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May 23, 1997

Ms. Blanca S. Bayó, Director
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Florida Public Service Commission
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RE: DOCKET NO. 970046-EI

Dear Ms. Bayó:

This is Florida Power & Light Company's response to questions set forth in the Commission memorandum dated May 8, 1997.

The Commission should not undertake to apply the Staff's rationale of "unavoidable competitive effect" to justify changing the cost allocation for DSM programs of investor owned electric utilities. The current cost allocation has been addressed and resolved by final Commission Order in a manner consistent with generally accepted cost of service methodology. The Commission Staff's proposed methodology of cost allocation is not a generally accepted methodology. Instead, it would directly conflict with the Florida Energy Efficiency and Conservation Act ("FEECA"), because it would discriminate against customer classes.

The Commission Staff has apparently concluded that its role is to address what it believes to be the "unavoidable

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competitive effect" of DSM programs by charging the total cost of DSM programs (at least for those whose cost-effectiveness ratio may dip below some level selected by Staff) to the class of customers eligible to participate in such programs. As best we understand it, among those "reasons" identified by the Staff in support of its conclusion as to its role are:

a) There is an unavoidable competitive effect from DSM programs.

b) The legislature never intended for DSM programs to be used for competitive purposes.

c) The closer the cost benefit ratio for a DSM program is to "zero," the greater the likelihood that the "non-competitive based" benefits are less than costs and thus customers who don't participate would not benefit from the program

d) A corollary to c) is that by allocating DSM costs as Staff proposes would "protect" customers from funding a DSM program with an "unavoidable competitive impact."

e) Staff is apparently not discouraged by the inconsistency between its own rationale for action (i.e. that the legislature did not intend the use of DSM for competitive purposes) and its rationale for cure. Thus, Staff proposes a radical cost allocation action to provide an incentive not to use the program for a competitive effect. (it appears obvious that Staff would overcome an "unavoidable competitive effect" because it, in Staff's view, was "never intended" by the legislature with an explicit and intended countervailing competitive effect.)

Stated differently, if a DSM program by offering an incentive induces customers to act so as to achieve conservation, Staff sees an unavoidable competitive effect flowing from the fact that the customer likes the DSM program. The obvious action as Staff sees it is to raise the price so the customer won't like the DSM program.

FPL does not accept the individual reasons identified by Staff as being appropriate or justifying any further action. However, it is with this background, at least, that the questions posed by Staff in this Docket must be viewed. Thus, for example, although Staff poses the question of whether the ratepayers' risk of realizing benefits from DSM programs increases as the RIM cost-effectiveness ratio approaches 1.0, it should be clear that Staff has already decided what it wants to do. FPL is quite aware that its observations suggest a less than straight forward dealing with the question. However, if, for instance, the RIM cost-effectiveness ratio was at a level where the ratepayers' risk of realizing net benefits was unacceptable then, that program could and probably should be terminated if it could not be altered so as to achieve an acceptable risk. Staff totally ignores this obvious conclusion, as it also ignores the obvious conclusion that if the risk is "unacceptable" then it should be proposing a revision to the conservation goals. But Staff has not followed its assertions--which FPL considers faulty--to their logical conclusions. Instead, it would keep the DSM program with the "unacceptable" risk as part of the DSM goals and as an approved utility DSM program and it would allocate that risk, apparently without telling the customers of its conclusion as an "incentive" for the customer and the utility to stop using the program. FPL believes neither the Staff nor the Commission wants to follow this cynical approach.

The Staff's Questions:

1. **Are the general body of ratepayers at greater risk in terms of realizing benefits from DSM programs as the RIM cost- effectiveness ration approaches 1.0?**

Answer - This has nothing to do with cost allocation. All other things being equal - which of course means comparison between or among DSM programs is limited and has limited meaning - any program using assumptions about the future generally would have a greater probability of there being net benefits as the associated RIM based cost benefit ratio increased.

It must be recognized that any conclusion about the relationship between the cost-effectiveness ratio and a risk of realizing benefits is not only general but can be stated only in the context of the cost-effectiveness test. For instance, assumptions affecting the cost benefit ratio and the realization of benefits will change more than once and the ratio is expressed in terms of the net present value of costs and the net present value of benefits.

2. **Recognizing the unavoidable competitive impact of DSM programs, should ratepayers continue to pay for DSM programs through the ECCR clause absent an analysis showing the benefit of such competition? Why or why not?**

Answer - Yes. Because it is the appropriate method that has been established by the Commission after notice and opportunity for hearing. It should also be continued because the premises of the question are absolutely false.

In fact, it is somewhat odd that the question is posed at all. As a starting point, Staff should be alerted to FEECA. Then, recognition should be given to the DSM goals setting process and DSM Plan approval process during which the value of DSM programs is reviewed by the Commission. In addition, Staff should evaluate its legal theory supporting its desire to evaluate "unavoidable competitive impact."

3. **Staff expressed its concern regarding the marginal RIM cost-effectiveness of DSM programs, and the competitive nature of DSM programs. Assuming these are problems, what solutions should the Commission consider?**

Answer - FPL cannot assume these are problems given the Commission's responsibility. FPL does not believe that the Commission would create a problem by failing to address acceptable cost-effectiveness levels and then address that problem by requiring discriminatory pricing.

Very truly yours,

Matthew M. Childs, P.A.

MMC:ml

cc: All Parties of Record

CERTIFICATE OF SERVICE
DOCKET NO. 970046-EI

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Response to Questions set forth in FPSC Commission Memorandum dated May 8, 1997 has been furnished by Hand Delivery (**) or U. S. Mail this 23rd day of May, 1997, to the following:

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