

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Notice of Proposed Rule Development: )  
Repeal of Rules 25-17.001, 25-17.0833, )  
25-17.084, and 25-17.091, F.A.C. )

Docket No. 960912-EI  
Filed: December 27, 1996

Request Of Public Workshop For Rule Development

Pursuant to Section 120.54(2)(c), Florida Statutes, Florida Power & Light Company ("FPL") requests a public workshop for rule development regarding the Florida Public Service Commission's Notice of Proposed Rule Development issued November 25, 1996 in Docket No. 960912-EI. The Commission's Notice concerned a potential repeal of Rules 25-17.001, 25-17.0833, 25-17.084 and 25-17.091, Florida Administrative Code.

The purpose of the proposed repeal listed in the Notice of Proposed Rule Development was that the rule provisions were obsolete. While that may well be true, in part, FPL has concerns regarding the repeal of Rule 25-17.001. That rule was amended as recently as 1993 after a hotly

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APP 1 \_\_\_\_\_  
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contested rule-making proceeding. Some provisions of the rule appear to be crucial aspects of the Commission's conservation goal setting. FPL respectfully submits that at least part of this rule should be retained.

FPL offers the following observations regarding each of the subsections of Rule 25-17.001

Subsection (1) is a definition term which may need to be retained if parts of the rule are retained

Subsection (2) is a restatement of some of the goals of the Florida Energy Efficiency and Conservation Act ("FEECA") and does not need to be retained

Subsection (3) of Rule 25-17.001 is an important statement of policy which the Commission has applied since FEECA was adopted. It reflects an interpretation of the statute that is properly stated in a rule.

Subsection (4) is a recent amendment to the rule which reflected, at the time, a policy of the Commission. If it continues to reflect the Commission's policy and interpretation of FEECA, it should be retained as a rule.

Subsection (5) is a general statement of policy outlining general goals under FEECA for increasing the efficiency of the Florida bulk power system. If these are no longer goals, then FPL has some concern. FPL is particularly concerned that the Commission is considering repeal of paragraph (f), which encourages research and development projects. Such research is an important aspect of FEECA, and it is critically important to FPL as it attempts to meet aggressive numeric conservation goals established by the Commission. In Order No. 94-1313-FOF-EG, the Commission established DSM goals for FPL which exceeded FPL's quantified potential of reasonable achievable DSM by 300 MW. In doing so, it relied in part upon the expectation that FPL would find some of those MW through research. The Commission went on to discuss the potential for penalties if goals were not achieved. See, Order No. 94-1313-FOF-EG, at 32-33. Given FPL's current dependence upon research efforts to achieve aggressive DSM goals, FPL is concerned about the Commission's repeal of a rule which encourages aggressive pursuit of research and development

Subsection (6) of the rule contains hotly disputed language as to how the rule and the resulting goals were to be interpreted and applied. In this subsection the Commission recognized that numeric goals may not be achieved. It provides in pertinent part:

These goals represent a starting point for establishing demand-side management programs for all electric utilities. While there is no absolute assurance that these goals will be fully achieved within the expected time frames, the best efforts by the electric utilities to achieve them shall be required. In any proceeding for determining whether new capacity is needed, the length and nature of experience under the goals will be considered. The goals will not be used exclusively because the Commission recognizes that they may not be achieved and that the estimates on which they are based may prove to be incorrect.

There is no stated basis for the significant policy change which may be inferred by repeal of this language. Moreover, the policies currently articulated in this rule provision apply to outstanding current decisions which were made when this policy was in effect. Even if there were a basis for the change in policy which may be inferred from the repeal of this language, the application of such policy should be prospective only and should not apply to decisions that were made when this language was in effect.

FPL is also concerned about the potential impact of the repeal of Subsection (7) of the rule. It provides for electric growth sufficient to support development by industrial and commercial enterprises. If the Commission, by repeal of this rule, is stating that it will encourage conservation that so restricts electricity growth that the state's economic growth and development will be adversely affected, then FPL is concerned.

A workshop on rule development would provide FPL with an opportunity to not only raise its concerns, but also hear from staff why the rules are proposed for repeal. This exchange would facilitate subsequent stages of the rule proceeding by clearly defining issues and perhaps refining the rule development to address concerns. Therefore, FPL respectfully requests a public workshop on rule development in this docket.

Respectfully submitted,

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