

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Approval of Demand-Side ) DOCKET NO. 941171-EG  
Management Plan of Florida Power ) ORDER NO. PSC-95-1344-S-EG  
Corporation. ) 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,  
DISMISSING PETITIONS FOR FORMAL PROCEEDING,  
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 Order No. PSC-95-0691-FOF-EI the Commission approved Florida Power Corporation's (FPC) 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.

RECORDED DATE

10750 NOV-18

PSC-RECORDS/REPORTING

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, Inc., (LEAF), Peoples Gas System, Inc. (Peoples) and Florida Industrial Power User's Group (FIPUG) also filed timely petitions 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 July 7, 1995, FPC and LEAF filed a Joint Motion to Approve Stipulation, which settled all issues relating to LEAF's protest. The stipulation is attached to and incorporated in this Order. See Attachment A. On July 20, 1995, FPC filed Motions to Dismiss the protests of ISPC/SOLAR and Peoples. FPC did not move to dismiss FIPUG's petition; but on July 26, 1995 FIPUG sent a letter to our staff in which it suggested that, in view of the new docket opened to review the cost-effectiveness of FPC's management credit for FPC's interruptible and curtailable rate classes, Docket No. 950645-EI, the Commission could either consolidate that docket with this one or enter an administrative order determining that FPC's cost effective methodology could be addressed in Docket No. 950645-EI.

On October 3, 1995 ISPC/SOLAR and FPC filed a stipulation resolving all issues relating to ISPC/SOLAR's protest. The stipulation is attached to and incorporated in this Order. See Attachment B.

Upon review, we approve the stipulations, and we deny the protests filed by Peoples and FIPUG. We reinstate Order No. PSC-95-0691-FOF-EI approving FPC's demand-side management plan 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 FPC

In their July 7, 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 issues wherever possible". In return for LEAF's agreement to withdraw its protest of the PAA order, FPC has agreed to take several actions in the implementation of its demand-side management plan. FPC has agreed to: 1) incorporate certain language in its standards and procedures implementing the plans that LEAF requested; 2) further evaluate a variety of detailed procedures designed to measure and maximize participation in FPC's conservation programs, and; 3) pilot and evaluate a customized low income program. The agreement is described in detail in the stipulation attached to and incorporated in this recommendation.

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 FPC's demand-side management plans. With the understanding that we are not preapproving any proposed new programs, we approve the stipulation. The stipulation will avoid additional time-consuming, expensive litigation and will allow FPC 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 FPC

In their September 29, 1995, stipulation, ISPC/ SOLAR and FPC 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 FPC's program participation standards, FPC 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. FPC has also agreed to provide adequate training for appropriate FPC 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 find that they are consistent with our decisions in the Conservation Goals Docket and in Order No. PSC-95-0691-FOF-EI approving FPC's demand-side management plans. We approve the stipulation. The stipulation will avoid additional time-consuming, expensive

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

FIPUG's Petition on Proposed Agency Action

FIPUG filed a protest to Order No. PSC-95-0691-FOF-EI to protect its interest in preserving the terms of the rate design stipulation it had entered into with FPC in FPC's last full-requirements rate case. (Docket No. 910890-EI). The stipulation provided that FPC's interruptible/curtailable rate would be considered a conservation program, and non-firm customers who took service at that rate would receive a conservation credit of a certain amount on their bills. In its recommendation to approve FPC's demand-side management programs, our staff suggested that we should eliminate or freeze that program because it was not a cost-effective conservation program. FIPUG objected to that recommendation. We agreed with FIPUG and denied our staff's recommendation on that issue. We approved the program and the existing credit to interruptible curtailable customers, but directed staff to review the program to determine its cost-effectiveness. Staff will conduct that review in Docket No. 950645-EI, and FIPUG has intervened in that case.

We believe, and FIPUG agrees, that the proper forum to consider FIPUG's interests in this matter is Docket No. 950645-EI. A formal evidentiary proceeding in this case is not appropriate, because FIPUG has not been harmed by our decision to approve FPC's existing interruptible/curtailable rate as part of its demand-side management program with the existing credit contemplated by the rate case stipulation. Before one can be considered to have a substantial interest in the outcome of a decision, he must show that he will suffer injury in fact which is of sufficient immediacy to entitle him to a section 120.57 hearing. FIPUG has not shown that it has or will be harmed. Therefore, we deny FIPUG's petition. At our October 10, 1995, Agenda Conference, where we considered FIPUG's protest to the PAA order approving FPC's demand-side management plans, we assured FIPUG that it will have the opportunity to challenge the methodology FPC has used to determine the credit for its non-firm customers in Docket No. 950645-EI.

Peoples' petition

Rule 25-22.029(4), Florida Administrative Code, "Point of Entry into Proposed agency Action Proceedings", provides that a person may file a petition for a formal hearing pursuant to Section 120.57, Florida Statutes, if that person's substantial interests

will be affected by the Commission's proposed action. As the Court stated in Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478, 482 (Fla. 2d DCA 1981):

[B]efore one can be considered to have a substantial interest in the outcome of the proceeding he must show 1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a section 120.57 hearing, and 2) that his substantial injury is of a type or nature which the proceeding is designed to protect.

Both requirements must be met to demonstrate a substantial interest. Peoples' petition has not met the Agrico standard because Peoples' allegations of harm are very speculative at this point in the process.

Peoples requests a hearing ". . . on issues relating to potentially discriminatory provisions of the electric utilities' DSM plans and programs." Peoples states that it believes FPC's program participation standards will discriminate against customers who use natural gas. Peoples states that "until the standards are filed, Peoples cannot know whether they are discriminatory or objectionable." Peoples argues that because the Commission has directed staff to administratively approve the program participation standards when they are filed, Peoples will have no point of entry to protest the standards it finds objectionable unless it protests Order No. PSC-95-0691-FOF-EG.

Peoples' speculative concerns about the content of the utilities' program participation standards do not demonstrate injury in fact of sufficient immediacy to establish a substantial interest that will be affected by the our approval of FPC's conservation programs themselves. See International Jai-Alai Players, 561 So.2d at 1226. (Abstract injury is not enough. The injury or threat of injury must be both real and immediate, not conjectural or hypothetical). We therefore deny Peoples' petition, because it is based on a speculative concern that the implementation of the plan through FPC's program participation standards may be discriminatory. We are, nevertheless, sensitive to Peoples' concern that FPC's program participation standards may be objectionable in some way. Therefore we will permit Peoples to file a petition requesting our review of FPC's participation standards and procedures after FPC has filed them if Peoples finds the standards objectionable.

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 Florida Power Corporation and the Legal Environmental Assistance Foundation resolving LEAF's protest of Order No. PSC-95-0691-FOF-EI is approved. It is further

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DOCKET NO. 941171-EG  
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ORDERED that the stipulation between Florida Power Corporation 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

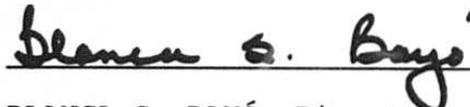
ORDERED that Florida Industrial Power Users Group's Petition on Proposed Agency Action is denied. It is further

ORDERED that Peoples Gas System, Inc.'s Petition on Proposed Agency Action is denied. 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 remain open until the Commission has reviewed Florida Power Corporation's demand-side management program participation standards and procedures, if Peoples files a petition for such a review.

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

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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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Approval of Demand-Side  
Management Plan of Florida  
Power Corporation.

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Docket No. 941171-EG

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In re: Petition for approval of  
modifications to the Residential  
Load Management Rate Schedule  
by Florida Power Corporation.

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Docket No. 941232-EG

STIPULATION

THIS STIPULATION is entered into between Florida Power Corporation (FPC) and the Legal Environmental Assistance Foundation (LEAF), pursuant to Section 120.57(3), Florida Statutes, for the purposes of an informal disposition of certain aspects of the above-styled causes. FPC and LEAF wish to avoid the time, expense and uncertainty associated with adversarial litigation in these dockets in keeping with the Commission's encouragement to the parties to settle issues whenever possible. Accordingly, without prejudice as to either FPC's or LEAF's position in any other proceeding before this Commission, present or future, or any other venue, FPC and LEAF agree and stipulate as follows:

1. In consideration of the actions to be undertaken by FPC pursuant to this stipulation, LEAF agrees not to participate further in either Docket Nos. 941171-EG or 941232-EG. In this regard, LEAF will withdraw its request for hearing in Docket No. 941232-EG. However, nothing herein shall

prevent LEAF from participating in the monitoring and evaluation spin-off proceedings, or in the workshops, or other proceedings created by the Commission's May 16, 1995 vote in Docket No. 941171-EG.

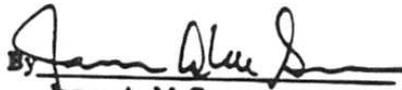
2. FPC agrees to the following:
  - a. FPC will incorporate, at minimum, the language contained in Attachment 1 into its initial filing of the Standards and Procedures established pursuant to its DSM Plan.
  - b. FPC will further evaluate its DSM Plan in areas identified in Attachment 2 and will implement LEAF's recommendations to the extent possible under the constraints stated in Attachment 2 and paragraphs 3 and 4 of this Stipulation.
  - c. FPC will pilot and evaluate a low income program and develop a custom low income program, if cost-effective under the Rate Impact Measure (RIM) test, in the manner described in Attachment 3; provided, however, the FPC's obligation under this paragraph 2c is expressly conditioned on the Commission's final approval of FPC's petition in Docket No. 941232-EI substantially as proposed by FPC.
3. Nothing in this stipulation shall be construed to require FPC to implement, or to prevent FPC from implementing, any DSM options that do not pass the RIM cost-effectiveness test, nor to require a modification of FPC's conservation goals approved in Docket No. 930549-EG, nor, but for the low income market segment initiatives described in Attachment 3, to require any increase in FPC's total DSM Plan costs above the level identified in FPC's DSM Plan.

4. This stipulation shall become null and void, and FPC shall be relieved of any ongoing obligations pursuant to paragraph 2 above, in the event of any regulatory or legislative change that impairs FPC's ability to recover its conservation costs for the initiatives stated in paragraph 2 above, or reduces the savings levels of FPC's conservation goals.
5. This stipulation may not be modified except by the mutual written consent of the parties.
6. This stipulation shall be subject to the jurisdiction of the Florida Public Service Commission.

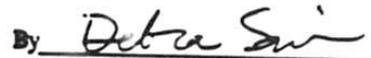
Dated: July \_\_, 1995

FLORIDA POWER CORPORATION

LEGAL ENVIRONMENTAL ASSISTANCE  
FOUNDATION

By 

James A. McGee  
Office of the General Counsel  
Post Office Box 14042  
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By 

Debra Swim  
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Tallahassee, Florida 32303-6327

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**ATTACHMENT 1**

FPC agrees to include, at minimum, the following language into its Procedures and Standards filing that is due 60 days after the Commission's order in Docket No. 941171-EG:

**Program:** Residential New Construction Program  
**Topic Covered:** Type of Residence

The home must be either single family detached or single family attached (e.g. townhouses).

**Program:** Home Energy Improvement Program  
**Topic Covered:** Correct Air Flow and System Charge

Contractors shall certify that the air flow meets the manufacturer's recommendations and specifications for the system installed.

Refrigerant charge and type shall be according to manufacturer's specifications and recommendations for the unit installed. The contractor will certify that the proper charge is installed, that the unit is tested and is leak free.

**Program:** Energy Monitor Program

**Design Assistance**

Florida Power will provide customers with design assistance as part of the identification of package of measures that can be cost-effectively implemented or as part of the commissioning process. This service supports other FPC energy efficiency programs by assisting customers in identifying cost effective energy efficiency measures which may then be eligible for financial incentives.

Measures and recommendations may include, but are not limited to, lighting system enhancements, cooling load reductions (including the Early HVAC Retirement feature), industrial process improvements, high efficiency motors, and comprehensive analysis of interactions between these measures.

FPC's commissioning and technical design assistance services include technical assistance in both the new construction and retrofit markets.

**Program: Innovation Incentive Program**

**Early HVAC Retirement**

The early retirement of HVAC equipment (exclusive of the replacement of worn-out equipment treated under other components of FPC's Better Business Program) is encouraged under the Innovation Incentive Program (IIP). Lighting, window film, and other load reduction measures are combined with the replacement and down-sizing of HVAC equipment. Each project is evaluated for cost effectiveness based on the total demand and energy savings of the combined measures to determine the applicable RIM-based rebate.

The customer must submit cooling and/or heating load calculations, as applicable, for the existing and revised HVAC systems. This determines how much HVAC down-sizing has actually occurred as a result of the measures. Impacts for the HVAC equipment down-sizing are calculated as the difference between the demand and energy requirements of the properly sized baseline efficiency unit sized to meet the existing load and the properly sized high efficiency unit sized to meet the new load.

High efficiency HVAC equipment must meet or exceed the minimum efficiency standards detailed in the HVAC section of the Better Business Program.

**Program: Innovation Incentive Program**

**New Construction Lighting**

High efficiency lighting for commercial new construction projects is evaluated under the IIP program. The high efficiency system must be at least 10% more efficient than the Florida State Energy Code to be eligible for rebate consideration. Each project is evaluated for cost effectiveness based on the total demand and energy savings of the measures to determine the applicable RIM-based rebate.

**ATTACHMENT 2**

FPC agrees to contract with a consultant that is acceptable to LEAF to assist FPC's efforts in integrating LEAF's program proposals within budget and rate constraints. Except for contingencies specified herein, payments under the contract shall not exceed \$50,000. Regarding said contingencies, the parties acknowledge that performance of this contract may involve unforeseeable contingencies which would require the consultant to conduct additional work on topics specified in the scope of work. To address these contingencies, FPC will establish and maintain a \$10,000 contingency fund out of which such additional work will be funded when the parties agree such additional work is necessary. The contract shall contain FPC's standard terms and conditions for the employment of consultants, including confidentiality restrictions. Provided, however that, so long as LEAF agrees in writing to be bound by the confidentiality restrictions contractually imposed on the consultant, the consultant may freely confer with LEAF and confidentiality or work-product restrictions in the FPC-Consultant contract shall not apply to communications between the consultant and LEAF. Specifically, within 12 months from the execution date of this stipulation, the consultant will help FPC to:

1. further refine the systematic treatment of costs and benefits in the screening of program improvements proposed by LEAF.
2. determine the maximum amount of Residential Energy Management (REM) Program spending that can be reallocated to fund additional efficiency efforts without affecting overall goals compliance or the viability of the REM program.
3. develop detailed program budgets and savings targets for maximizing the benefits of additional RIM-passing efficiency efforts under overall budget constraints.
4. develop detailed delivery strategies and rebate structures for maximizing program participation and net benefits of customer participation, while minimizing rate effects.
5. develop standards and procedures for implementing program-delivery strategies and integrating design-assistance and early-HVAC-retirement services with existing program efforts.
6. develop field protocols for effective and efficient implementation of standards and procedures, particularly with regard to delivery of design-assistance and early-HVAC-retirement services.
7. develop a pilot program for delivering comprehensive RIM-cost effective energy efficiency services to low-income customers.

FPC will retain final decision-making authority for all program modifications. The scope of the consultant's assistance will be limited to the following potential program design modifications:

- Home Energy Improvement Program - incentives for high efficiency central air conditioners; proper refrigerant charge and air flow for central air systems.
- Residential New Construction Program - incentive levels and qualifying efficiency levels.
- Innovation Incentive/Better Business Program - industrial process efficiency improvements; duct leakage measures.
- Design assistance in commercial/industrial programs.
- Early-HVAC-Retirement services.
- Commercial/Industrial New Construction Program - incentive levels; lighting measures.
- The low income program initiative described in paragraph 7.

**ATTACHMENT 3**

**FPC Agrees to:**

- 1) Implement, as a pilot under its technology development program, a customized DSM program targeted to deliver DSM to the low income<sup>1</sup> market segment in its service territory that has the following features:
  - a) While delivering weatherization assistance services through federal or state government-approved weatherization assistance initiatives including, at minimum, the federal Weatherization Assistance Program ("WAP"), weatherization providers will also deliver FPC RIM cost-effective DSM options and FPC-approved targeted energy education to the same household.
  - b) FPC will provide training (not to include salaries and expenses of trainees to attend the training) for these weatherization providers to deliver DSM options available under its DSM plan filed in Docket No. 941171-EG and pay the full amount of the measure (on a measure-by-measure basis; unless FPC chooses to combine measures) that is RIM cost-effective, not to exceed the cost of purchasing and installing the measure or measures. Included in the FPC RIM cost-effectiveness will be a reasonable share (to be negotiated) of the weatherization provider's incremental administrative costs of delivering the integrated weatherization/DSM program and FPC's tracking and oversight costs. Further, the cost-effectiveness of all costs will be assessed fairly so that, at minimum, all program costs are not allocated to less than all measure or bundled measure (if chosen) participants and FPC-approved first-year ramp-up costs are distributed over a reasonable duration.
  - c) the pilot will be initiated with local weatherization providers within 60 days of the FPSC final approval of FPC's DSM Plan procedures and standards.
  - d) The pilot will be limited to the first-occurring of either:
    - i) 12 months duration (measured from when local weatherization providers commence measure installation under the pilot); or
    - ii) \$100,000 spent (for installed DSM measures exclusive of FPC standard auditor training costs; provided that up to \$15,000 may be spent for monitoring and evaluation; and further that the parties agree to use all good faith efforts to achieve their mutual goal of allocating at least \$75,000 for installed DSM measures); or
    - iii) 500 participants; or

<sup>1</sup> For the purpose of this stipulation, low income is defined as 125% of the federal OMB poverty guidelines published annually in the Federal Register as well as any applicable qualification requirements adopted by the federal or state weatherization program.

- iv) FPC implementation of an FPSC-approved Low Income Program as contemplated by paragraph 4.
- 2) Prior to the training in 1.b, FPC will work with the Department of Community Affairs (DCA) and the local weatherization providers within FPC's service territory to develop detailed procedures, protocols, reporting requirements, quality control mechanisms and training for the pilot of integrated delivery of weatherization and RIM cost-effective DSM services by weatherization providers. FPC will retain the right of approval of all final details.
  - 3) As the pilot is implemented, FPC will monitor and conduct impact and process evaluations of the costs and benefits of delivering DSM to the low income households in FPC's service area to determine whether additional DSM is RIM cost-effective for these households. This evaluation will include, at a minimum, assessment of the benefits to FPC which are specific to DSM which serves low income customers such as demand and energy savings specific to this segment, compliance with the standards and procedures developed in paragraph 2, and consideration of reduced credit and collection costs.
  - 4) After completing the monitoring and evaluation described in paragraph 3, FPC will seek FPSC approval of the custom DSM program targeted to deliver, at minimum, all FPC RIM cost-effective options identified during implementation and evaluation of the pilot, along with FPC-approved targeted energy education through integrated delivery with FPC-approved weatherization providers. If FPC receives FPSC approval for a Low Income Program, the additional Low Income Program cost shall be no more than 20% of the annual Home Energy Improvement Program costs budgeted in FPC's DSM Plan unless FPC agrees to exceed that limit. These costs are limited to the sum of Utility Program Costs and Incentive Payments identified in the RIM test as filed in FPC's DSM Plan, February 22, 1995.
  - 5) From a non-DSM or customer assistance standpoint, FPC will continue to work closely with the low income service providers to identify individuals who may be eligible for assistance from the non-ECCR related Energy Neighbor Fund which provides funding for one time energy bill assistance.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Approval of Demand-Side  
Management Plan of Florida  
Power Corporation

Docket 941171-EG

IN RE: Petition for approval of  
modifications to Residential Load  
Management Rate Schedule by Florida  
Power Corporation

Docket 941232-EG

Submitted for filing  
July 7, 1995

JOINT MOTION TO APPROVE STIPULATION

To avoid the time, expense, and uncertainty associated with adversarial litigation, and consistent with the Commission's encouragement to the parties to settle issues whenever possible, the Legal Environmental Assistance Foundation, Inc., and Florida Power Corporation have, as reflected in the attached stipulation, reached agreement regarding the above referenced dockets. WHEREFORE, Legal Environmental Assistance Foundation, Inc., and Florida Power Corporation move that that the Commission enter an Order approving the attached stipulation.

Respectfully submitted,

  
JAMES A. MCGEE, Esquire

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DEBRA SWIN, Esquire

Legal Environmental  
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1115 North Gadsden Street  
Tallahassee, Florida 32303  
(904) 881-2591

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original and 15 copies of the foregoing Joint Motion to Adopt Disposition was hand delivered to the offices of Blanca Bayo, Director, Division of Records and Reporting, Michael Palek, Esquire, and Elizabeth Cudeppor, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, and that a copy was sent by U.S. Mail to Jack Shreve, Esquire and Roger Howe, Esquire, Office of the Public Counsel, 111 West Madison Street, Pepper Building, Room 812, Tallahassee, Florida 32399, Robert Sherfel Wright, Esquire, 310 West College Avenue, P.O. Box 271, Tallahassee, FL 32302; Benjamin Ochshorn, Esquire, Florida Legal Services, 212 Dale Boulevard, Tallahassee, FL 32303; James McGee, Esquire, Florida Power Corporation, P.O. Box 14042, St. Petersburg, FL 33733-4042; William F. Schabot, CEO, Director of Resort Facilities, Vistana Management, Ltd., P.O. Box 22501, Lake Buena Vista, FL 32830-2051; and Motis Lampi R.R. 2, Box 419C, Alamont, NY 12009, the 7th day of July, 1995.

*Debra Swin*  
Debra Swin, Esquire

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Approval of Demand Side Management ) Docket No. 941171-EG  
Plan of Florida Power Corporation ) Filed: October \_\_, 1995

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

This stipulation is entered into by Florida Power Corporation ("FPC"), 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. 941171-EG and reflects a negotiated settlement of all issues between FPC and ISPC/SOLAR in this docket. FPC 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 FPC's or ISPC/SOLAR's position in any other proceeding before this Commission, FPC and ISPC/SOLAR agree and stipulate as follows:

1. In consideration of the actions undertaken by FPC pursuant to this stipulation, ISPC/SOLAR:
  - a. agree to withdraw their request for hearing in Docket No. 941171-EG;
  - b. agree not to participate further in Docket No. 941171-EG, including the review and approval of FPC's program participation standards arising from Docket 941171-EG, and the review and approval of any FPC monitoring and evaluation plan required by the Commission in Docket No. 941171-EG, and any workshops

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created as a result of orders in Docket No. 941171-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 FPC regarding the content of objective solar water heating educational information to be provided by FPC to its customers.

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

- a. agrees to meet with ISPC/SOLAR regarding the contents of the objective solar water heating information to be provided by FPC 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 FPC will endeavor in good faith to agree upon the content of the objective solar water heating educational materials to be provided by FPC as outlined above. In the event FPC cannot reach an agreement with ISPC/SOLAR, the initial dispute as to what constitutes objective solar water heating information to be provided during residential energy audits may be brought before the Florida Public Service Commission for resolution via a proceeding limited to that purpose, and FPC agrees not to contest the standing of ISPC/SOLAR 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 FPC as described above, if FPC desires to modify the substantive content of such information or to discontinue providing

such information, FPC 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 FPC 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 FPC's right to challenge ISPC's and/or SOLAR's potential participation in such a proceeding.

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

3. Nothing in this stipulation shall be construed as requiring FPC 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 FPC in Order No. PSC-94-1313-FOF-EG; to modify 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 FPC. However, the parties to this stipulation recognize that the Commission has continuing jurisdiction regarding FPC's DSM programs and may, on its own initiative, suggest:

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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.

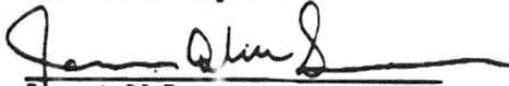
WHEREFORE, The Independent Savings Plan Company and Solar City, Inc., jointly, together with Florida Power Corporation request that the Florida Public Service Commission accept and approve this stipulation as a negotiated settlement of contested matters.

Dated this 29th day of September, 1995.

The Independent Savings Plan  
Company and Solar City, Inc.

  
Robert B. Hicks  
Florida Bar Number 369535  
6302 Benjamin Road, Suite 414  
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(813) 881-1988  
Attorney for ISPC/SOLAR

Florida Power Corporation

  
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Corporation

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Attachment C

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**TELEFAX COVER PAGE**

TO: J. Terry Deason  
TELEFAX NUMBER: 904-413-6250  
DATE: July 26, 1995

Following is a facsimile consisting of 3 pages, including this telefax cover sheet. If you should have any problems in receiving this facsimile, please contact Andrea at (813) 224-0866.

This facsimile contains **PRIVILEGED AND CONFIDENTIAL** information intended only for the use of the addressee(s) named above. If you are not the intended recipient of this facsimile, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination or copying of this facsimile is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original facsimile to us at the above address via U.S. Mail. We will reimburse you for postage. Thank you.

Original Documents will not follow by mail.

**McWHIRTER REEVES**

John W. McWhirter, Jr.

**SPECIAL INSTRUCTIONS:**

File Number: F16-11352

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July 26, 1995

Via FAX

Martha Carter Brown  
Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Florida Power Corporation Demand Side Management Plan  
Docket 941171-EG

Dear Ms. Brown:

I spoke to Vicki Johnson this morning concerning Docket 95065-EI, which is the new docket spun-off from the Florida Power Demand Side Management docket dealing with the Florida Power Corporation non-firm service credits. Ms. Johnson advised me that FIPUG is the only protestant in Docket 941171-EG.

FIPUG protested in that docket because it questions the cost effectiveness methodology used by Florida Power Corporation. It seems to me that the administrative burden could be reduced substantially if the Commission would either consolidate Docket 95065-EI with 941171-EG or in the alternative enter an administrative order determining that Florida Power Corporation's cost effective methodology may be addressed in Docket 95065-EI.

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Attachment C

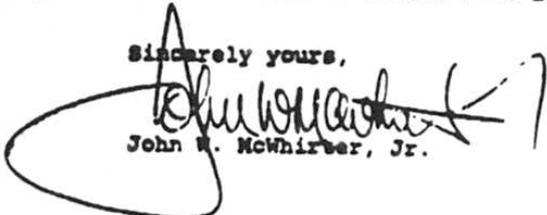
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Letter to Martha Carter Brown  
Page 2  
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If the Commission elects the latter approach, FIPUG would be pleased to withdraw its protest to 941171-EG to enable that docket to be closed.

Sincerely yours,



John W. McWhirter, Jr.

JWMr./AEO

cc: Vicki Johnson (Via Fax)  
Vicki Kaufman (Via Fax)  
Hon. J. Terry Deason (Via Fax)  
Jim McGee (Via Fax)