

January 14, 2008

Florida Public Service Commission  
Chairman Matthew M. Carter, II  
Office of Commission Clerk  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Re: Docket Number **070650-EI**

Dear Chairman Carter:

Audubon of Florida is the state's oldest conservation organization and works to conserve and restore natural ecosystems, focusing on birds, other wildlife, and their habitats. Our organization has extensive programs, staff, and property ownership in the greater Everglades ecosystem. Accordingly, Audubon is writing to the Florida Public Service Commission (FPSC) to comment upon the determination of need hearings regarding the proposal by the Florida Power & Light Company (FPL) for "Turkey Point Unit 6 and Unit 7," in Miami Dade County.

Audubon has not recently engaged in need determination decisions but has previously provided comment on the way costs are considered in need determination decisions. As long-time advocates for Everglades and Biscayne Bay restoration, Audubon has a special interest in the Turkey Point area. The Comprehensive Everglades Restoration Plan and other local, state and federal policies and programs to restore ecological health to this region have long considered restoration of the wetlands in the area around Turkey Point an ecological priority. Additional power production in the area will require considerable land use, water consumption and habitat loss. While these factors will not be considered in the need determination, they are factors that motivate Audubon to raise questions about need for new electric power generation, and to suggest in all available forums that not enough is being done to reduce demand, resulting therefore, in the need for additional electric power generation.

We will raise no issues relating to the type of generation, and we recognize that by suggesting that conservation and demand side management be considered concurrently with new generation that it may be concluded that Audubon is against new generation. That should not be drawn from this letter. It is a problem of policy and process that those two considerations are not already co-joined. The common sense idea that underlies the PSC's determination can be summed up one question. Is it cheaper to invest in energy conservation than to expand the generating capacity, recognizing also that investing in conservation will very likely have less adverse environmental consequences? The need for this analysis is also called for in Fla. Stat. § 366.04.

According to FPL’s Turkey Point Public Hearing Application submitted to the Miami-Dade County Commissioners Planning and Zoning Department in June 2007, “Between 2011 and 2020, FPL estimates that it will need to increase power generation capacity by approximately 33 percent, or 5,900 MW, to meet the growing needs of customers. As part of the permitting process for a new electric power plant, FPL must obtain a Need Order from the Public Service Commission in accordance with Fla. Stat. § 403.519.”

The Commission is charged with the responsibility of reviewing and approving the need for electrical generation capacity to meet the demands of the region and the state. This charge is challenging in Florida, as it is worldwide, given what is known about the necessity of protecting dwindling land and water resources, avoiding and mitigating the impacts of global climate change, and not impeding economic growth.

As such, any determination of need for new energy generation using conventional sources should be concurrent with full investment in all opportunities to implement demand reduction, efficiency and energy conservation. If not concurrent with consideration of applications for findings of new need, consideration of investment in demand reduction should be the first priority in electric power need determinations. According to Fla. Stat. § 403.519, “the need for adequate electricity at a reasonable cost, and whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available” is a legally required consideration in determining need.

A 2007 study by the American Council for an Energy-Efficient Economy (ACEEE) titled “Potential for Energy Efficiency and Renewable Energy to Meet Florida’s Growing Energy Demands” analyzed the economic benefits of adopting more rigorous energy efficiency, conservation and renewable energy policies. “Energy efficiency resource policies can offset the majority of projected load growth in the state over the next 15 years. Expanded development of renewable energy resources would further reduce future needs for electricity in 2023, deferring the need for many new electric power generation projects in the state. The economic savings from the policies recommended in this report can cut Florida consumers’ electricity bills by over \$7 million in 2013 and \$84 billion in 2023. While these savings will require substantial investments, they cost less than the projected cost of electricity from conventional sources.”

While the Public Service Commission does not have a statutory mandate to promote energy efficiency in new and existing urban developments, concurrent with, if not prior to, approving the need for more electric power generation in the state, the Commission should more aggressively identify an environmentally sound set of policies and incentives for improved demand side management, energy efficiency and conservation. Such an approach is in alignment with Governor Charlie Crist’s Action Team on Energy and Climate Change “Phase 1 Report Florida’s Energy and Climate Change Action Plan” of November 1, 2007, in which priority recommendations were made to “increase energy efficiency and conservation”.

Audubon fully supports consideration of the need for new electric power generation concurrent with consideration of alternative sources and demand side management.

However, we cannot segregate need for new electric power production from the environmental considerations of wildlife habitat, water and land use. Although the needs determination process is not the place to raise environmental issues, given the obvious impacts to water, land and habitat, we cannot stand by and fail to raise the question of reducing demand and increasing conservation.

According to the Governor's Action Team report, "it should be recognized that under Florida's current utility rate structure for investor-owned utilities, additional energy efficiency and conservation measures may have a negative financial impact for utilities. Historically, utility rate structures encourage the sale of power. Florida should examine alternative rate structures that might provide a more realistic economic basis for utilities to implement viable climate change policies without harming their return on investment."

The Action Team specifically found:

- "that energy conservation and energy efficiency are critical in enabling Florida to reach specific greenhouse gas (GHG) emission reduction targets;
- that several energy efficiency technologies available in the marketplace today are cost-effective beyond the degree to which they are utilized by Floridians, and thus represent emission reduction opportunities available at a net benefit to consumers.
- that additional effort in making the public aware of existing energy efficiency and conservation programs offered by utilities is required to increase participation rates and the benefits of such programs for Florida;
- that the current regulatory structure for the electric utility sector within Florida may pose disincentives for investments yielding greater energy efficiency and thus reducing utility sales."

For example, Florida relies almost exclusively on the Rate Impact Measure Test (RIM Test) to gauge the cost of implementing energy efficiency, and some clean energy options, such as thermal solar heating programs. Note that the Florida Solar Energy Industries Association and Florida Solar Energy Research and Education Foundation have recommended the elimination of the RIM Test for utility solar water heating programs.

As the Governor's Action Team on Energy and Climate Change stated in its "Background Briefing: Energy Infrastructure August 2007," the RIM Test requires that the cost of implementing a proposed action cannot cause an increase in the rates charged for electricity, however, "it does not incorporate the effect that a conservation or efficiency measure would have on the final bill presented to the customer—it is only concerned with the per kilowatt hour rate that is charged."

Currently, Florida is the only state that still uses the RIM test, according to the ACEEE. In a presentation to the Florida Energy Commission on April 27, 2007 ACEEE suggested applying the RIM test to new power generating facilities, and stated, "[t]he Florida Public Service Commission does not set significant efficiency targets to allow attractive return on investments by utilities."

In its 2007 Report to the Legislature, the Florida Energy Commission found that a "review of national trends suggests that states are moving away from the single test

model in general, and the RIM Test in particular. The primary criticism of the RIM Test is that it does not account for the interactive effect of reduced energy demand from efficiency investments on longer term rates and customer bills. Under the RIM test, any program that increases rates would not pass, even if total bills to customers are reduced.”

“RIM test reliance marks a large step backward in the planning evolution of the utility industry. By ignoring DSM's long-term potential to defer or displace future capacity needs at costs well below those of new construction, utilities will bear higher costs in the long run when additional capacity is needed, leading to higher rates. This "business as usual" planning approach has no nonparticipants; all customers will bear the future costs of new supply-side additions,” stated Jeremy Levin in a Public Utility Reports article at [www.pur.com/pubs/1012.cfm](http://www.pur.com/pubs/1012.cfm).

The FPSC in its 2007 FEECA Annual Report states that “Florida’s electric utilities must demonstrate that all cost-effective conservation opportunities have been exhausted in order to obtain a determination of need from the Commission for new electric generating capacity.” However, as long as the RIM Test is the standard for measuring “cost effectiveness,” it will act as a barrier to the deferred new capacity that demand side management, energy efficiency and conservation programs can provide.

Despite the regulatory and policy barriers, investment in energy efficiency and conservation has proven successful and should be more aggressively pursued by the state and utilities. As the Florida Energy Efficiency and Conservation Act (FEECA) 2006 Annual Report states: As a whole, utility-sponsored DSM programs have reduced statewide summer peak demand by an estimated 4,951 MW, winter peak demand by 5,563 MW, and energy consumption by an estimated 5,488 GWh since 1980. These estimated savings include DSM programs sponsored by both the FEECA utilities and those that are not currently covered under FEECA. Based on the winter demand reduction, this has deferred the need for eleven typical 500 MW plants, or enough capacity to serve approximately 1.6 million households.” However, Audubon is skeptical that this planned demand side management is adequate. More can and should be done.

Conditioning the need for additional generating capacity on energy conservation and demand side management programs also brings co-benefits of protecting land and water, which would normally be used to supply large power generating facilities, such as those proposed at Turkey Point. The current water shortage in Florida makes it clear how important water conservation is to balancing the needs of human society with the necessity of protecting the environment and this important natural resource. An additional benefit of energy conservation, efficiency and demand reduction is that more natural areas and water resources are protected from the impacts of the construction and operation of large electric generation plants.

Recognizing that FPL, one of the best players among investor-owned utilities and one long-viewed by Audubon as in the vanguard of green energy and conservation, must by law and responsibility to its current and future customers engage positively in the process of planning and siting electric production capacity, the Commission must insist on greater conservation and efficiency effort and move beyond obsolete tests for

assessing reasonable costs relating to conservation. Audubon recommends that the Commission develop a more sophisticated and comprehensive set of standards and rate measures that will result in fully developing the cost effective conservation and demand reduction actions available in Florida to reduce the need for more expensive power plant construction.

Sincerely,

Eric Draper  
Deputy Director, Audubon of Florida

cc: Florida Governor Charlie Crist  
Attorney General Bill McCollum  
Commissioner of Agriculture Charles Bronson  
Florida Chief Financial Officer Alex Sink  
Speaker of the House Marco Rubio  
Senate President Ken Pruitt