

**JOINT POST-WORKSHOP COMMENTS OF FLORIDA POWER & LIGHT,
PROGRESS ENERGY FLORIDA, GULF POWER COMPANY,
TAMPA ELECTRIC COMPANY, AND FLORIDA PUBLIC UTILITIES COMPANY**

Florida Power & Light Company (“FPL”), Progress Energy Florida (“PEF”), Gulf Power Company (“Gulf”), Tampa Electric Company (“TECO”) and Florida Public Utilities Company (“FPUC”) (collectively, the “Joint Utilities”) are pleased to provide joint comments in response to the questions presented for the Staff Workshop held April 28, 2011, regarding reporting and evaluating electric utilities’ demand side management (“DSM”) performance. The Joint Utilities’ comments on each of the questions identified by the Florida Public Service Commission (“Commission”) Staff are provided below.

- 1. How should 2010 DSM achievements be reported and evaluated for purposes of the 2011 FEECA Report? Is it more appropriate to measure 2010 DSM achievements against the goals established in 2004 or 2009?*

The Joint Utilities believe it would be more appropriate to measure 2010 DSM achievements against the goals established by the Commission by Order No. PSC-09-0855-FOF-EG, issued December 30, 2009. We acknowledge that new goals were established in 2009 that became effective January 1, 2010, regardless of whether any utility subject to the Florida Energy Efficiency and Conservation Act (“FEECA”) had a DSM plan approved at that time. However, in evaluating performance, the Commission should recognize the inability of the Joint Utilities to meet the 2010 goals (and the inability of several Joint Utilities to meet the 2011 goals) as a result of the time involved in the consideration and approval of DSM plans for implementation. The Commission has historically recognized the time difference between goal approval and DSM plan approval as a mitigating circumstance when evaluating performance.

The Joint Utilities were required to file DSM plans for Commission approval by March 30, 2010, and each utility did. The first plan approved was FPUC’s DSM plan. It was

considered at the Commission's October 26, 2010 agenda conference. The Proposed Agency Action ("PAA") order was issued on November 15, 2010, the time for a protest to that order expired December 7, 2010, and Staff administratively approved FPUC's individual DSM program standards on February 22, 2011. As a result, FPUC did not have its new or modified DSM plans available to its customers in 2010. The DSM plans of PEF, Gulf, and TECO were not considered until the September 14, 2010 agenda conference.¹ Those plans were not approved. However, even if they had been approved, PEF, Gulf, and TECO (and FPL) likely would not have had any DSM plans in place during 2010 given the time necessary for issuance of the PAA order, time for a protest to that order to lapse, and administrative approval of the individual program standards.² The goals established by the Commission represented an unprecedented change. Appropriately, the review and approval of the associated DSM plans required close scrutiny and analysis resulting in delays which were longer than anyone envisioned. The Commission should therefore recognize FPUC's, FPL's, PEF's, Gulf's and TECO's inability to meet the 2010 goals established in 2009. This same recognition will also be appropriate for several of the Joint Utilities for 2011 due to the mid-2011 or, in some cases, still pending approvals of the DSM plans and program standards.

2. *What is the appropriate date range to use for judging utility performance: annual or a band of 3 to 6 years?*
3. *How should achievements be measured: against annual goals, cumulative goals or both?*

Given the related subject matter of Questions 2 and 3, the Joint Utilities address them together. It is the position of the Joint Utilities that DSM performance should be measured on

¹ FPL's DSM plan was also scheduled for consideration at the September 14, 2010 agenda conference. However, FPL's proceeding was stayed at that time.

² Because new programs must be approved prior to a utility seeking cost recovery, the Joint Utilities cannot offer incentives or rebates associated with new or modified programs designed to meet the 2009 goals until after DSM plan approval. See Rule 25-17.015(4), Fla. Admin. Code.

the same basis as that used in establishing the goals, i.e., on a cumulative basis for goals established on a cumulative basis and on an annual incremental basis for goals established on an annual incremental basis. Doing so will properly place any discussion regarding the pros and cons of cumulative versus annual incremental DSM goals in the DSM goal-setting dockets. It will also provide clarity and direction for all FEECA utilities at the time that DSM goals are established, thus increasing the likelihood that DSM plans will be filed that meet the Commission's expectations. Since the issuance of the Commission's DSM goals order, the Commission has made clear that in 2009 it set annual incremental, and not cumulative, DSM goals for each FEECA utility. Accordingly, for the current DSM goals, the Joint Utilities believe that measurement of each year's performance on an annual incremental basis is appropriate. Measuring cumulative performance or performance both ways would be inconsistent with the manner in which the goals were established.

As described above, however, none of the Joint Utilities was in a position to meet the 2010 annual incremental goals because none had a Commission-approved DSM plan in place to try to meet the new, higher goals. Additionally, several Joint Utilities are not in a position to meet the 2011 annual incremental goals. As discussed at length at the September 14, 2010 agenda conference, there was disagreement as to whether DSM plans that met cumulative goals were in compliance with the Commission's DSM goals order. While previous DSM goals orders have showed both annual incremental and cumulative figures, DSM plans that met only cumulative goals (and not annual incremental goals) have been approved in the past.³ As a

³ See, e.g. *Petition for Approval of Demand Side Management Plan of Tampa Electric Company*, Docket No. 941173; *Approval of Demand Side Management Plan of Tampa Electric Company*, Docket No. 991791; *Petition for Approval of Numeric Conservation Goals by Tampa Electric Company*, Docket No. 040033; *Notice of Proposed Agency Action Order Approving Demand-Side Management Plans*, Docket No. 941172-EG (Gulf), Order No. PSC-95-0691-FOF-EG.

result, the DSM plans of PEF, Gulf, and TECO were rejected at that time. FPL's was similarly rejected when it was considered at the January 11, 2011 agenda conference. These events, plus the late-third quarter timing of the initial agenda conference caused the DSM plan approval process to continue into 2011.⁴ Annual evaluation of DSM performance should therefore begin with the year 2012, when all FEECA utilities should have approved DSM plans, and approved DSM program standards, in place. Annual FEECA reporting would continue. To the extent program ramp up in the earlier years is necessary to try to meet a 2012 goal, and meeting the 2012 goal becomes problematic, the affected utility will address that issue in its report on 2012 performance.

4. *How should savings for Residential and C/I customer classes be evaluated: separately, combined, or both?*

The Joint Utilities believe that the savings achieved from Residential programs and Commercial/Industrial programs should be evaluated on a combined basis for purposes of determining whether a utility has met its annual incremental DSM goal, because the combined savings best represent the true level of customer and utility system benefits. Market forces may lead to over-achievement or under-achievement of a DSM goal in a particular sector; however, if the overall combined level of savings is met, then the intent of FEECA is also being met.⁵ All classes of customers benefit from the generation deferred; therefore, we agree with the Southern Alliance for Clean Energy ("SACE") that "the combined result is really our goal."⁶ The Joint

⁴ As previously noted, at the time of these joint comments, DSM plans for FPL and PEF have yet to be approved.

⁵ In the 2011 FEECA report to the Legislature, the Commission provides an example where FPUC met residential goals but failed to meet commercial goals; however, when combined, the report recognizes that FPUC met their annual goal. The Joint Utilities believe this is how goal achievement should continue to be evaluated.

⁶ Comment made by Tom Larson (SACE) during Staff Workshop on April 28, 2011, transcript p. 53, lines 18-19.

Utilities already report separate savings for the Residential and Commercial/Industrial sectors and will continue to do so if such information is desired by Staff for other purposes.

5. *What type of information should be provided for solar pilot projects? (i.e., number of installations, savings per installation, amount of expenditures, problems encountered and lessons learned.)*

The Joint Utilities will provide the information identified by Staff in its question (number of installations, energy savings per installation, amount of utility expenditures, problems encountered and lessons learned), as well as the information that is typically reported for DSM pilot projects, such as cost-effectiveness results. The Joint Utilities will also report measure installation cost information, to determine whether the solar pilot programs offered by the Joint Utilities have any impact on the cost of the technology itself – an understood purpose of the solar pilot projects.

The Joint Utilities are not currently planning to provide information about other marketplace incentives that may be generally available to their customers, such as tax incentives and state rebates. It is the position of the Joint Utilities that such information will not provide insight on whether the unsubsidized solar equipment costs are being reduced or on the cost-effectiveness of such programs for the utilities' general body of customers.

6. *What additional information should be provided to assist staff in evaluating utilities' 2010 performance?*

This question received little discussion during the workshop. The Joint Utilities are not currently aware of any additional information that should be, but is not currently provided. Nonetheless, the Joint Utilities would note the following: each recognizes the need to explain (or "justify") its DSM performance each year, to the extent it misses a DSM goal. Because the Joint Utilities' DSM plans were or will be approved at different times, because different service areas present unique opportunities and challenges for DSM, and because customer participation in

DSM programs is completely voluntary, the information provided from each of the Joint Utilities should be expected to vary. The Joint Utilities will work with Staff in an effort to provide Staff with all information necessary to evaluate performance each year.

Additional Topic: Rewards and Penalties

In addition to reporting and evaluating performance for purposes of the 2011 FEECA report, Staff raised the issue of penalties during the workshop.

The Joint Utilities do not believe that if a DSM goal is missed, a penalty necessarily must be imposed.⁷ While FEECA expressly authorizes rewards and penalties, it does not require that they be imposed, nor does it require that a particular penalty mechanism be established within the first year or two of the new, higher DSM goals. Thus, there should not be a presumption that if a DSM goal is missed, a penalty must be imposed. There are numerous forms that penalties – and rewards – could take and many possible factors that could be incorporated into any computations. Staff introduced one such form and set of factors at the workshop: the quantification of customer impacts, if any, if a utility misses a DSM goal and the use of such quantification in the determination of a penalty amount. The Joint Utilities have not had time to fully evaluate this form of penalty and more importantly, can envision many other forms that could be used. The Joint Utilities are prepared to explore such topics as the statutory basis for rewards and penalties, the circumstances under which a mechanism for rewards and penalties should be explored, and, if so, criteria that could predicate rewards and penalties, and believe that the “free-form” environment of workshops (together with responses to any Staff data requests) could be productive first steps. The Joint Utilities respectfully submit that this topic is highly complex.

⁷ Any discussion of penalties should be coupled with a discussion on rewards to avoid an uneven application of FEECA.

Additionally, the Joint Utilities believe that this topic should be addressed only after they have had adequate opportunity to gain experience with their new and modified DSM programs in an effort to meet the new, highly aggressive DSM goals. The additional information gathered by each utility through this experience will enable all stakeholders in this process to better address the topic of rewards and penalties.

The Joint Utilities appreciate the opportunity to furnish Staff these comments.