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December 29, 1999

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Blanca S. Bayó, Director
Records and Reporting
Florida Public Service Commission
4075 Esplanade Way, Room 110
Tallahassee, Florida 32399-0850

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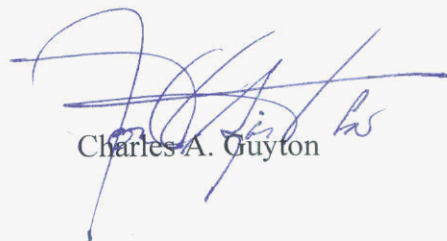
In Re: Petition For Waiver Of Rule
25-17.021(4)(a) and(j), F.A.C.
Docket No. 991788-EG

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are the original and fifteen (15) copies of FPL's Petition For Waiver Of Rule 25-17.02(4)(a) and (j), F.A.C. We are filing FPL's Petition as undocketed, since we are uncertain if it will be docketed in the DSM Plan Docket (Docket No. 991788-EG) or separately.

If you or your Staff have any questions regarding this transmittal, please contact me.

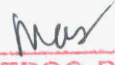
Very truly yours,


Charles A. Guyton

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In Re: Petition For Waiver Of Rule
25-17.021(4)(a) and(j), F.A.C.

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)

Docket No. 991788-EG
Filed: December 29, 1999

PETITION FOR WAIVER OF RULE 25-17.021(4)(a),(j), F.A.C.

Pursuant to Section 120.545, Florida Statutes (1999), Florida Power & Light Company ("FPL") hereby petitions the Florida Public Service Commission ("Commission") to waive portions of Rule 25-17.021(4)(a),(j), Florida Administrative Code and permit FPL to file a DSM Plan that does not contain program start dates or cost-effectiveness estimates for certain programs. As grounds for this petition, FPL states:

1. The petitioner's name, address, telephone number and facsimile number are:

Florida Power & Light Company
9250 West Flagler Street
Miami, Florida 33174
(305) 552-3643 (office)
(305) 552-2834 (fax)

2. FPL seeks a waiver of the portions of Rule 25-17.021(4)(a), (j), Florida Administrative Code. Rule 25-17.021(4)(a) requires FPL when submitting a DSM Plan to include for each program a "program start up date." Rule 25-17.021(4)(j) requires FPL when submitting a DSM Plan to submit an estimate of cost-effectiveness for each program using the Commission's cost-effectiveness tests in Rule 25-17.008.

3. The statute which Rule 25-17.021(4), Florida Administrative Code, implements is Section 366.82(1)-(4), Florida Statutes (1999).

4. FPL seeks a waiver of the requirement of Rule 25-17.021(4)(a) that requires FPL to submit a program start up date for each of its proposed programs. Filing program start up dates for FPL's programs in its DSM plans presents a substantial hardship for FPL. Some of FPL's programs are already approved and no Commission action is needed regarding these programs. They are mentioned only because they are part of FPL's DSM Plan, even though they have already been approved. However, even these programs have previously been modified by the Commission, and discerning the historic start up date would be extremely difficult and would serve no purpose as FPL is not seeking current approval of these programs. For the programs FPL seeks to modify, it is unclear whether the program start up date is intended to be a prospective date upon which the program modifications would be made or the original program start up date. If it is the original historic start up date, identifying that date would be extremely difficult because of prior program modifications and combinations of programs and would serve no purpose. If it is a prospective date when the proposed modifications are to take effect, that date cannot be readily discerned, for they are beyond FPL's control. FPL desires to implement these programs before the summer of 2000. However, it cannot start these programs until they are approved by the Commission, Program Standards are submitted and approved, and FPL personnel and trade allies have been trained. FPL does not control the Commission's scheduling of program and program standard approval, and the current hearing schedule does not allow for any potential protests. Consequently, FPL cannot give a meaningful program start up date.

5. FPL seeks a waiver of Rule 25-17.021(4)(j) for the following DSM Programs FPL is including in its DSM Plan, and the specific facts demonstrating either or both substantial hardship or a violation of principles of fairness that justify the waiver are set forth in each program summary:

- a. Residential Conservation Service. This is an energy audit program which by statute FPL has to offer; therefore, cost-effectiveness is irrelevant. Historically, FPL has never offered cost-effectiveness analyses for its energy audit programs, and this has repeatedly been acceptable to the Commission. Finally, the cost-effectiveness of measures from approved programs that are recommended as a result of these audits are reflected in the cost-effectiveness analyses of FPL's other residential programs.
- b. Business Energy Evaluation. Historically, FPL has never offered cost-effectiveness analyses for its energy audit programs, and this has repeatedly been acceptable to the Commission. The cost-effectiveness of measures from approved programs that are recommended as a result of these audits are reflected in the cost-effectiveness analyses of FPL's other residential programs.
- c. C/I Load Control Program. This program has been closed to new customers and is not being offered prospectively to new customers; therefore, its prospective cost-effectiveness is irrelevant. The program's historic cost-effectiveness has been repeatedly demonstrated to the Commission. Therefore, resubmission of prior cost-effectiveness analyses would serve no purpose.
- d. Cogeneration and Small Power Production. The Commission has authorized the recovery of expenses related to cogeneration and small power production through utilities' ECCR clauses for over a decade. FPL has had a formal program in place for these costs since 1990. The Commission has chosen not to require a demonstration of cost-effectiveness for these programs, recognizing that these expenses are incurred to meet both federal and state statutory and rule mandates and that these costs are properly recovered through the ECCR clause rather than through base rates.
- e. Conservation Research and Development Program. This Program was initially approved in 1990. From its start the Commission approved this program without a showing of cost-effectiveness, recognizing that the purpose of the program was research and development. Because it is a research and development effort, cost-effectiveness cannot be calculated; however, it has led to, and may in the future lead to, the development of cost-effective programs.
- f. Cool Communities Research Project. This is a research project, one of the purposes of which is to discern whether or not certain measures may be cost-effective. Therefore, cost-effectiveness cannot be demonstrated. The Commission has not historically required a demonstration of cost-effectiveness for research projects.
- g. Green Energy Research Project. This is a research project, one of the purposes of which is to discern whether or not certain measures may

be cost-effective. Therefore, cost-effectiveness cannot be demonstrated. The Commission has not historically required a demonstration of cost-effectiveness for research projects.

- h. Photovoltaic Research Development and Education Project. This is a research project, one of the purposes of which is to discern whether or not certain measures may be cost-effective. Therefore, cost-effectiveness cannot be demonstrated. The Commission has not historically required a demonstration of cost-effectiveness for research projects.
- i. Commercial/Industrial New Construction Research Project. This is a research project, one of the purposes of which is to discern whether or not certain measures may be cost-effective. Therefore, cost-effectiveness cannot be demonstrated. The Commission has not historically required a demonstration of cost-effectiveness for research projects.
- j. Low Income Weatherization Retrofit Project. This is a research project, one of the purposes of which is to discern whether or not certain measures may be cost-effective. Therefore, cost-effectiveness cannot be demonstrated. The Commission has not historically required a demonstration of cost-effectiveness for research projects.

6. The waivers sought herein would serve the purpose of the underlying statute, which is to have FPL submit a DSM Plan that implements Commission approved goals. Even without the information omitted, FPL is submitting a comprehensive DSM plan that should fully implement FPL's approved DSM goals. Program start up dates are not essential to the review of the plan. Such dates are completely outside the control of FPL and until the process evolves, they are also outside the control of the Commission. The purpose of the statute will be fulfilled without FPL listing these dates or making up estimated dates that will not likely be accurate. Similarly, the purpose of the underlying statute is served by FPL not submitting cost-effectiveness analyses for the above listed programs. Historically, the Commission has not required cost-effectiveness analyses for audit programs or research efforts, recognizing that FEECA and the Commission's rules implementing FEECA foster such programs. Similarly, FEECA encourages the development of cogeneration and

small power production, and the Commission has chosen the ECCR clause as the vehicle for the recovery of these costs without a supporting analysis of cost-effectiveness. The cost-effectiveness of CILC has already been demonstrated and accepted by the Commission and since it is not being offered to new customers prospectively, the prior analyses support the statutory concerns regarding cost-effectiveness.

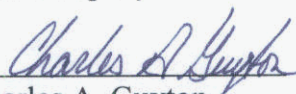
7. The waiver sought herein is temporary. FPL seeks the waiver only for the purpose of being able to meet its filing requirements in Docket No. 991788-EG. The waiver will not last beyond the closure of Docket No. 991788-EG.

WHEREFORE, FPL respectfully requests that the Commission grant the waiver of Rule 25-17.021(4)(a),(j), Florida Administrative Code as more fully set forth in paragraphs 4 and 5 above and that FPL be permitted to file its DSM Plan without program start up dates and without cost-effectiveness analyses for the programs listed in paragraph 5. FPL further requests such other relief as may be appropriate.

Respectfully submitted,

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(850) 222-7510 (fax)

Attorneys for Florida Power &
Light Company

By: 
Charles A. Guyton

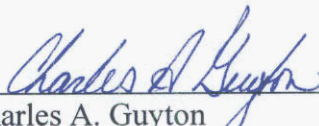
CERTIFICATE OF SERVICE

I hereby certify that on this the 29th day of December, 1999, a copy of the foregoing Petition for Waiver of Rule 25-17.021(4)(a),(j), F.A.C. was served by hand delivery* or First Class United States Mail on the following:

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By 
Charles A. Guyton