

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Approval of Demand-Side) DOCKET NO. 941172-EG
Management Plan of Gulf Power) ORDER NO. PSC-95-1345-S-EG
Company.) ISSUED: November 1, 1995
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER APPROVING STIPULATIONS
AND REINSTATING ORDER NO. PSC-95-0691-FOF-EI
AS A FINAL ORDER, AS MODIFIED

BY THE COMMISSION:

CASE BACKGROUND

On June 9, 1995, the Commission issued a Notice of Proposed Agency Action, Order No. PSC-95-0691-FOF-EI. That order memorialized our decision in four dockets that had been consolidated for hearing: Docket No. 941170-EI, In Re: Approval of Demand-Side Management Plan of Florida Power & Light Company; Docket No. 941171-EI, In Re: Approval of Demand-Side Management Plan of Florida Power Corporation; Docket No. 941172-EI, In Re: Approval of Demand-Side Management Plan of Gulf Power Company; and, Docket No. 941173-EI, In Re: Approval of Demand-Side Management Plan of Tampa Electric Company. In its Order No. PSC-95-0691-FOF-EI, the Commission approved Gulf Power Company's (Gulf) Demand-Side Management Plan, as well as the Demand-Side Management Plans of the other three electric utilities. We held that the plans complied with Order No. PSC-94-1313-FOF-EG, which set numeric conservation goals for the electric utilities. We stated that our approval of the plans would not become effective or final if any person whose substantial interest was affected by the proposed action filed a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, by the close of business on June 30, 1995.

The Independent Savings Plan Company (ISPC) and Solar City, Inc. (SOLAR) timely filed a joint petition protesting Order No. PSC-95-0691-FOF-EI. Legal Environmental Assistance Foundation,

DOCUMENT NUMBER-DATE

10751 NOV-1 1995

FPSC-REGULATORY REPORTING

Inc., (LEAF) also filed a timely petition for formal proceedings in the case. Several protests were also filed in the other dockets, and, as here, several stipulations were reached in those dockets. We will issue separate orders in each docket to address the protests and the stipulations unique to each case.

On September 28, 1995, Gulf and LEAF filed a Stipulation which settled all issues relating to LEAF's protest. The stipulation is attached to, and incorporated in, this Order. See Attachment A. ISPC/SOLAR and Gulf also filed a stipulation on October 2, 1995, resolving all issues relating to ISPC/SOLAR's protest. That stipulation is also attached to, and incorporated in, this Order. See Attachment B.

Upon review, we approve the stipulations and we reinstate Order No. PSC-95-0691-FOF-EI as a final order, as modified by the stipulations. Also, as we explain below, the Commission's Bureau of Regulatory Review will conduct a management review to provide information regarding the competitive relationship between the electric and gas industries, and to study the effect of commercial/industrial conservation programs on competition in the industries.

DECISION

Stipulation between LEAF and Gulf

In their September 28, 1995, stipulation, LEAF and FPC state that the stipulation is designed to attain "an informal disposition of LEAF's request for hearing in Docket No. 941170-EG . . . to avoid the time, expense and uncertainty associated with adversarial litigation in this docket in keeping with the Commission's encouragement to settle disputes". In return for LEAF's agreement to withdraw its protest of the PAA order, Gulf has agreed to take several actions in the implementation of its demand-side management plans. Among other things Gulf has agreed to: 1) offer a financing option for geothermal heat pumps through its Express loan program; 2) continue to include low-e/low solar gain windows in its Good Cents Environmental Home program, and; 3) provide objective solar water heating educational materials to customers during residential energy audits. The agreement is described in detail in the stipulation attached to and incorporated in this Order.

We have reviewed the terms of the stipulation and we find that they are consistent with our decisions in the Conservation Goals Docket and in Order No. PSC-95-0691-FOF-EI approving Gulf's demand-side management plans. We approve the stipulation. The stipulation will avoid additional time-consuming, expensive

litigation and will allow Gulf to proceed with the implementation of its new conservation programs. We find the stipulation to be in the public interest.

Stipulation between ISPC/SOLAR and Gulf

In their October 2, 1995, stipulation, ISPC/ SOLAR and Gulf state that the stipulation is designed to attain "an informal disposition of the joint request for hearing submitted by ISPC and SOLAR in Docket No. 941171-EG . . . to avoid the time, expense and uncertainty associated with adversarial litigation in this docket, in keeping with the Commission's encouragement to settle disputes". In return for ISPC/SOLAR's agreement to withdraw its protest of the PAA order and refrain from further participation in the review and approval of Gulf's program participation standards, Gulf has agreed to consult with ISPC/Solar over the contents of objective solar water heating educational information to be provided to customers during residential energy audits. Gulf has also agreed to provide adequate training for appropriate Gulf employees to ensure accurate dissemination of objective solar water heating information. If agreement cannot be reached, the parties will bring the disagreement to the Commission for resolution.

We have reviewed the terms of the stipulation and we find that they are consistent with our decisions in the Conservation Goals Docket and in Order No. PSC-95-0691-FOF-EI approving Gulf's demand-side management plans. We approve the stipulation. The stipulation will avoid additional time-consuming, expensive litigation and will allow Gulf to proceed with the implementation of its new conservation programs. We find the stipulation to be in the public interest.

Management Review

At our May 16, 1995, Agenda Conference, we directed our staff to conduct a Commission workshop addressing issues involving the competitive relationship between the electric and gas industries and the effect of commercial/industrial conservation programs on competition between the industries. During the course of preparing for the workshop, concerns arose over confidentiality and access to data. Some of the data necessary to adequately address the issues involves detailed customer KW and KWH usage information. In response to these concerns, staff cancelled its data request, and the workshop was cancelled as well. In its place our staff proposes to initiate an investigation of the issues with a

management review conducted by the Bureau of Regulatory Review. The review will address the following questions, among others that may arise as the study progresses:

1. Whether the implementation of conservation programs by the electric and gas utilities, particularly for commercial/industrial customers, has complied with the Commission's policy of fuel neutrality.
2. Whether the conservation programs of the electric and gas utilities, particularly for commercial/industrial customers, have resulted in the increased usage of electricity and natural gas.

We agree with our staff's proposal. The process necessary to protect the confidentiality of information is built into the Bureau's audit process. According to Rule 25-22.006, Florida Administrative Code, all information gathered by the Audit Document/Record Request Notice of Intent form during the investigative process will be treated confidentially through the audit exit conference. At the audit exit conference the utility will have the opportunity to review the draft audit report and workpapers. Then the utility will have twenty one days thereafter to file a formal request for confidential treatment of all confidential information to be used in the final report. Technical assistance will be provided from the Division of Electric and Gas, as needed. Staff will bring the results of the study to the Commission for review.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the stipulation between Gulf Power Company and the Legal Environmental Assistance Foundation resolving LEAF's protest of Order No. PSC-95-0691-FOF-EI is approved. It is further

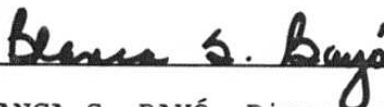
ORDERED that the stipulation between Gulf Power Company and The Independent Savings Plan Company and Solar City, Inc. resolving ISPC/SOLAR's joint protest of Order No. PSC-95-0691-FOF-EI is approved. It is further

ORDERED that the Notice of Proposed Agency Action, Order No. PSC-95-0691-FOF-EI, as modified by the stipulations approved in this Order, will be reinstated as a Final Order. It is further

ORDERED that this Docket shall be closed.

ORDER NO. PSC-95-1345-S-EG
DOCKET NO. 941172-EG
PAGE 5

By ORDER of the Florida Public Service Commission, this 1st
day of November, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

SEP-28-1995 09:45 FROM BEGGS & LAKE TO 19044136250 P.07

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Approval of Demand Side Management) Docket No. 941172-EG
Plan of Gulf Power Company) Filed: September 28, 1995
_____)

**STIPULATION OF GULF POWER COMPANY
AND LEGAL ENVIRONMENTAL ASSISTANCE FOUNDATION**

This stipulation is entered into by Gulf Power Company ("Gulf") and the Legal Environmental Assistance Foundation ("LEAF") pursuant to Section 120.57(3), Florida Statutes, for the purpose of an informal disposition of LEAF's request for hearing in Docket No. 941172-EG and reflects a negotiated settlement of all issues between Gulf and LEAF in this docket. Gulf and LEAF wish to avoid the time, expense and uncertainty associated with adversarial litigation in this docket, in keeping with the Commission's encouragement to settle disputes. Accordingly, without prejudice as to either Gulf or LEAF's position in any other proceeding before this Commission, Gulf and LEAF agree and stipulate as follows:

1. In consideration of the actions undertaken by Gulf pursuant to this stipulation, LEAF
 - a. withdraws its request for hearing in Docket No. 941172-EG, and
 - b. agrees not to participate further in Docket No. 941172-EG, including the review and approval of Gulf's program participation standards arising from Docket 941172-EG, and the review and approval of any Gulf monitoring and evaluation plan required by the Commission in Docket No. 941172-EG

SEP-26-1995 09:49 FROM BEGGS & LANE TO 19044136250 P.04

2. In consideration of the actions undertaken by LEAF pursuant to this stipulation, Gulf agrees to the following:

- a. Gulf agrees to offer a financing option for geothermal heat pumps through its Gulf Express loan program and to explicitly reflect this offering in the written program procedures and standards
- b. Gulf agrees to explicitly include a certification requirement in its Good Cents Environmental Home program standards for installation of central HVAC so that the contractor certifies at the time of installation that the unit is properly sized and charged and that the contractor has ensured proper air flow
- c. Gulf will continue to include low-e/low solar gain windows in its Good Cents Environmental Home program.
- d. Gulf will offer to its residential and commercial/industrial customers a customer option for promotion of low cost measures in conjunction with an energy audit
- e. Gulf will add lighting measures to the prescriptive part of its commercial/industrial Good Cents Building program, and will continue to include low-e/low solar gain windows in this program
- f. Gulf will provide information to its customers reflecting the savings from the Energy Efficient Services program
- g. Gulf will continue to include EER, HSPF and SEER standards, as appropriate, for rating HVAC in all relevant residential and commercial/industrial programs.
- h. Gulf agrees to provide objective solar water heating educational materials to Customers during residential energy audits Except under the circumstances set

SEP-28-1995 09:49 FROM BEGGS & LANE TO 19044136250 P.05

forth below, LEAF and Gulf will endeavor to agree upon the content of the solar water heating educational materials. Gulf may enter into negotiations with the Independent Savings Plan Company ("ISPC") and Solar City Inc. ("SOLAR") with regard to concerns they have raised in this proceeding. In the event a stipulation between Gulf and ISPC/SOLAR includes a provision that they will agree upon objective solar water heating materials to be provided during Gulf residential energy audits, LEAF will not participate in the determination of the content of the solar water heating educational materials but will instead defer to ISPC/SOLAR. In the event Gulf cannot reach an agreement with either LEAF or ISPC/SOLAR, the dispute as to what constitutes objective solar water heating information to be provided during residential energy audits will be brought before the Florida Public Service Commission for resolution.

- i. Gulf confirms that the assumptions underlying its DSM Plan are solely the assumptions stated in the goals case CEGRR and in its Plan. The parties recognize that subsequently developed information in support of Gulf's future conservation program filings and program modifications may be based on different assumptions. Gulf agrees to seek Commission approval to conduct monitoring and evaluation in a manner intended to verify, for each measure offered in programs in its DSM Plan, the values of the assumptions (including any assumptions listed in Attachment "A" that are reasonably applicable for each conservation program being monitored and evaluated).

SEP-26-1995 09:50 FROM BEGGS & LAKE

TO

19044136250 F.06

3. Gulf and LEAF agree that the time for Gulf's filing its program standards and its monitoring and evaluation plan will be calculated from the date of the Commission's order approving this stipulation.
4. Nothing in this stipulation shall be construed as requiring Gulf to implement or to continue to offer any DSM option or program that is not cost-effective under the Rate Impact Measure, the Total Resource Cost, or the Participants tests, to modify or to refrain from seeking modifications of the conservation goals established for Gulf in Order No. PSC-94-1313-EG, to modify its proposed DSM Plan or to refrain from seeking modification of its DSM Plan.
5. Neither party to this stipulation concedes the validity of the argument or positions urged by the other party. However, the approval of this stipulation and compliance with its provisions will completely resolve all of the matters at issue between LEAF and Gulf in this docket.
6. This stipulation shall become null and void in the event that it is not approved in its entirety by the Florida Public Service Commission.
7. This stipulation may not be modified except by the written consent of LEAF and Gulf.
8. This stipulation shall be subject to the jurisdiction of the Florida Public Service Commission.
9. The parties hereto shall not seek reconsideration or judicial appeal of the Commission's approval of this Stipulation.

3:58 FROM BEGGS & LANE

Attachment A

TO

19044136250 F.07

WHEREFORE, the Legal Environmental Assistance Foundation and Gulf Power Company request that the Florida Public Service Commission accept and approve this stipulation as a negotiated settlement of contested matters.

Dated this 27th day of September, 1995

The Legal Environmental Assistance Foundation, Inc.

Gulf Power Company

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SEP-28-1995 09:51 FROM BEGGS & LANE TO 19044136250 P.08

Attachment "A"

1. Baseline equipment, building, end use, and/or customer annual energy usage, summer coincident-peak demand, and winter coincident-peak demand,
2. baseline equipment installation and/or building construction cost,
3. baseline equipment efficiency and customer operating habits,
4. changes to baseline usage and/or cost due to changes in building code, efficiency standards, or other market forces,
5. per measure and/or per participant actual energy, summer demand and winter demand savings,
6. measure retention rates and savings persistence rates,
7. total annual energy, summer demand, and winter demand savings for all participants,
8. per measure and/or per participant total costs and utility incentives,
9. program administrative costs, and
10. free-ridership and total savings attributable to free-rider participants

SENT BY: KATZ, KUTTER LAW OFC 110- 2-95 111:38AM :

0-PUB SVC COMV LEG SVC: # 2

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Approval of Demand Side Management) Docket No. 941172-EG
Plan of Gulf Power Company) Filed: October __, 1995

)

**STIPULATION OF GULF POWER COMPANY
AND THE INDEPENDENT SAVINGS PLAN COMPANY AND SOLAR CITY, INC.**

This stipulation is entered into by Gulf Power Company ("Gulf Power", "Gulf" or "the Company"), The Independent Savings Plan Company ("ISPC") and Solar City, Inc. ("SOLAR") (hereinafter sometimes collectively referred to as ISPC/SOLAR) pursuant to Section 120.57(3), Florida Statutes, for the purpose of an informal disposition of the joint request for hearing submitted by ISPC and SOLAR in Docket No. 941172-EG and reflects a negotiated settlement of all issues between Gulf and ISPC/SOLAR in this docket. Gulf and ISPC/SOLAR wish to avoid the time, expense and uncertainty associated with adversarial litigation in this docket, in keeping with the Florida Public Service Commission's ("Commission") encouragement to settle disputes. Accordingly, without prejudice as to either Gulf's or ISPC/SOLAR's position in any other proceeding before this Commission, Gulf and ISPC/SOLAR agree and stipulate as follows:

1. In consideration of the actions undertaken by Gulf pursuant to this stipulation, ISPC/SOLAR:
 - a. agree to withdraw their request for hearing in Docket No. 941172-EG;
 - b. agree not to participate further in Docket No. 941172-EG, including the review and approval of Gulf's program participation standards arising from Docket

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SENT BY:KATZ, KUTTER LAW OFC :10- 2-85 :11:36AM :

D-PUB SVC COMM LEG SVC:# 3

941172-EG, and the review and approval of any Gulf monitoring and evaluation plan required by the Commission in Docket No. 941172-EG, and any workshops created as a result of orders in Docket No. 941172-EG, so long as the review, approval and/or workshops do not affect the agreements reached in this stipulation; and

- c. agree to meet and agree with Gulf regarding the content of objective solar water heating educational information to be provided by Gulf to its customers.

2. In consideration of the actions undertaken by ISPC/SOLAR pursuant to this stipulation, Gulf Power:

- a. agrees to meet with ISPC/SOLAR regarding the contents of the objective solar water heating information to be provided by Gulf to its customers during residential energy audits and in response to residential customer inquiries related to solar water heating. Except under the circumstances set forth below, ISPC/SOLAR and Gulf will endeavor in good faith to agree upon the content of the objective solar water heating educational materials to be provided by Gulf Power as outlined above. ISPC/SOLAR may instead defer such discussions on their part to the Legal Environmental Assistance Foundation ("LEAF") in which event ISPC/SOLAR will not participate in the determination of the content of the solar water heating educational materials. In the event Gulf cannot reach an agreement with either ISPC/SOLAR or LEAF, the initial dispute as to what constitutes objective solar water heating information to be provided during

LBW
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SENT BY:KATZ. KUTTER LAW OFC :10- 2-95 :11:39AM :

0-PUB SVC COMM LEG SVC:# 4

residential energy audits may be brought before the Florida Public Service Commission for resolution via a proceeding limited to that purpose, and Gulf agrees not to contest the standing of either ISPC/SOLAR or LEAF to participate in such limited scope proceeding. After the initial determination (by agreement or Commission resolution) of what constitutes objective solar water heating information to be provided by Gulf Power as described above, if Gulf desires to modify the substantive content of such information or to discontinue providing such information, Gulf will notify the Commission of this intent and will, upon the Commission's request, submit a petition requesting approval of the desired change. A copy of such notification to the Commission and any such petition shall be provided to ISPC/SOLAR. If Gulf does not file a petition, ISPC/SOLAR may file a petition or other appropriate documents seeking a Commission determination of the propriety of such modification or discontinuance. However, nothing in this stipulation or its implementation shall be construed as granting ISPC and/or SOLAR standing to participate in such a proceeding or waiving Gulf Power's right to challenge ISPC's and/or SOLAR's potential participation in such a proceeding.

- b. agrees to provide adequate training for appropriate Gulf employees to ensure the accurate dissemination of objective solar water heating information.

SENT BY:KATZ, KUTTER LAW OFC :10- 2-95 :11:38AM :

0-PUB SVC COMV LEG S.C:# 5

3. Nothing in this stipulation shall be construed as requiring Gulf to implement or to continue to offer any DSM option or program that is not cost-effective under the Rate Impact Measure and Participants tests; to modify or to refrain from seeking modification of the conservation goals established for Gulf in Order No. PSC-94-1313-FOF-EG; to modify its DSM Plan in a fashion other than as outlined in paragraphs 2.a. through 2.b. above, or to refrain from seeking modification of its DSM Plan.

4. This stipulation shall become null and void in the event that it is not approved in its entirety by the Florida Public Service Commission.

5. This stipulation may not be modified except by the written consent of ISPC/SOLAR and Gulf Power. However, the parties to this stipulation recognize that the Commission has continuing jurisdiction regarding Gulf's DSM programs and may, on its own initiative, suggest changes within the realm of its jurisdiction. The Commission's suggestions are subject to the rights of appropriate parties to participate in the resulting proceedings. Nothing herein shall be binding upon the Commission with regard to whether ISPC and/or SOLAR may be designated an appropriate party to such a proceeding.

6. This stipulation shall be subject to the jurisdiction of the Florida Public Service Commission, and the Commission shall be the sole body for the resolution of any disputes arising out of the discharge of this agreement.

LBH
Jed

SENT BY: KATZ, KUTTER LAW OFC 110- 2-65 11:40AM :

0-PUB SVC COMM LEG S.C.# 6

WHEREFORE, The Independent Savings Plan Company and Solar City, Inc., jointly,
together with Gulf Power Company request that the Florida Public Service Commission accept
and approve this stipulation as a negotiated settlement of contested matters.


Dated this 29th day of September, 1995.

**The Independent Savings Plan
Company and Solar City, Inc.**

Gulf Power Company



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