

Ruth Nettles

080413 - EG

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Sent: Monday, December 21, 2009 5:22 PM
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Subject: Docket No. 080413 NRDC/SACE Response Motion of JEA for Limited Reopening and for Reconsideration
Attachments: Response to JEA Reconsideration FINAL 12-21-09.pdf

a. Person Responsible for Filing

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b. Docket Nos. 080413 Commission Review of Numeric Conservation Goals

c. Filed on behalf of the Natural Resources Defense Council ("NRDC") and the Southern Alliance for Clean Energy, Inc. ("SACE")

d. Total Pages = 6

e. Response of NRDC/SACE to Motion of JEA for Limited Reopening and for Reconsideration

DOCUMENT NUMBER-DATE

12157 DEC 22 8

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December 21, 2009

Ann Cole
Director, Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, Florida 32399-0850

RE: Docket No. 080413

Dear Ms. Cole:

On behalf of the Natural Resources Defense Council, Inc., and the Southern Alliance for Clean Energy, Inc., enclosed please find for filing the response of NRDC/SACE to the Motion of JEA for limited reopening of the record, and for reconsideration in the above-referenced docket. I thank you for your attention to this matter.

Sincerely,

/s/ E. Leon Jacobs, Jr.

E. Leon Jacobs, Jr.
Attorney for The Natural Resources Defense Council, Inc., and
the Southern Alliance for Clean Energy, Inc.

Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission Review of Numeric) DOCKET NO. 080413-EG
Conservation Goals)
Jacksonville Electric Authority)
_____) Date: December 21, 2009

Response By Natural Resources Defense Council, Inc., and Southern Alliance for Clean Energy, Inc. To the Motion of JEA For Limited Reopening of Record and For Reconsideration

Intervenors, Natural Resources Defense Council, Inc., (NRDC) and Southern Alliance for Clean Energy, Inc. (SACE), pursuant to Rule 25-22.060, F.A.C., file the following response to JEA's motion to reopen the record and for reconsideration of JEA's energy efficiency goals. In support, NRDC and SACE state:

1. NRDC and SACE do not object to the opening of the record to correct the error in the information JEA previously filed. However, NRDC and SACE object to any reduction in the proposed energy efficiency goals for JEA..

2. On December 1, 2009, the Commission approved goals based on Commission Staff's supplemental recommendation that would set goals for JEA of 290 GWhs of cumulative savings. This goal was devised by Staff by taking the sum total of efficiency in the years 2005 through 2008 and dividing the total by four to get an average of the actual energy savings by JEA from 2005 to 2008. The actual savings for JEA in 2008 was 31.1 GWhs. (JEA's Corrected Response to Staff's Seventh Set of Interrogatories).

3. JEA now proposes corrections to goals approved by the Commission on December 1, 2009. The JEA correction would reduce the cumulative goal to 155 GWhs. The JEA correction would establish goals that are also based on averaging .

4. The Commission has authority to set goals for JEA. The FEECA statute requires that the PSC set energy efficiency and conservation goals for any "utility," "specifically including

municipalities or instrumentalities thereof and cooperatives” which meet certain minimum electricity sales thresholds. § 366.82(1)(a), Fla. Stat.. There is no question that JEA and two other municipal utilities qualify under the statute. The FEECA statute mandates that “[t]he commission shall adopt appropriate goals” for all utilities including both JEA and the other municipal utilities and the investor owned utilities and further specified in the 2008 amendments the criteria on which those goals must be set. § 366.82(3), Fla. Stat. Specifically, with respect to both the investor-owned and municipal utilities, the PSC must, in setting energy efficiency and conservation goals, consider “the full technical potential of all available demand-side and supply-side conservation and energy efficiency measures”; “the costs and benefits to customers participating in the measure”; and “[t]he costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions.” *Id.*

5. The Legislature has required that the Commission set goals for municipal utilities even though the Commission does not have authority to issue a financial penalty to municipal utilities, as it can for investor owned utilities. §366.82(8), Fla. Stat. However, it is important to note that the Commission does have the authority to indirectly enforce energy efficiency goals on municipal utilities through its authority in making a determination of need for power plants. §403.519, Fla. Stat. In determining the need for a power plant, the Commission must determine if the utility has utilized energy efficiency to the extent reasonably available. §403.519(3), Fla. Stat. If the municipal utility has not utilized efficiency to the extent reasonably available to defer the need for new generation, the Commission can deny the determination of need.

6. The Commission is legally obligated to set goals based on the factors identified by the Legislature. The goals identified by Richard Spellman and intervenors NRDC and SACE comply with the factors identified in § 366.82(3), Fla. Stat. However, if the Commission is going to base goals on the past energy efficiency savings achieved by JEA, the goal should be no less

than the actual savings achieved by JEA in 2008 of 31.1 GWhs. This annual goal is more indicative of the level of energy efficiency savings JEA has achieved and can achieve in future years.

Respectfully submitted this 21st day of December, 2009.

/s/ Leon Jacobs, Jr.
E. Leon Jacobs, Jr.
Attorney for Natural Resources Defense Council, Inc., and
the Southern Alliance for Clean Energy, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 21st day of December, 2009, via electronic mail on:

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<p>Jon C. Moyle, Esq. Vicki Gordon Kaufman, Esq. Keefe, Anchors, Gordon & Moyle, P.A. 118 N. Gadsden St. Tallahassee, Florida 32301</p>	<p>Jessica Cano, Esq. Florida Power & Light 700 Universe Blvd Juno Beach, Fl 33048</p>

This 21st day of December, 2009.

Respectfully submitted,

/s/ E. Leon Jacobs
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