

State of Florida



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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: July 16, 2008
TO: Ann Cole, Commission Clerk, Office of Commission Clerk
FROM: Katherine Fleming, Senior Attorney, Office of General Counsel *KEF*
RE: Docket No. 070626 – EI - Review of Florida Power & Light Company's Sunshine Energy Program.

Please place the attached document in the above-referenced docket file. Thank you.

KEF/tfw

DOCUMENT NUMBER-DATE

06151 JUL 17 8

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Review of Florida Power and Light Company's Sunshine Energy Program
Docket No. 070626-EI
July 15, 2008

Issues Associated with Termination of the Sunshine Energy Program

I. Question of Prudence of FPL Management of the Program

The staff's investigation, which included an audit, raised questions about whether customers' voluntary contributions had been prudently used. According to the audit, about 74% of funds provided Green Mountain were attributed to marketing, administrative and other costs. This is in addition to the administrative costs charged by FPL.

The Commission may review either in the annual Energy Conservation Cost Recovery (ECCR) proceeding or in a separate docketed proceeding, the prudence of the program to determine if any monetary adjustments are appropriate.

II. Expected Request by FPL for recovery of Direct Program Expenses

If the Commission orders the program to be terminated, FPL has stated that it intends to seek cost recovery for certain costs and ongoing obligations associated with the program.

The Commission may review either in the annual Energy Conservation Cost Recovery (ECCR) proceeding or in a separate docketed proceeding, FPL's requested recovery for certain costs and ongoing obligations associated with the program.

III. Current FPL Contracts/Solar Projects Related to the Program

On Tuesday, July 8, 2008, a conference call was held with FPSC staff and FPL to discuss issues associated with the potential termination of the Sunshine Energy Program. FPL provided the following information:

FPL/Green Mountain Energy Contract

This contract is applicable to the residential portion of the program.

If the Commission orders the program to be terminated, FPL would be subject to termination fees only if FPL offers a green power program within 24 months of termination of the existing program.

FPL/Sterling Planet Contract

This contract is applicable to the business customer portion of the program.

If the Commission orders the program to be terminated, FPL would not be subject to termination fees if FPL terminates the contract.

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Rothenbach Park Project

Green Mountain has an obligation to pay the project developer \$22,000 per month through 2015 for the project.

FPL would be responsible for this obligation if: 1) Green Mountain defaults on its obligation, or 2) the Commission terminates the program and FPL offers a green pricing program within 24 months of termination.

Publix/Green Mountain Contract

Publix and Green Mountain have contracted to install 75 kW solar photovoltaic systems which are not completed.

If the Commission orders the program to be terminated, FPL would have no obligation associated with these projects.

Sun Funds Program

FPL and Green Mountain established the Sun Funds program allowing for Sunshine Energy funds to leverage rebates from the State of Florida to residential and commercial customers for the installation of solar capacity concerning the Sun Funds program.

If the Commission orders the program to be terminated, FPL would have no further obligations.

Florida Atlantic University Project

FPL and FAU have recently signed a contract for FPL to contribute a portion of the cost of a 34 kW solar photovoltaic facility to be completed by October 2008. FPL has agreed to contribute \$34,000 to the total project cost of \$240,000.

If the Commission orders the program to be terminated, FPL states that it would be obligated to fund its contribution to the project.

If FPL requests recovery of expenses associated with this project in a recovery clause proceeding or a base rate proceeding, the Commission would decide the prudence of such expenses and whether it is appropriate to allow recovery in that proceeding.

IV. Issues in the Energy Conservation Cost Recovery Clause

In approving the pilot program in 2003, the Commission authorized FPL to report all program revenues and expenses through its ECCR clause filing.¹ FPL was also authorized to recover reasonable and prudent administration costs through its ECCR clause up to \$1.5 million if administration costs exceeded revenues.

¹ See Order No. PSC-03-1442-TRF-EI, in Docket No. 030752-EI, In Re: Petition for approval of green power pricing research project as part of Demand-Side Management Plan by Florida Power and Light Company.

During the 2004-06 pilot period, revenues exceeded expenses. Annual net revenues shown below were used to reduce total conservation expenses recovered from the general body of ratepayers.

2004	\$ 38,052
2005	\$157,302
2006	\$109,119

In November 2006, the Commission approved the program on a permanent basis, and authorized the program to also be offered to FPL's business customers.² As in the pilot program, the order approving the permanent program authorized FPL to report all program revenues and expenses through its ECCR clause filing, and to recover administrative costs through the ECCR clause if administrative costs exceeded revenues. The order also stated that if program revenues exceeded costs, FPL planned to defer excess revenues as a regulatory liability and reinvest those revenues to increase program participation, reduce the monthly fee to participants, or invest in renewable resources. The Commission identified Account 253, Other Deferred Credits, as the appropriate account to record any excess revenues.

According to data submitted by FPL, program expenses exceeded revenues by \$14,100 in 2007. These expenses were included in total conservation expenses in FPL's ECCR filing in May, 2008. The Commission will decide in the November 2008 ECCR hearing whether it is appropriate for these expenses to be recovered from the general body of ratepayers. Staff has identified a specific issue in Docket No. 080002-EI to address the treatment of these net expenses.

Program revenues have exceeded expenses by \$254,000 for January – May 2008. FPL will file its actual 2008 program revenues and expenses in May 2009 as part of its ECCR filings. The Commission will decide in the November 2009 ECCR hearing the appropriate treatment of actual program revenues and expenses for purposes of determining the expenses recoverable from the general body of ratepayers.

If the Commission orders the program to be terminated, the ECCR proceeding or a separately docketed proceeding are forums in which the Commission can determine the appropriate treatment of program revenues and expenses.

V. Potential ECCR Issues

Billing System Correction

FPL stated that it must correct its billing system due to the erroneous collection of gross receipts and sales tax associated with Sunshine Energy customer contributions. The Department of Revenue through a verbal statement notified FPL that it had incorrectly applied gross receipts

² See Order No. PSC-06-0924-TRF-EI, in Docket No. 060577-EI, In Re: Petition to convert green power pricing research project to permanent program and to extend program to commercial customers by Florida Power and Light Company.

and sales taxes to the participant contribution. FPL anticipates the cost to fix its billing system to be approximately \$140,000 and stated that it would propose to recover these expenses through the ECCR clause. If FPL seeks recovery of these expenses from the general body of ratepayers through the ECCR, the Commission will decide whether these expenses are appropriate for recovery. FPL also anticipates it will refund program participants the gross receipts and sales taxes incorrectly collected, but has not yet determined the amount of refund.

Green Mountain Expense Report Correction

FPL stated that it has discovered an error in an expense report used to determine the amount of customer contributions to be paid to Green Mountain. In effect, FPL underpaid Green Mountain between June 2007 and May 2008. It is estimated that this error amounts to approximately \$340,000. The Commission will decide in the ECCR proceeding the appropriateness of any reported expense associated with this error, and whether recovery should come from Sunshine Energy revenues or from the general body of ratepayers.

VI. Conclusion

Termination of the Sunshine Energy Program will not result in contract termination fees for FPL if FPL does not offer a green pricing program within 24 months of termination. The Commission may review, in the ECCR proceeding or in a separately docketed proceeding, the prudence of FPL's management of the program. There are a number of potential issues mentioned above which may come before the Commission for resolution associated with program expenses. If and when FPL proposes recovery of these expenses, the Commission will address whether the expenses are to be recovered from the general body of ratepayers.