

ORIGINAL

Florida Apartment Association
1133 W Morse Boulevard
Suite 201
Winter Park, FL 32789
(407) 647-8839

January 20, 1998

Ms Blanca A. Bayó
Florida Public Service Commission
Director of Division of Records and Reporting
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE Florida Public Service Commission
Petition on Proposed Agency Action
Docket No. ~~970540-E-G~~

Dear Ms Bayó

Please find enclosed filing on behalf of the Florida Apartment Association's (FAA) response to Florida Power and Light Company's (FPL) "Motion in Opposition" to Amended Petition on Proposed Agency Action of the Florida Apartment Association in Docket No 970540-E-G

If there are any questions regarding this filing, please contact me at (407) 647-8839

Sincerely,

Jan Milbrath
Ms Jan Milbrath

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FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re. Petition for Modification of)
 Florida Power & Light Company's)
 Duct System Testing and Repair)
 Program)

Docket No 970540-EG
 Filed January 21, 1998

RESPONSE TO "MOTION IN OPPOSITION TO AMENDED 'PETITION ON PROPOSED AGENCY ACTION' OF THE FLORIDA APARTMENT ASSOCIATION" OF FLORIDA POWER AND LIGHT COMPANY

On January 12, 1998, Florida Power and Light Company ("FPL") filed a "motion in opposition" to the Florida Apartment Association's ("FAA's") "Amended Petition on Proposed Agency Action" filed with the FPSC on December 31, 1997. The FAA's response to this motion is stated herein.

The Association's response will attempt to provide a more specific description regarding the FAA's standing and other issues challenged by FPL. While many of these were considered to be of an obvious nature, the FAA realizes after reviewing the FPL motion that further explanation may be helpful to all concerned parties. The FAA will attempt to respond to each question or issue raised by FPL in the order they were presented.

THE FLORIDA APARTMENT ASSOCIATION HAS STANDING TO PROTEST AND REQUEST A HEARING

1) In response to FPL's submittal that the FAA and its members does not have standing to protest, the FAA maintains participation in the existing program as approved by the Commission in November 1995 is available to all residential rate-paying customers in the FPL service area. No FPL residential rate-paying customer can therefore be excluded from participation. The

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improvements currently available through the existing program provide the benefit of reduced energy usage, reduced energy costs, and therefore contribute to reduced household operating costs, for the typical participating residential, rate-paying customer. The reduced costs available through the current program benefit the residential rate-payer, and are therefore of substantial interest to the customer. Conversely, any reduction or infringement on currently existing opportunities or probabilities of reducing these costs for the residential rate-payer are therefore detrimental to the customers substantial interests

FPL's estimates provided to the Commission (exhibit provided) demonstrate its expectation that approval of the requested 42% reduction in program incentives will have the effect of reducing program participation by approximately 20,000 per year residential rate-paying customers from the anticipated level of 98,937 participants under the current program to 78,931 participants in the year 2000 alone.

It is clearly evident that FPL acknowledges that the proposed reduction of incentives by 42% will substantially reduce the probability or likelihood of typical FPL residential rate-payers receiving program benefits. These substantially lower incentive levels obviously would lead to lower participation levels, and would be detrimental to the substantial interests of the residential rate-payers who wish to participate.

Therefore, any residential rate-paying FPL customer who wishes to participate in the program as it currently exists can demonstrate a substantially affected interest in the proceeding

In its motion dated January 12, 1998, FPL asserts that the FAA must demonstrate how its members, "owners or managers of multi-family dwellings", would be substantially affected by the approval of the proposed modifications.

A substantial number of the FAA members FPL refers to are residential rate-paying customers of FPL. A substantial number of owners maintain a residence at their community/communities. Those that live in the geographical area serviced by FPL (a substantial number) are FPL residential rate-paying customers, with the same rights and options available to any other FPL customer. In addition, a substantial number of the property managers and management personnel typically reside at these FAA member communities in the FPL service area. Property management personnel are typically encouraged to live on site in their communities. The net effect is that a substantial number of FAA members (owners or management personnel) reside in FPL serviced regions, are residential rate-paying customers, and are therefore substantially affected parties to this proceeding, as are any other customers wishing to participate in the program as it currently exists. In addition, a typical FPL serviced member community may maintain a vacancy rate of 5 - 15% at any given time. Typically, the owner/management assume the responsibility for the utility costs for these individual units while vacant. This is a matter of convenience for the prior resident (eases significantly preparations, repairs, etc. that are residents fiscal responsibility, but typically implemented by management) and for the incoming resident (utility account can be simply transferred into their name without unnecessary delay of service). These residences are billed as residential rate-paying customers. The owners/management and communities are residential rate-paying customers of FPL.

As residential rate-paying customers, a substantial number of FAA member communities are substantially affected by this issue. The FAA maintains that issues pertaining to household operating costs that affect the residents of its member communities certainly affect the FAA members themselves. Providing the most beneficial housing values available is of substantial and

primary interest of the Association members. Utility bills, electricity, water, etc., are most definitely an integral and substantial component of 20th century household operating costs. For example, appliances such as HVAC systems that are found to be operating inefficiently and resulting in unnecessarily high utility bills are routinely repaired or replaced for the resident's benefit. The Association's by-laws and objectives clearly direct the association members to address and advance these issues of maximizing value and mutual benefit, among others. In fact, membership dues charged to member communities are typically based on the number of individual residences located within the community, as the association's efforts and objectives extend to protect and improve the household related interests of those residences located within each member community.

A substantial number of the FAA's individual members have standing individually as FPL residential rate-paying customers. A substantial number of the communities themselves are FPL residential rate-paying customers. Participation in the program as it currently exists provides the residential rate-payer abiding in the member community the benefit as intended by the program. The FAA members' substantial interest is affected by these FPL residential rate-payer's opportunity or probability of receiving this benefit. **A SUBSTANTIAL NUMBER OF THE FAA MEMBERS AND MEMBER COMMUNITIES ARE SUBSTANTIALLY AFFECTED BY THIS PROCEEDING.**

The FAA's members and those residing in FPL serviced member communities will substantially suffer the same injuries as any other FPL residential rate-paying customer wishing to participate in the program as it currently exists if the Commission approves the program modifications as submitted. The injuries arising from the proposed 42% reduction in incentives

are the reduced opportunities or probability of participating in the program's current benefits which include improved energy efficiency of the rate-payers' HVAC systems, and therefore lower energy bills, and lower household operating costs. Fiscal situations of many rate-payers (FPL estimates are a conservative 20,000 per year) will keep them from participating in the program benefits. While the proposed, reduced incentives may not impede a relatively affluent owner of a 4,500 square foot home from participating, those most likely to be unable to participate are those in the lower income brackets. The average apartment resident's income is less than the average homeowner. The injuries incurred by the FPL residential rate-paying customers under the proposed plan will likely be disproportionately incurred by those of less than average incomes, but all wishing to participate will be detrimentally affected (injured) by the higher costs associated with participation under the modified plan as proposed.

The FPL residential rate-paying FAA members, member communities, and residents residing in those communities will immediately suffer such injuries as reduced opportunities or probability of enjoying the program's current benefits of lower energy bills, and lower household operating costs if the proposed, substantially reduced program incentives are approved.

**THE SUBJECT MATTER OF THE PROCEEDING IS WITHIN THE ASSOCIATION'S
GENERAL SCOPE OF INTEREST AND ACTIVITY**

While many of the association's by-laws (exhibit provided) satisfy this requirement, particular attention is drawn to objectives b, e, f, and i. These are:

- b) To develop and maintain within the apartment industry a high appreciation of the objectives and responsibilities of apartment owners and operators in fully serving the public
- e) To secure cooperative action in advancing the common purposes of its members, uniformity and equity in business usages and laws; and proper consideration of opinion upon questions affecting the apartment industry in the State of Florida.
- f) To promote and assist in the enactment, enforcement, and maintainment of beneficial local, state, and federal laws pertaining to the apartment industry and to otherwise promote and encourage better methods and practices in the industry.
- i) To serve, advance, and protect the welfare of the apartment industry, in such manner that adequate housing will be made available by private enterprise to all people in Florida

Also, section 1-d of the Association's code of ethics states:

- d) Seek to provide better values, so that even a greater share to the public may enjoy the many benefits of apartment living.

The Association emphatically maintains that the welfare of its members are directly linked to the welfare of those abiding in their communities. Attempts to fully serve the public, promoting and assisting in enactment, enforcement, and maintainment of beneficial laws (including FPSC orders) affecting the industry, providing adequate housing to all people in Florida, and providing the best overall housing value possible to the public are all related to the

subject matter of the proceeding, and are among the basis for the vote of the Association's Board of Directors of October 24, 1997 to investigate the issues and become a party to the proceeding if necessary

The subject matter of the proceedings is within the Association's general scope of interest and activity. The relief requested (a Section 120.57 hearing on the issues) is of the type appropriate. A substantial amount of the Association's members are substantially affected, and as any other group of affected FPL residential rate-payers has such rights, and as the Commission has the ability to provide such relief, it is an appropriate request.

The Association has clearly demonstrated that a substantial number of its members are substantially affected as FPL residential rate-paying customers wishing to participate in the benefits of the program as it currently exists, as well as the member communities in the FPL service area being FPL residential rate-paying customers, as well as the members being substantially affected by the reduced opportunities or probabilities of those residing in FPL serviced member communities in achieving the lower utility bills (or in the absence of the current incentives unnecessarily high utility bills) than would otherwise be attainable if the proposed modifications are approved. The FAA's standing is due to the issues direct effect on its members and member communities (with precedence established as FPL residential rate-payers), as well as such effect the modifications as proposed would have on the members' abilities to provide the best values available so that "an even greater share to the public may enjoy the many benefits of apartment living" as mandated in the Association's by-laws.

The FAA has alleged and detailed the injuries on behalf of individual members (higher energy bills and household operating costs) as well as representative standing (owners and management personnel) as well as their interest to provide the highest value in residential housing, (including utility costs).

THE FAA'S REQUEST FOR HEARING ON THE PROPOSED CHANGES TO THE PROGRAM AS IT CURRENTLY EXISTS IS VALID.

FPL alleges that the FAA's amended petition may have been filed for improper purposes, and that the FAA never voiced their concerns previously regarding this issue to FPL's representatives

The FAA wishes to have the disputed issues of material fact as described in the FAA's amended petition filed 12-31-97 publicly addressed. The FAA has been informed by the staff of the Commission that it has been provided copies of all the relevant and pertinent data supplied by FPL to the Commission regarding FPL's proposal to modify the existing program dated 5-6-97. There is no textual reference made that would address, the FAA's disputed issues of material fact. The disputed issues affect the very basis of FPL's cost-benefit analysis tests, and therefore the program standards themselves.

The FAA did not receive a copy of FPL petition of 5-6-97 until November 1997. The Association's members had only recently been made aware of the proposed changes via contact with various FPL field representatives but none seemed to know or be willing to discuss any specifics regarding the petition or the proposed reduction in incentive levels. Members' questions

regarding any potential input Association members may provide to the issue were repeatedly met with answers of the nature that the decisions had been made, that these changes (whatever they may have been) were going into effect, and that the effects would be a substantial reduction from current participation levels.

After hearing from member communities that they had been informed by FPL that their residents may not have the opportunity to participate in the current program because the testing procedures may not be completed before the new program takes effect, the Association made efforts to ascertain what the situation pertaining to the program actually is

Having been told by FPL representative that the new program must be approved by the FPSC, the Association directed its efforts to the Commission and the Commission's staff. So it is only very recently that the Association came into possession of the details of the proposed modifications and the options available to the affected parties. FPL did not provide any pertinent information in this matter to the Association

The Association realizes the difficulties experienced in securing detailed information regarding the proposed changes are its own, however, we hope that the Commission takes into account that they are typical of those likely to be experienced by all affected rate-payers. The average FPL rate-payer has no idea of the proposed changes, or their commensurate effect on those wishing to participate, as were the Association members previously.

If FPL had wished to make any Association member privy to its proposed modifications to the existing plan, it could have done so at any time, either before or after the FPL Representatives began receiving questions regarding program specifics from FAA members.

While the FAA realizes that its concerns may not have previously been stated in the preferred formal form and using the syntax FPL desired, the FAA attempts in these responses to FPL's motion to address FPL's concerns and more specifically delineate the Associations position. The FAA hopes that the spirit of its concerns and interests are properly conveyed to the Commission. FPL assertions that the modifications must be approved immediately so as not to interrupt training classes is not viable justification. FPL should not have scheduled training classes for replacement programs while there is ongoing discussion of existing programs. It indicates a presumptive action, and is not appropriate justification.

FPL's own promotional material (exhibit provided) state that "the single largest energy waste in existing Florida homes occurs as the result of leakage in air conditioning duct systems". A residentially focused energy efficiency program must include a viable duct leakage program with incentives of a substantially encouraging nature to garner a large number of participants, if a significant amount of energy consumption is to be avoided. In the absence of such a program, the residential energy savings program-wide would plummet, and the cumulative energy savings would be inconsequential in comparison to those currently realized via the existing program. There are inefficiencies, excess costs, and unnecessary waste associated with FPL's current program. A 42% reduction in incentives would likely reduce participation commensurately. The opportunities exist for a more cost-effective implementation of the program, which would reduce program costs. These opportunities should be considered and explored along with the previously stated (FAA's amended petition 12-31-97) disputed issues of material fact, before the program measures addressing the "single largest energy waste" is effectively eviscerated. This program is one of the very few effective energy-saving options available to the residential rate-paying FPL.

customer, and every effort should be made to preserve the opportunity for the FPL-serviced public.

According to FPL field representatives, a relatively high number of high bill complaints from FPL residential rate-paying customers were received in 1997 compared to previous years

On July 7, 1997 and July 8, 1997, record high energy consumption levels of 16,000 megawatts per day were recorded by FPL, setting a two-day record for summertime usage. FPL received 300 to 400 high bill complaints per day for approximately 6 consecutive weeks during the summer of 1997. With high bill complaints rising, a substantial reduction in energy conservation program participation will serve to exacerbate the existing problem. This would not appear to be in the residential rate-paying public's best interests.

The duct sealing improvement program provides the most effective way to avoid or alleviate unnecessarily high energy consumption for the residential rate-payer, and is a valuable option as currently available.

In its amended petition of 12-31-97, and its response to FPL's motion of 1-12-98 contained herein, the FAA attempts to clearly portray its concerns and questions regarding FPL's proposal to modify the currently existing plan.

The FAA believes it has appropriately demonstrated its standing to protest and request a hearing, and respectfully seeks to have its concerns, stated previously and herein, addressed before the Commission in a Section 120.57 hearing.

Respectfully submitted,



Ms. Jan Milbrath
President
Florida Apartment Association

cc: Mr. Cochran Keating
Staff Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Steel, Hector & Davis, LLP
215 S. Monroe Street
Suite 601
Tallahassee, FL 32312
Attn Charles Guyton

More ways FPL can help

Cooling & Heating Discount - have an FPL participating independent contractor replace your inefficient central cooling/heating system with a qualifying central cooling or heat pump system and get up to \$584 from FPL. Call for a list of participating independent contractors that serve your area.

The following programs require a free FPL home energy survey to determine whether your home qualifies, plus installation by FPL participating independent contractors.

Ceiling Insulation - a financial incentive to help you pay for ceiling insulation, up to our recommended level.

Water Heating - a financial incentive to help pay for a qualifying solar system or heat recovery unit.

Window Treatment - a financial incentive to help pay for certain solar reflective film, solar screens and selected awnings and shutters.

Learn even more about saving energy

If you'd like more information about no- and low-cost ways to trim your home's energy usage, call us for copies of these free guides:

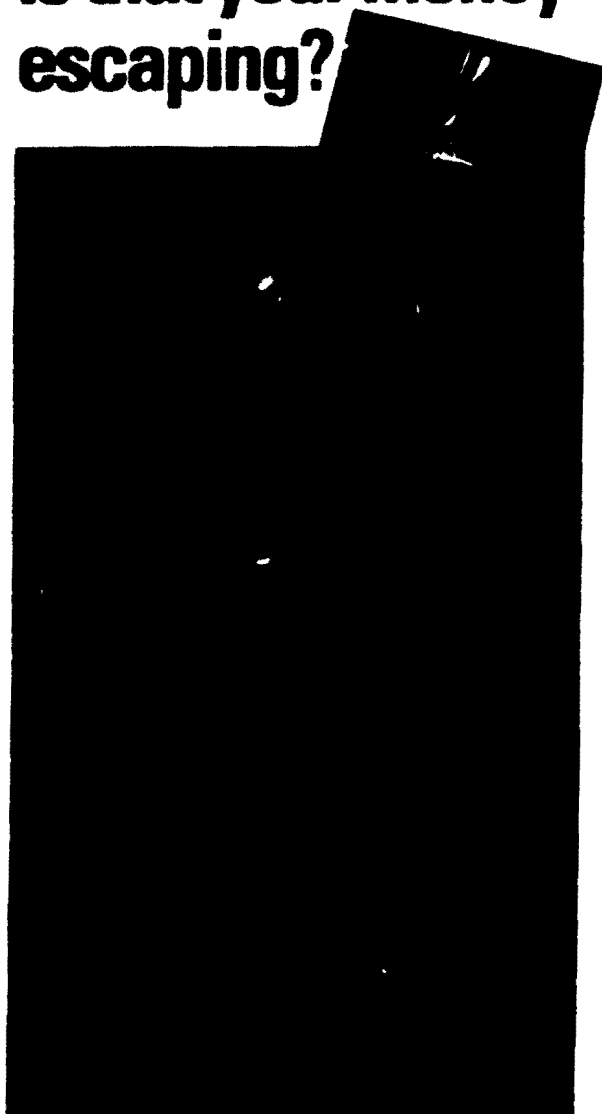
- Guide to energy-efficient living
- Guide to cooling your home efficiently
- Guide to efficient heating
- Guide to lighting your home efficiently
- Guide to efficient water heating
- Guide to insulating your home
- Consumer guide to energy-efficient home appliances
- Guide to energy use in a manufactured home

To order your free brochures, get more information on FPL conservation incentives or to ask for a free home energy survey, call us toll-free at **1-800-DIAL-FPL** (1-800-342-5375).

Note: These programs are subject to modification or cancellation at any time, without notice.



Is that your money escaping?





Small holes in your home's cooling and heating system ductwork can mean air escaping—and that can translate into higher electric bills. In fact, the Florida Solar Energy Center reports, "the single largest energy waste in existing Florida homes occurs as the result of leakage in air conditioning duct systems."

A simple test from FPL can tell you whether air leaks in your home's ductwork are allowing your energy dollars to drift away.

Ask for FPL's help

You could crawl into the attic and check the ductwork yourself. But even then, you might miss small air leaks. And leaks in duct systems and around air handlers can be major contributors to excessive energy consumption, poor thermal comfort and indoor air quality problems.

With the Duct System Test—part of FPL's Home Energy Loss Prevention Program—you'll pay only \$30 to have your home tested. If your ductwork needs repairs, we'll help pay for those improvements.

Duct System Test is quick, simple

If your home has a central duct system with sufficient access and meets other eligibility requirements, we'll arrange for an FPL representative to come to your home and check for air leaks. By placing a fan into an exterior door, leaks in your ductwork can be identified and measured.



In less than two hours, you'll get the test report describing the repairs needed to make your duct work as efficient as it can be. You'll receive a list of FPL participating independent contractors who are trained and qualified to do the work. You'll also receive a certificate showing the amount of your FPL rebate, to use toward the payment when the repairs are made.

FPL helps pay for the repair

An FPL Duct System Test is the best way to check your cooling and heating system for leaks. And it will only cost you \$30 to check the air conditioning system in your home.

Of course, you're under no obligation to make the improvements. But if you do, FPL will pay up to \$225 to have your ductwork repaired, depending upon the amount of work needed.

The test offers more than possible savings on energy and money. While examining your home, the FPL representative will check to make sure any combustion appliances are operating safely. You'll be notified of any potential safety hazards in the test report.

Qualifying is easy

To qualify for up to \$225 toward your duct system's repairs, you must have an FPL representative perform the Duct System Test and a participating independent contractor repair your ductwork.

All of FPL's participating independent contractors agree to meet licensing and insurance requirements and FPL's standards for repair.

Call FPL today

Call 1-800-DIAL-FPL (1-800-342-5375) and ask for the Duct System Test. If you qualify, we'll arrange for an FPL representative to come to your home at your convenience. Call today and take the first step to energy savings.

20 • FLORIDA APARTMENT ASSOCIATION

BYLAWS FOR THE GOVERNMENT OF THE FLORIDA APARTMENT ASSOCIATION, INC.

ARTICLE I**Purpose Of These Bylaws**

These bylaws are for the government of the Florida Apartment Association, Inc. and its members, and for accomplishing the purposes as set forth in the Corporate Charter, and for achieving the objectives set forth herein.

ARTICLE II**Definitions**

- The terms "Affiliated Local Association" and "Local Association" as used in these bylaws shall mean a local apartment association affiliated with FAA pursuant to Article VIII.
- The terms "Florida Apartment Association" and "FAA" as used in these bylaws shall mean the Florida Apartment Association, Inc.
- The term "FAA Office" as used in these bylaws shall mean FAA's office in Winter Park, Orange County, Florida.
- The terms "Board of Directors" and "Board" as used in these bylaws shall mean the Board of Directors of FAA referred to in Article X.
- The term "Director" as used in these bylaws shall mean a Voting or Alternate member of the Board of Directors of FAA as referred to in Article X.
- The term "Executive Committee" as used in these bylaws shall mean the executive committee of FAA as referred to in Article XVI, Section 1.
- The terms "Member," "Members," and "Membership" as used in these bylaws shall mean the member or members of FAA as defined in Article VII.
- The term "Officer" as used in these bylaws shall mean an officer of FAA as referred to in Article X, Section 1.
- The term "Multihousing" as used in these bylaws shall mean any residential rental housing.

ARTICLE III**Emblem and Seal**

- The Board of Directors shall adopt an official emblem to be used on the stationery and letters of this Association.
- The corporate seal of this Association shall consist of a circular metal disc and shall have inscribed thereon the following: "Florida Apartment Association, Inc., a Florida non-profit corporation" "Seal".

ARTICLE IV**OBJECTIVES**

- The objective of this Association shall be:
 - To associate apartment owners, builders, and local apartment associations operating within the state of Florida for the purpose of mutual advantage and cooperation.
 - To develop and maintain within the apartment industry a high appreciation of the objectives and responsibilities of apartment owners and operators in fully serving the public.
 - To advocate and encourage the constant improvement of apartment ownership and management techniques and operating practices.
 - To promulgate and enforce a Code of Ethics to maintain high professional standards and sound business methods among its members for the best interest of the industry and public.
 - To secure cooperative action in advancing the common purposes of its members, uniformity and equity in business usages and laws, and proper consideration of opinion upon questions affecting the apartment industry in the state of Florida.
 - To promote and assist in the enactment, enforcement and maintenance of beneficial local, State, and Federal laws,

pertaining to the apartment industry and to otherwise promote and encourage better methods and practices in the industry.

- To function as an affiliated State Association of the National Apartment Association within the above described jurisdiction.
- To serve, advance, and protect the welfare of the apartment industry, in such manner that adequate housing will be made available by private enterprise to all people in Florida.
- To disseminate useful information and engage members to further educate themselves in the practical features of their apartment business.
- To hold, when practicable in connection with its annual meetings or otherwise, as an educational feature, an exhibition of equipment, supplies, and other items which may be beneficial in conducting the apartment business.
- To bring to the public mind the concept of apartment living through all news media, Advertis and promote the benefits.

ARTICLE V**CODE OF ETHICS**

- Active members of this Association shall agree to observe and be bound by the following Code of Ethics:
 - Promote, employ, and maintain a high standard of integrity in the establishment of rental rates and the performance of all other rental obligations and services in the operation of our apartment projects.
 - Maintain and operate our apartment projects in accordance with fair and honorable standards of completion, over and above the purposes of the Florida Apartment Association, Inc. and in compliance with the Bylaws thereof, and not by personal contact or otherwise, engage directly or indirectly in any act of solicitation from other apartment projects advertising or promoting less rent, gifts, premiums, or other giveaway schemes calculated to induce apartment residents to move from one apartment project to another.
 - Strive continually to promote the education and fraternity of the membership and to promote the progress and dignity of the apartment industry in ensuring a better image of itself in order that the public may be better served.
 - Seek to provide better values so that an even greater share to the public may enjoy the many benefits of apartment living.
 - Establish high ethical standards of conduct with apartment rental agencies, suppliers, and others doing business with the apartment industry.
 - Endeavor to expose all schemes to mislead or defraud the apartment residing public and to aid in the exposure of those responsible.
 - Refrain from attempting to obtain apartment residents, through advertising or otherwise, by means of deceptive, misleading, or fraudulent statements, misrepresentations, or the use of implications, unwarranted by fact or reasonable probability.

ARTICLE VI**The Fiscal Year**

The fiscal year for this Association shall be January 1st to December 31st of each year.

ARTICLE VII**Membership****Section 1. Definition of Member.**

Members of FAA shall be any person, firm, or corporation who as a member in good standing of any Affiliated Local Association as set forth in Article VIII. Affiliated Local Associa-

tions are not members of FAA.

Section 2. Contingent Federation

FAA is a contingent federation in which 1 members of the Affiliated Local Association are automatically members of FAA, and 2 individuals, firms, and corporations must be a member of the Affiliated Local Association to be a member of FAA.

Section 3. Designated Representative

- Each member of FAA shall designate to the Local Association an individual from the member's firm or business to cast each member's vote at FAA general membership meetings and to represent such member in dealing with FAA.
- The designated representative of each member shall be eligible to serve as a Director and Officer of FAA where authorized in these bylaws. The individual last designated as the member's representative shall serve until a successor is designated.

ARTICLE VIII**Affiliated Local Associations****Section 1. Definition**

FAA shall accept as an Affiliated Local Association any or general group of multihousing owners and operators, excluding owner-occupied homeowners organizations, in the state of Florida working for the same purposes and objectives as FAA and which shall meet the conditions and requirements set forth in this Article and who shall otherwise qualify.

Section 2. Territory; Jurisdiction

Territorial jurisdiction of each Affiliated Local Association shall be defined by cities, counties, or parts thereof and submitted to FAA's Board for approval.

- A Local Association shall have the sole right to secure members doing business within the confines of the territory assigned to it. Other Local Association shall not have the authority to secure such members from a Local Association's assigned territory.

- The territory assigned to any Local Association may be reviewed by the FAA Board at any time. A decision by a 66 two-thirds majority of the Board's votes present to increase or decrease the territory assigned to a Local Association shall be binding upon the Local Association provided 60 days notice of the proposed change has been given the Local Association with an opportunity, if it so desires, to appear before the FAA Board to present pending action. There shall be a quorum of at least 50% of the total Board votes for such vote.

Section 3. Member Utilities

On the first day of June, September, and October it shall be the responsibility of the Local Association to provide FAA with information regarding additions, deletions, or changes in names and addresses of designated representatives of the Local Association's members.

Section 4. Local Association Bylaws

The bylaws of the Local Association shall not conflict with the charter and bylaws of FAA. In the event of conflict the FAA bylaws shall prevail.

Section 5. Resolving Conflict

For good cause and upon 30-day notice to the Board prior to voting, the FAA Board may review, and by a 66 two-thirds majority of the Board votes present, rescind the charter of a Local Association. There shall be a quorum of at least 50% of the total Board votes for such vote. The Local Association impacted by such vote shall be ineligible to vote, and the total Board votes of the impacted Local Association shall not be considered in satisfying the 50% quorum requirement or 66 2/3% majority Board vote requirement as specified above.

DOCKET NO. 970540-EG
OCTOBER 23, 1997

FPL's Duct System Testing and Repair Program appears to be monitorable and able to yield measurable results. FPL provided staff with its program evaluation plan for the 1997-1999 period. This evaluation plan reflects FPL's intent to perform end-use monitoring at 100 sites in 1997 and 1998 to record the energy usage during every hour of the day. FPL also plans to conduct post-participation phone surveys of 400 customers in 1997 and 1998.

Projected demand and energy savings for FPL's modified Duct System Testing and Repair Program are based on past end-use metering of the current program. End-use metering showed that FPL was receiving less demand and energy savings than it originally projected in 1995 for the current program. As a result, FPL's new demand and energy savings projections for the modified program are less than those made for the current program, as illustrated in the following table:

	Nov. 1995 (current program)	May 1997 (as modified)
Summer Peak Demand	0.34 MW	0.28 MW
Winter Peak Demand	0.65 MW	0.51 MW
Annual Energy Consumption	547 kWh	467 kWh

One of FPL's proposed program modifications would reduce the average customer incentive level from \$679/kW to \$369/kW if summer peak demand reduced. FPL expects to suffer decreased program participation as a result of the reduced customer incentive. By the year 2000, FPL forecasts 78,931 program participants with the new, reduced customer incentive; 98,937 customers were forecasted to participate in the year 2000 absent any change in the incentive level. Using the new program participant forecast, FPL expects the Duct System Testing and Repair Program to reduce summer peak demand by a total of 21.94 MW, winter peak demand by 24.15 MW, and annual energy consumption by 36,560 MWh in the year 2000.

FPL's other proposed program modification would exclude small, non-demand metered C/I customers from further participation in the program. FPL found difficulty in including C/I buildings in a