing bill analyses, and responding to legislative information requests related to energy policy.

REGULATORY OBJECTIVES

The Florida Legislature established the FPSC to implement policy relating to electric utilities and the provision of electric service. Electric utilities are required to provide safe and reliable service to all customers in an efficient manner without undue discrimination. Utilities are granted the exclusive right to provide electric service to end users within their service territories and to recover prudently incurred expenses to provide service, including an opportunity to earn a fair return on investments. The FPSC is given full regulatory authority over investor-owned utilities to balance the interests of customers and the utilities.

Principles

- The FPSC is responsible for ensuring that Florida's citizens receive adequate, reliable, electricity service at a reasonable cost from Florida's public utilities.¹³
- The rates established by the FPSC must be just, reasonable, and compensatory and reflect the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; and the ability of the utility to improve such service and facilities.¹⁴

¹² See Docket No. 080503-El.

¹³ Section 366.04, F.S.

¹⁴ Section 366.041, F.S.

INTEGRATED RESOURCE PLANNING

Electric utilities must plan and operate their systems in a cost-effective manner that results in safe, adequate, and reliable service at reasonable rates. Florida utilities must plan to meet existing and future customer requirements in a process that integrates all feasible resources. The planning process and selection of resources must be based on fundamental economic principles whereby the least cost options are pursued first, taking into consideration the need for safe, adequate, and reliable service. Federal and state statutes requiring electric utilities to meet environmental, health, and safety standards, as well as economic and strategic concerns, must be factored into the evaluation of resources and the impact on cost and reliability. Florida statutes require utilities to file results of their annual planning process with the FPSC as part of the Ten-Year Site Plan. The FPSC reviews each plan and assesses the impact on the adequacy and reliability of the statewide grid.

Principles

- Electric utilities must evaluate all alternatives reasonably available to meet customer demand and energy needs, including but not limited to: conservation and demand-side management, transmission and distribution efficiency, renewable energy, modernization and efficiency improvements to existing power plants, and construction of new generating plant capacity.¹⁵
- The evaluation of the cost-effectiveness of alternatives should be based, first and foremost, on quantifiable costs that will be included in rates paid by consumers using the economic principles of least cost over the useful life of the alternative.¹⁶
- In keeping with the responsibility to protect public welfare and promote the public interest, strategic concerns and societal benefits (such as fuel diversity, job creation, economic development, environmental enhancements, etc.) may be considered consistent with the authority provided in state and federal statutes.¹⁷
- In determining the weight to be given to strategic concerns and societal benefits in the selection of energy alternatives, priority should be given to those that promote Florida non-emitting resources (clean energy resources), reasonable electricity rates, and enhanced reliability.

¹⁵ Sections 366.05(7), (8), 366.051, 366.81, 366.82, 366.91, 366.92, 403.519, F.S.

¹⁶ Sections 366.051, 366.91, 366.92, 403.519, F.S.

¹⁷ Sections 366.01, 366.91, 366.92, 366.82, 403.519, F.S.

ENERGY EFFICIENCY, DEMAND-SIDE MANAGEMENT AND CONSERVATION

The Florida Legislature has established that energy efficiency, demand-side management, and conservation are priorities and created a multi-pronged approach to meeting policy goals. This includes encouraging energy consumers to use energy more efficiently which will reduce energy costs. The Florida Building Commission is given authority over the energy efficient building code to improve efficiency of new homes and buildings. Federal and state policies have established minimum appliance efficiency standards for key energy consuming devices. Federal and state resources have been devoted to research and development of energy technologies to improve efficiency and develop alternative energy generating resources. Programs offered by governmental agencies reduce the cost of investment in home and building improvements and technologies that will improve energy efficiency. In 1980, the Florida Legislature recognized electric utilities as the appropriate party to effect additional cost-effective energy savings from customers. The FPSC is given authority to establish goals and approve cost-effective utility plans and programs, taking into consideration the impact on customer rates. Among the FPSC's cost-effectiveness tests used to evaluate utility programs, there is a mechanism in which the FPSC may consider other benefits and costs, including environmental and health impacts, that are not reflected in actual costs borne by the utility and its customers. In addition to implementing the FPSC's specific authority under the Florida Energy Efficiency and Conservation Act (FEECA), the FPSC also supports and encourages state and federal activities that result in more efficient use of energy through building codes and appliance standards.

Principles

- Improving the efficiency of energy usage is an important first step in meeting the energy needs of Florida's citizens and should be promoted across a full range of federal, state and local government policy initiatives. This includes energy efficient building codes for new construction, appliance efficiency standards, energy education, research and development of new energy technologies, initiatives to reduce the cost to the consumer of energy efficiency improvements, and utility conservation and demand-side management programs.¹⁸
- Public education and awareness is paramount in promoting wise energy use in Florida and to avoid wasteful consumption practices.¹⁹
- Continued focus should be placed on increasing the efficiency of new and existing structures and energy consuming devices in Florida's homes and businesses.²⁰
- Utility sponsored conservation and demand-side management over which the FPSC has specific authority under FEECA is an important part of the state's overall energy policy

¹⁸ Sections 377.601(1)-(2), F.S.; 366.80-.82, F.S.;

¹⁹ Section 377.601(2)(h), F.S.

²⁰ Section 553.886, F.S.; 553.900-.912, F.S.; 553.951-.975, F.S.

which is aimed at reducing the need for additional power plants, maximizing the efficiency of existing power plants, and reducing overall fossil fuel consumption in the production of electricity.²¹

- In determining the scope of utility conservation efforts, quantifiable benefits must be balanced with the costs of conservation and demand side management programs, taking into consideration the rates charged to electric consumers and the cost of electricity.²²

RENEWABLE ENERGY

Federal and state statutes authorize alternative electric generation providers, and establish a paradigm for utilities to purchase energy from these providers while ensuring that customers are not harmed economically. Recent amendments to Florida statutes have established enhanced renewable energy contracts that are continuously offered by the investor-owned utilities. These contracts are intended to provide additional value to renewable generators, yet are grounded in the existing paradigm that the rate paid for electricity not exceed the utility's cost of production. Policies encouraging renewable energy on customer premises aim to reduce the up-front cost of equipment, enhance the value of energy generated by these systems, and expedite the interconnection of renewable devices with the grid. Finally, legislative policy to encourage utility-owned renewable energy demonstration projects provides an opportunity to assess the feasibility of large-scale renewable installations.

Principles

- Any approach to promote renewable energy resources must be lawful under the Federal Public Utility Regulatory Policies Act (PURPA) and Federal Energy Regulatory Commission regulations, as well as Florida law.²³
- Under current state and federal law, purchases of electric capacity and energy from renewable energy providers and other qualifying facilities must be at or below an investor-owned utility's full avoided cost.²⁴
- Strategies to provide additional value to renewable energy producers should take into consideration: (1) the impact on the adequacy and reliability of electricity supply, (2) identification and selection of cost-effective resources, and (3) the costs of electric service to customers.²⁵

²¹ Section 366.80-.82, F.S.

²² Section 366.051, F.S.; Rules 25-17.001-.0021, F.A.C.

²³ 16 U.S. Code, Section 824a-3(b); FERC Rule 18 C.F.R. 292.301-292.304

²⁴ Section 366.051, F.S., 366.91(1)-(3), F.S.; Rules 25-17.080-.091 and 25-17.200-.310, F.A.C.

²⁵ Section 366.92(1), F.S.

- Any preferences for certain renewable energy technology types should be established through Legislative policy.
- Renewable technologies that result in a least cost mix of resources and contribute to the provision of adequate, reliable service to customers should be included in each utility's bulk power supply planning portfolio.
- Energy producing devices located on customer premises and utility-owned renewable energy resources are viable means of encouraging further development of renewable energy.
- Customer-owned renewable energy resources should be encouraged through mechanisms that enhance the value of these systems to the individual customer, minimize any adverse rate impact on the general body of utility consumers, and maintain the financial viability of the utility.²⁶

²⁶ Sections 366.91(5),(6), F.S.; Rule 25-6.065, F.A.C.

Comments Provided by Interested Persons
Internal Affairs
July 19, 2011

ATTACHMENT C

From: Hoffman, Kenneth [KENNETH.HOFFMAN@fpl.com]

Sent: Friday, July 08, 2011 8:27 AM

To: Mark Futrell

Cc: Adams, Lynne

Subject: Bedrock Principles

Mark-- FPL would propose the following additional bedrock principles for the staff and Commission's consideration :

1. Regulatory Compact -- " Florida's statutory regulation of investor-owned utilities is built on a regulatory compact under which a utility has the exclusive right and obligation to serve all customers in its service territory without discrimination and is provided the opportunity to recover its reasonable and prudently incurred costs and earn a fair and reasonable return on its investment. This regulatory compact forms the foundation for appropriate regulatory oversight of a utility's ownership, maintenance, and operation of electric generation, transmission, and distribution facilities; water supply, transmission and distribution facilities; and wastewater and reuse collection and disposal facilities."

2. Utility-Owned Renewables -- Add under Renewable Energy Section -- " Utility-owned renewable energy resources should also be encouraged through a regulatory paradigm that recognizes the growing need for fuel diversity and independence, the desire to create new jobs and promote economic development, and the need to balance rate impacts on utility customers."

Please contact me if you have any questions.

Kenneth A. Hoffman
Vice President, Regulatory Affairs
Florida Power & Light Company
215 South Monroe Street, Suite 810
Tallahassee, FL 32301
850.521.3919

Comments Provided by Interested Persons
Internal Affairs
July 19, 2011

ATTACHMENT C

From: Steven R. Griffin [mailto:srg@beggslane.com]
Sent: Friday, July 08, 2011 4:28 PM
To: Mark Futrell
Subject: Gulf Power Comments Regarding Draft Energy Bedrock Principles

Mr. Futrell:

Attached please find Gulf Power's comments regarding the Commission's Draft Energy Bedrock Principles dated June 21, 2011.

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Steven R. Griffin, Esq.
Beggs & Lane, RLLP
501 Commendencia Street
Pensacola, FL 32502
(850) 432-2451
(850) 469-3331 / facsimile
srg@beggslane.com

**GULF POWER COMPANY'S COMMENTS
REGARDING DRAFT ENERGY BEDROCK PRINCIPLES
(July 8, 2011)**

Gulf Power Company ("Gulf") appreciates the opportunity to submit written comments regarding the Florida Public Service Commission's ("Commission") Draft Energy Bedrock Principles dated June 21, 2011 (the "Draft Principles"). Gulf is supportive of the Commission's decision to establish fundamental principles addressing the role that integrated resource planning, renewable energy, conservation and demand-side management play in shaping overall energy policy in Florida. Moreover, with few exceptions, Gulf supports the Draft Principles prepared and circulated by Commission Staff. Attached to these Comments as Exhibit "A" is a version of the Draft Principles in legislative format depicting Gulf's proposed revisions. The rationale for each of Gulf's proposed revisions is briefly discussed below.

1. Second bullet beneath "**Integrated Resource Planning**"

Gulf recommends eliminating the word "ultimately" from this section, as it could be read to endorse expansion of cost-effectiveness evaluations to include costs and benefits which may not materialize, such as estimated costs to comply with potential renewable energy standards, potential carbon legislation or other similarly uncertain scenarios. Gulf believes that cost-effectiveness evaluations should be based only upon known, non-speculative costs and benefits.

2. Third bullet beneath "**Integrated Resource Planning**"

Gulf recommends eliminating the words "on a case by case basis" from this section and replacing the words "legislative intent" with "authority" in order to clarify that the factors considered by the Commission in reviewing and approving the selection of energy alternatives will be consistent with applicable law.

3. Fourth bullet beneath “**Integrated Resource Planning**”

Gulf does not offer any specific changes to this section, but notes that the term “clean energy technologies” does not appear to be defined in Florida law or elsewhere.

4. Fifth bullet beneath “**Energy Conservation**”

Gulf recommends eliminating the words “and indirect societal” from this section. For purposes of evaluating the costs and benefits of utility-sponsored conservation efforts, the Commission has adopted the use of the Rate Impact Measure (“RIM”), Total Resource Cost test (“TRC”) and the Participant’s test. See, Order No. PSC-09-0855-FOF-EG. Each of these tests is appropriately limited to consideration of tangible economic impacts associated with conservation efforts. They do not consider environmental externalities and other “societal” costs and benefits, which are quite often difficult, if not impossible, to identify and quantify. For these reasons, Gulf believes that the subject wording should be stricken.

5. Third bullet beneath “**Renewable Energy**”

Gulf recommends eliminating the words “above the utility’s full avoided cost” from this section. As noted in the second bullet of this section, under state and federal law, purchases of electric capacity and energy from renewable energy providers must be at or below the utility’s full avoided cost. This appropriately ensures that customers will pay the same for electrical energy regardless of whether the energy is produced by the utility or a renewable energy producer.

6. Fourth bullet beneath “**Renewable Energy**”

Gulf recommends replacing the word “should” with the word “may.” In its current form, this section could be read as a directive, as opposed to a statement of principle.

CONCLUSION

Gulf Power thanks the Commission for the opportunity to comment on this thoughtful analysis of an important subject.

Respectfully submitted this 8th day of July, 2011.

EXHIBIT "A"

Draft Energy Bedrock Principles
Internal Affairs
June 21, 2011

ATTACHMENT A

Energy Policy Bedrock Principles

The following energy bedrock principles are founded upon the statutory framework that establishes the Commission's authority with respect to Florida's electric utilities, as well as the Commission's implementation of these statutes through its rules and orders. These bedrock principles are intended to provide guidance to FPSC staff in evaluating proposed state and federal legislation, preparing bill analyses, and responding to legislative information requests related to energy policy.

Regulatory Objectives

- The FPSC is responsible for ensuring that Florida's citizens receive adequate, reliable, and affordable electricity service from Florida's public utilities.⁸
- The rates established by the FPSC must be just, reasonable, and compensatory and reflect the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; and the ability of the utility to improve such service and facilities.⁹

Integrated Resource Planning

- Electric utilities must evaluate all alternatives reasonably available to meet customer demand and energy needs, including but not limited to: conservation and demand-side management, transmission and distribution efficiency, renewable energy, modernization and efficiency improvements to existing power plants, and construction of new generating plant capacity.¹⁰
- The evaluation of the cost-effectiveness of alternatives should be based, first and foremost, on quantifiable costs that will ultimately be included in rates paid by consumers using the economic principles of least cost over the useful life of the alternative.¹¹

⁸ Section 366.04.F.S.

⁹ Section 366.041.F.S.

¹⁰ Sections 366.05(7), (8), 366.051, 366.81, 366.82, 366.91, 366.92, 403.519,F.S.

¹¹ Sections 366.051, 366.91, 366.92, 403.519.F.S.

Draft Energy Bedrock Principles
Internal Affairs
June 21, 2011

ATTACHMENT A

- In keeping with the responsibility to protect public welfare and promote the public interest, strategic concerns and societal benefits (such as fuel diversity, job creation, economic development, environmental enhancements, etc.) may be considered ~~on a case-by-case basis~~ consistent with the legislative intent authority provided in state and federal statutes.¹²
- In determining the weight to be given to strategic concerns and societal benefits in the selection of energy alternatives, priority should be given to those that promote clean energy technologies, affordable electricity rates, and enhanced reliability.

Energy Conservation

- Conservation continues to play an important role as a first step in meeting the energy needs of Florida's citizens and should be promoted across a full range of state and local government policy initiatives.
- Public education and awareness is paramount in promoting wise energy use in Florida and to avoid wasteful consumption practices.
- Continued focus should be placed on increasing the efficiency of new and existing structures and equipment in Florida's homes and businesses.
- Utility sponsored conservation and demand-side management is an important part of the state's overall energy policy which is aimed at reducing the need for additional power plants, maximizing the efficiency of existing power plants, and reducing overall fossil fuel consumption in the production of electricity.
- In determining the scope of utility conservation efforts, the direct economic and indirect societal benefits must be balanced with the costs of conservation programs, taking into consideration the rates charged to electric consumers and the affordability of electricity.

Renewable Energy

- Any approach to promote renewable energy resources must be lawful under the Federal Public Utility Regulatory Policies Act (PURPA) and Federal Energy Regulatory Commission regulations, as well as Florida law.
- Under current state and federal law, purchases of electric capacity and energy from renewable energy providers and other qualifying facilities must be at or below an investor-owned utility's full avoided cost.¹³

¹² Sections 366.01, 366.91, 366.92, 366.82, 403.519.F.S.

¹³ Section 366.051.F.S.

Draft Energy Bedrock Principles
Internal Affairs
June 21, 2011

ATTACHMENT A

- Strategies to provide additional value to renewable energy producers ~~above the utility's full-avoided-cost~~ should take into consideration the impact on the adequacy and reliability of electricity supply and the costs of electric service to consumers.
- Preferences for certain renewable energy technology types ~~should~~ may be established through Legislative policy with priority given to those technologies that, consistent with integrated resource planning, result in the least cost over the useful life of the facility.
- Consideration should be given to both customer-owned renewable energy resources as well as utility-owned renewables.
- Customer-owned renewable energy resources should be encouraged through mechanisms that enhance the value of these systems to the individual customer, minimize any adverse rate impact on the general body of utility consumers, and maintain the financial viability of the utility.

From: Vicki Gordon Kaufman [mailto:vkaufman@kagmlaw.com]
Sent: Friday, July 08, 2011 9:20 AM
To: Mark Futrell
Subject: Bedrock Principles

Hi Mark. Attached are FIPUG's suggested changes/additions to the draft Bedrock Principles. We appreciate the opportunity to provide our thoughts.

Please let me know if you have any questions.

Vicki Gordon Kaufman

vkaufman@kagmlaw.com

Keefe, Anchors, Gordon and Moyle, P.A.
The Perkins House
118 N. Gadsden St.
Tallahassee, FL 32301
850-681-3828 (Voice)
850-681-8788 (Fax)
www.kagmlaw.com

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**Energy Bedrock Principles
Florida Public Service Commission
June 29, 2011**

Background

Florida Statutes establish the Florida Public Service Commission (FPSC or Commission) as the entity responsible for ensuring that Florida's citizens receive adequate, reliable and affordable electric service from Florida's public utilities.¹ Pursuant to Section 366.03, Florida Statutes (F.S.), each public utility has a statutory obligation to serve every customer within its service territory. Electric services provided must be reasonably sufficient, adequate, and efficient and provided in a non-discriminatory manner. As such, Florida's utilities must explore all available measures to ensure the most cost-effective and efficient means of producing and delivering reliable and affordable electricity service to their customers.

The Commission has jurisdiction over public utilities to regulate each company's rates and service.² The Commission is charged to investigate and determine the actual legitimate costs of the public utility. In fixing fair, just, and reasonable rates for each customer class, the Commission shall, to the extent practicable, consider the cost of providing service to the class, as well as the rate history, value of service, and experience of the public utility; the consumption and load characteristics of the various classes of customers; and public acceptance of rate structures.³ Finally, no public utility shall be denied an opportunity to earn a reasonable rate of return upon its rate base in any order entered pursuant to an appropriate rate proceeding.⁴

The Commission has jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida.⁵ The Commission also has authority to hold proceedings if there is probable cause to believe that inadequacies exist with the grid and to require installation or repair of necessary generation or transmission facilities. Further, costs associated with infrastructure repair or additions must be distributed in proportion to the benefits received.⁶

In order to monitor and assess the planning functions and results of the Florida utilities, the Commission annually reviews the Ten-Year Site Plans of each utility subject to Section 186.801, F.S., and Commission Rules 25-22.070 through 25-22.072, Florida Administrative Code (F.A.C.). These documents, and the *Regional Load and Resource Plan* prepared annually by the Florida Reliability Coordinating Council, provide the Commission data and information on the need for electrical power in the area to be served, the effect on fuel diversity of power plant additions, and possible alternatives to the proposed plan.

¹ Chapter 366, F.S.

² Section 366.04, F.S.

³ Section 366.06(1), F.S.

⁴ Section 366.041(1), F.S.

⁵ Section 366.04(5), F.S.

⁶ Section 366.05(8), F.S.

The Commission is the sole forum for the determination of need for power plant and transmission line additions that meet the criteria established in the Florida Electrical Power Plant Siting Act and the Florida Electric Transmission Line Siting Act, respectively.⁷ In making its determination on power plant additions that exceed 75 megawatts of steam capacity, the Commission must take into account: (1) the need for electric reliability, (2) the need for adequate electricity at a reasonable cost, (3) the need for fuel diversity and supply reliability, (4) whether the proposed plant is the most cost-effective alternative, (5) whether renewable energy sources as well as conservation measures are utilized to the extent reasonably available, and (6) whether conservation measures might mitigate the need for the proposed plant.

Since the early 1980s, the Commission has implemented federal and state laws and policies that encourage renewable energy and other alternative sources of electricity. The federal Public Utility Regulatory Policies Act (PURPA), signed into law November 9, 1978, in part requires electric utilities to interconnect and sell electric energy to qualifying cogeneration and small power production facilities, referred to as Qualifying Facilities (QF), and to purchase electric energy from these facilities at the utility's full avoided cost. In response to PURPA, in 1981, the Florida Legislature authorized the Commission to establish guidelines for the purchase and sale of capacity and energy from cogenerators and small power producers, which includes renewable generators, at full avoided cost. Section 366.051, F.S., defines avoided cost as the incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source. The Commission implements its statutory authority by identifying an avoided generating unit or power purchase and calculating avoided costs based on the quantifiable costs for this unit or purchase. Avoided cost includes a capacity and energy component based on: (1) the actual capital cost which would have been incurred for the avoided plant, (2) the fuel cost and quantity that would have been used in the plant, and (3) the plant's operating and maintenance expenses. Avoided cost is based on quantifiable costs from the avoided unit or purchase and does not include an estimate for externalities, such as any environmental benefits associated with renewable energy. This policy ensures that customers will pay the same value for electrical energy regardless of whether the energy is produced by the host utility or a QF, including a renewable energy producer.

In 2007, the Commission conducted workshops to assess mechanisms to further encourage renewable energy. These discussions ultimately led to the Commission adopting amendments to Rule 25-6.065, F.A.C., requiring the investor-owned electric utilities to expedite the interconnection of customer-owned renewable generation and allowing the additional benefit of carrying forward excess generation month-to-month through net metering.

In 2008, the Legislature amended Section 366.92, F.S., requiring the Commission to develop a draft rule, subject to ratification by the Legislature, establishing a Renewable Portfolio Standard for Florida's investor-owned electric utilities. The Commission submitted its draft

⁷ Sections 403.519 and 403.537, F.S.

rules implementing these provisions on January 30, 2009. To date, the Legislature has not ratified the draft rules.

Energy Policy Bedrock Principles

The following energy bedrock principles are founded upon the statutory framework that establishes the Commission's authority with respect to Florida's electric utilities, as well as the Commission's implementation of these statutes through its rules and orders. These bedrock principles are intended to provide guidance to FPSC staff in evaluating proposed state and federal legislation, preparing bill analyses, and responding to legislative information requests related to energy policy.

Regulatory Objectives

- The FPSC is responsible for ensuring that Florida's citizens receive adequate, reliable, and affordable electricity service from Florida's public utilities.⁸
- The rates established by the FPSC must be just, reasonable, and compensatory and reflect the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; and the ability of the utility to improve such service and facilities.⁹

Integrated Resource Planning

- Electric utilities must evaluate all alternatives reasonably available to meet customer demand and energy needs, including but not limited to: conservation and demand-side management, transmission and distribution efficiency, renewable energy, modernization and efficiency improvements to existing power plants, and construction of new generating plant capacity.¹⁰
- The evaluation of the cost-effectiveness of alternatives should be based, first and foremost, on quantifiable costs that will ultimately be included in rates paid by consumers using the economic principles of least cost over the useful life of the alternative.¹¹
- In keeping with the responsibility to protect public welfare and promote the public interest, strategic concerns and societal benefits (such as fuel diversity, job creation, economic development, environmental enhancements, etc.) may be considered on a

⁸ Section 366.04, F.S.

⁹ Section 366.041, F.S.

¹⁰ Sections 366.05(7), (8), 366.051, 366.81, 366.82, 366.91, 366.92, 403.519, F.S.

¹¹ Sections 366.051, 366.91, 366.92, 403.519, F.S.

case-by-case basis consistent with the legislative intent provided in state and federal statutes.¹²

- In determining the weight to be given to strategic concerns and societal benefits in the selection of energy alternatives, priority should be given to those that promote clean energy technologies, affordable electricity rates, and enhanced reliability.

Energy Conservation

- Conservation continues to play an important role as a first step in meeting the energy needs of Florida's citizens and should be promoted across a full range of state and local government policy initiatives.
- Public education and awareness is paramount in promoting wise energy use in Florida and to avoid wasteful consumption practices.
- Continued focus should be placed on increasing the efficiency of new and existing structures and equipment in Florida's homes and businesses.
- ~~Utility-sponsored~~ Conservation and demand-side management is an important part of the state's overall energy policy which is aimed at reducing the need for additional power plants, maximizing the efficiency of existing power plants, and reducing overall fossil fuel consumption in the production of electricity.
- In determining the scope of utility conservation efforts, the direct economic ~~and indirect societal~~ benefits must be balanced with the costs of conservation programs, taking into consideration the rates charged to electric consumers and the affordability of electricity.
- Conservation efforts undertaken and funded by customers should be recognized in setting goals and in apportioning the costs of any approved utility-funded programs.

Renewable Energy

- Any approach to promote renewable energy resources must be lawful under the Federal Public Utility Regulatory Policies Act (PURPA) and Federal Energy Regulatory Commission regulations, as well as Florida law, and should recognize all costs incurred to deliver energy to the grid.
- Under current state and federal law, purchases of electric capacity and energy from renewable energy providers and other qualifying facilities must be at or below an investor-owned utility's full avoided cost.¹³

¹² Sections 366.01, 366.91, 366.92, 366.82, 403.519, F.S.

¹³ Section 366.051, F.S.

- Strategies to provide additional value to renewable energy producers ~~above the utility's full avoided cost~~ should take into consideration the impact on the adequacy and reliability of electricity supply and the costs of electric service to consumers.
- Preferences for certain renewable energy technology types should be established through Legislative policy with priority given to those technologies that, consistent with integrated resource planning, result in the least cost over the useful life of the facility, including indigenous non-emitting resources.
- Consideration should be given to both customer-owned renewable energy resources as well as utility-owned renewables.
- Customer-owned renewable energy resources should be encouraged through mechanisms that enhance the value of these systems to the individual customer, minimize any adverse rate impact on the general body of utility consumers, and maintain the financial viability of the utility.

II. Outside Persons Who Wish to Address the Commission at Internal Affairs

The records reflect that no outside persons addressed the Commission at this Internal Affairs meeting.

III. Supplemental Materials for Internal Affairs

NOTE: The following material pertains to Item 4 of
this agenda.

Executive Director Interview List

<u>Name</u>	<u>Employment History</u>	<u>Location</u>
1. Aster Adams	Director – Ohio Consumers’ Counsel	Pickerington, OH
2. Braulio Baez	Attorney/Former PSC Commissioner	Coral Gables, FL
3. Timothy Barden	Interim County Administrator – Wakulla County	Tallahassee, FL
4. Diana Caldwell	Attorney/Former PSC Attorney	Tallahassee, FL
5. James Cook	VP/COO – FairPoint Communication	Fort Walton Beach, FL
6. Earl Daugherty	R & D Manager – Tennessee Valley Authority	Hixson, TN
7. Christine Ericson	Dep. Solicitor General – Illinois Commerce Commission	Evanston, IL
8. Michael Eurich	Dir of Development & External Affairs – FL Trail Assn.	Tallahassee, FL
9. George Harder	Project Manager – Applied Environmental Consulting	Lutz, FL
10. Charles “Chris” Hart	CEO – Hart Enterprises (Consulting)	Tampa, FL
11. Stephen Hogge	Owner – Stephen Hogge & Associates (Consulting)	Tallahassee, FL
12. Gary Hunt	President – Scalable Growth Strategy Advisors	Danville, CA
13. Steven Marshall	Logistics Director – US Navy	Tallahassee, FL
14. Paul Montgomery	Liaison for Defense - Pentagon	Alexandria, VA
15. Phillip Nowicki	Director of Consumer Protection – State of Georgia	Decatur, GA
16. Tanya Robinson	Business Analyst Manager – FAMU	Tallahassee, FL
17. David Russell	COO – Deuk Spine Institute	Melbourne, FL
18. William Stewart	Deputy Chief of Staff – FL Attorney General	Tallahassee, FL
19. Harold Stoller	Director of Energy – Illinois Commerce Commission	Springfield, IL
20. Michael Townsley	Deputy Director – New York PSC	Old Saybrook, CT
21. Bill Veach	Director, Hotels & Restaurants - DBPR	Tallahassee, FL