

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Commission Review of Numeric ) DOCKET NO. 20190015-EG  
Conservation Goals )  
Florida Power & Light Company )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 20190016-EG  
Conservation Goals ) (SACE only)  
Gulf Power Company )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 20190018-EG  
Conservation Goals )  
Duke Energy Florida, LLC )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 20190019-EG  
Conservation Goals ) (SACE only)  
Orlando Utilities Commission )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 20190020-EG  
Conservation Goals ) (SACE only)  
JEA )  
\_\_\_\_\_ )

In re: Commission Review of Numeric ) DOCKET NO. 20190021-EG  
Conservation Goals )  
Tampa Electric Company )  
\_\_\_\_\_ )

**SOUTHERN ALLIANCE FOR CLEAN ENERGY'S AND LEAGUE OF UNITED LATIN AMERICAN CITIZENS' [PENDING INTERVENTION] PREHEARING STATEMENT**

The Southern Alliance for Clean Energy, Inc. ("SACE") and Florida League of United Latin American Citizens, also known as LULAC Florida Corp. ("LULAC"), by and through its undersigned counsel, and pursuant to Order No. PSC-2019-0062-PCO-EG, Order Consolidating Dockets and Establishing Procedure, hereby submit their Prehearing Statement.

**I. Witnesses**

All Known Witnesses:

<u>SACE Direct Witnesses:</u>	<u>Subject Matter:</u>	<u>Issues Nos.:</u>
Jim Grevatt	Appropriateness of utilities’ analysis including use of RIM test, two-year payback screen, methodology, recommended savings goals, and all other matters addressed in pre-filed testimony.	1-4, 6-9
Forest Bradley-Wright	The needs of low-income communities and the cost-effectiveness tests that should be used to address the needs of those communities, along with recommendations regarding the establishment of specific goals for those communities, and all other matters addressed in pre-filed testimony.	2-4, 6-8, SACE proposed issue

All witnesses listed or presented by any other party or intervenor

Impeachment and rebuttal witnesses as needed

Any witness revealed during continuing discovery or other investigation

Authentication witnesses or witnesses necessary to lay a predicate for the admissibility of evidence as needed

Standing witnesses as needed

**II. Prefiled Exhibits**

SACE will sponsor the direct exhibits as set out below. However, SACE and LULAC [pending intervention] reserve the right to use other exhibits during cross examination of any other party’s or intervenor’s witnesses, and will file a notice in accordance with the orders governing procedure identifying any documents that the utilities claim to be confidential which SACE and LULAC may use during cross examination.

<u>Witness</u>	<u>Proffered By</u>	<u>Exhibit #</u>	<u>Description</u>	<u>Issue Nos.</u>
Jim Grevatt	SACE	JMG-1	Jim Grevatt Resume	

Jim Grevatt	SACE	JMG-2	TRC Savings Goals Without Payback Screen	2-4, 6-9
Jim Grevatt	SACE	JMG-3	TRC Savings Goals Based on Leading Southern Jurisdictions	2-4, 6-9
Jim Grevatt	SACE	JMG-4	FPL Response to Staff Interrogatory 18	3, 6
Jim Grevatt	SACE	JMG-5	FPL Response to SACE's POD No. 2 – TP Table	1-3, 8-9
Jim Grevatt	SACE	JMG-6	FPL Response to SACE's POD No. 2 – Economic Potential Calculations	1-3, 8-9
Jim Grevatt	SACE	JMG-7	FPL Response to SACE Interrogatory 21	7
Jim Grevatt	SACE	JMG-8	FPL Response to SACE Interrogatory 25	7
Jim Grevatt	SACE	JMG-9	FPL Response to SACE's POD No. 3, Achievable Potential Analysis	2-4, 7-9
Jim Grevatt	SACE	JMG-10	FPL Response to SACE Interrogatory 48	1, 7
Jim Grevatt	SACE	JMG-11	Excerpt of Jim Herndon Deposition	7
Jim Grevatt	SACE	JMG-12	FPL Response to SACE Interrogatory 23	4, 7
Jim Grevatt	SACE	JMG-13	2019 Illinois Statewide Technical Reference Manual for Energy Efficiency	1
Jim Grevatt	SACE	JMG-14	FPL Response to SACE Interrogatory 39	1
Jim Grevatt	SACE	JMG-15	Navigant ComEd Residential Lighting Discounts Program	3
Jim Grevatt	SACE	JMG-16	FPL Response to SACE POD No. 2	2-3, 8-9

Jim Grevatt	SACE	JMG-17	FPL Response to SACE POD No. 2	2-3, 8-9
Jim Grevatt	SACE	JMG-18	FPL Response to SACE POD No. 10	2-3, 8-9
Jim Grevatt	SACE	JMG-19	FPL Response to SACE Interrogatory 9	1, 3, 8-9
Jim Grevatt	SACE	JMG-20	TECO BS 158 – Residential Economic Potential	2-3, 8-9
Forest Bradley-Wright	SACE	FBW-1	Forest Bradley-Wright Resume	
Forest Bradley-Wright	SACE	FBW-2	ACEEE Report – High Energy Burden in America’s Largest Cities	2-4, 6-8, SACE proposed issue
Forest Bradley-Wright	SACE	FBW-3	NAACP Just Energy Policies	2-4, 6-8, SACE proposed issue
Forest Bradley-Wright	SACE	FBW-4	Report on the Economic Well-Being of U.S. Households in 2018	2-4, 6-8, SACE proposed issue
Forest Bradley-Wright	SACE	FBW-5	Florida Manufactured Home Parks	2-4, 6-8, SACE proposed issue
Forest Bradley-Wright	SACE	FBW-6	ACEEE State-Level Strategies for Tackling High Energy Burdens	2-4, 6-8, SACE proposed issue
Forest Bradley-Wright	SACE	FBW-7	DEF DSM Annual Report 2018	2-4, 6-8, SACE proposed issue

Forest Bradley-Wright	SACE	FBW-8	TECO DSM Annual Report 2018	2-4, 6-8, SACE proposed issue
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All exhibits listed or introduced into evidence by any other party or intervenor

Standing documents as needed

Impeachment exhibits

Rebuttal exhibits

Exhibits determined necessary by ongoing discovery

All deposition transcripts, and exhibits attached to depositions

All documents produced in discovery

Blow ups or reproductions of any exhibit

Demonstrative exhibits

All pleadings, orders interrogatory answers, or other filings

All documents or data needed to demonstrate the admissibility of exhibits or expert opinion

Maps and summary exhibits

### **III. Statement of Basic Position**

By passing the Florida Energy Efficiency and Conservation Act (“Energy Efficiency Act”), the Florida legislature has recognized the importance of curbing electricity consumption, increasing energy efficiency, and promoting demand-side renewable energy to securing the economic future and health of Florida’s citizens. To meet these objectives, the Energy Efficiency Act allocates responsibility to the Florida Public Service Commission (“Commission”) to oversee the actions of Florida’s major utilities. A major element of this responsibility involves the Commission’s oversight over the utilities’ conservation goals to

ensure that the utilities meaningfully integrate lower cost and lower risk demand-side energy efficiency and renewable resources into Florida's energy resource portfolio. SACE has intervened (and LULAC has petitioned to intervene) to help the Commission set goals that maximize utility investment in cost-effective energy efficiency, the cleanest and cheapest resource to meet Floridians' power needs, and focus attention on the needs of low income communities and the high energy burdens that they face.

Florida Power & Light Co. ("FPL"), Duke Energy Florida ("DEF"), Gulf Power Company ("Gulf"), JEA, Orlando Utilities Commission ("OUC") and Tampa Electric Company ("TECO") (collectively, "the utilities") propose unreasonably low savings goals, and in many cases, zero savings goals. These inadequate goals are the direct result of utility-introduced analytical defects that compound on each other to exclude cost-effective measures. At every step of the goal-setting process, the utilities have used faulty assumptions, inappropriate and arbitrary screens, and erroneous methodologies that improperly narrowed the universe of achievable potential. Furthermore, by failing to consider the early retirement of inefficient measures, as well as assuming unrealistic labor needs, the utilities have improperly reduced the technical potential of energy efficiency measures.

These flaws in the technical potential compound the multiple deficiencies in the utilities' economic potential, resulting in inaccurate and misleading reductions to the cost-effectiveness of possible measures. First, several of the utilities define administrative costs as directly proportional to energy saved, ensuring that measures with the most energy savings will have the highest administrative costs. The utilities have even applied this calculation of administrative costs to known low-cost, high-savings measures like LED lightbulbs, resulting in inflated administrative costs for the most energy efficient measures. Second, TECO and FPL have failed

to “reshuffle” the technical potential of their measures when conducting their economic potential analyses. This has allowed TECO and FPL to exclude whole families of measures should the most efficient measure of that family fail the economic screen, with no consideration of the cost-effectiveness of slightly less efficient measures.

Reliance on the Rate Impact Measure (“RIM”) cost effectiveness test represents another flaw in the utilities’ economic potential analysis. As Mr. Grevatt testifies, the RIM test should not be used to screen efficiency measures at the goals setting stage. Ratepayer impacts are important, however, the RIM test does not accurately calculate them compared to other methods. The Total Resource Cost (“TRC”) test more accurately depicts the costs and benefits of energy efficiency for *all* ratepayers in Florida, including program non-participants.

The utilities justify their usage of the RIM test by citing concerns of cross-subsidization. However, concerns about cross-subsidization do not justify making everyone pay higher bills on average than would occur if the TRC test was utilized to set goals. Energy efficiency is the least cost resource and can defer or even prevent the need for additional power generation, which have historically caused rate impacts on *all* ratepayers that dwarf any DSM cross-subsidization. With widely available DSM programs, customers can *choose* whether to participate and lower their bills. Even if a customer in no way causes the need for additional supply-side generation, they have no choice but to pay the higher rates *and* bills that follow that construction.

Usage of the 2-year payback screen to account for free-ridership provides another improper limitation on the measures to be considered when setting conservation goals. There are two main flaws regarding application of the 2-year payback screen: (1) The utilities have offered no evidence that a 2-year payback period alone is sufficiently accurate to predict customer adoption of measures and (2) the 2-year payback screen is redundant and double-counts potential

“free-riders” because it screens out measure adoption already accounted for in the baseline load forecast. As a result of these flaws, the 2-year payback screen excludes measures that may in fact harbor little risk of free-ridership. Furthermore, excluding the most cost-effective DSM measures (those with a payback of less than 2-years) does a great disservice to the low-income community, and, as a matter of policy, makes little sense, since if measures pass the RIM test, greater employment of the measures would put downward pressure on rates, and if they pass the TRC test, would tend to lower average bills. In either case, systematic benefits mean that as a matter of policy, employing cost-effective DSM should not be stopped by the mere possibility that some small portion of the DSM may have been deployed absent a utility-program.

These flaws in the economic and technical potential come to a head in the achievable potential where further analytical flaws compound the limitations from the previous steps. These flaws include limiting incentives to a 2-year payback such that it is assumed no one will adopt the measures and thus there is no achievable potential.

By systematically and artificially constraining the energy efficiency potential, the utilities would condemn Floridians to a future of ever continuing growth in electricity demand and, with it, the need for additional, more expensive supply-side resources to meet electricity demand. This scenario is a favorable one for utility shareholders, who benefit from a return on equity from additions to the rate base, but the same is not true for utility customers.

The Commission should set meaningful goals that require the utilities to aggressively and broadly invest in and deliver energy efficiency. Comprehensive, well-run programs will allow all customers to save energy, lower their electricity bills and allow utilities to lower their overall system cost and risk.



Furthermore, under the Energy Efficiency Act, demand-side renewable energy goals are not optional. SACE and LULAC propose the utilities adopt a pilot program of investing in photovoltaic (“PV”) solar installations coupled with battery storage at schools that are designated as storm shelters. With hurricanes a continuing risk with the concurrent widespread power outages they cause, coupling solar with battery back-up at schools that serve as storm shelters will aid in storm resiliency and ensuring that shelters can continue to provide electricity for vital needs. During normal operations, solar plus battery storage can reduce demand at peak and therefore help reduce overall peak demand.

#### **IV. Statement of Issues and Positions**

**ISSUE 1:** Are the Company’s proposed goals based on an adequate assessment of the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems, pursuant to Section 366.82(3), F.S.?

**POSITION:** No. Among other things, the utilities ignore the possibility of early retirement of measures and overinflate the labor costs to install certain measures, increasing the applicable costs. (Witness Grevatt)

**ISSUE 2:** Do the Company’s proposed goals adequately reflect the costs and benefits to customers participating in the measure, pursuant to Section 366.82(3)(a), F.S.?

**POSITION:** No. Among other things, by placing the economic potential of many measures at zero even when they are cost-effective, the utilities underestimate the benefits of many measures. By narrowly focusing on RIM and inflating certain labor and administrative costs, the utilities do not properly consider the benefits to low income communities. (Witnesses Grevatt and Bradley-Wright)

**ISSUE 3:** Do the Company’s proposed goals adequately reflect the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions, pursuant to Section 366.82(3)(b), F.S.?

**POSITION:** No. Among other things, by improperly focusing on the RIM test, the utilities ignore the real costs and benefits to the general body of ratepayers as a whole. The RIM test focuses on lost revenue to the utility. Total system costs, as reflected in the TRC test, better reflect the costs and benefits to the general body of ratepayers as a whole; therefore, only the TRC test meets the requirements of the statute. Additionally, measures that assist low income communities are

improperly screened out by the RIM test. (Witnesses Grevatt and Bradley-Wright)

**ISSUE 4:** Do the Company's proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems, pursuant to Section 366.82(3)(c), F.S.?

**POSITION:** No. The utilities' analysis to arrive at their proposed goals are deeply flawed and arbitrarily stop at a 2-year payback, artificially limiting available market penetration and energy efficiency, including for low income communities. (Witnesses Grevatt and Bradley-Wright)

**ISSUE 5:** Do the Company's proposed goals adequately reflect the costs imposed by state and federal regulations on the emission of greenhouse gases, pursuant to Section 366.82(3)(d), F.S.?

**POSITION:** No. Given the climate crisis, and a bi-partisan bill currently pending in Congress on carbon fees, some cost for greenhouse gas emissions over the 10-year planning horizon should be assumed.

**ISSUE 6:** What cost-effectiveness test or tests should the Commission use to set goals, pursuant to Section 366.82, F.S.?

**POSITION:** The TRC test and the Participant test. TRC focuses on the general body of ratepayers as a whole by considering the total cost of implementing the efficiency measure and comparing that to the benefit the measure provides to the participant and all the utility's customers including avoided generation, transmission, and distribution costs. In addition, TRC, in contrast to the RIM test, includes both utility incentives and participant contributions. TRC focuses on reducing the average bills of all customers, rather than almost exclusively focusing on lost revenue to the utility. This is especially important for low income communities, as people struggle to pay monthly energy *bills*, not monthly energy rates. (Witnesses Grevatt and Bradley-Wright)

**ISSUE 7:** Do the Company's proposed goals appropriately reflect consideration of free riders?

**POSITION:** No. Among other things, the load forecasts used by Nexant in its analysis already included naturally occurring energy efficiency. As such, the possibility of free riders had already been accounted for at the Technical Potential stage of the analysis. Furthermore, the 2-year screen used by the utilities is completely arbitrary and not backed by any empirical evidence, and improperly screens out measures that are especially important to low income communities. (Witnesses Grevatt and Bradley-Wright)

**ISSUE 8:** What residential summer and winter megawatt (MW) and annual Gigawatt-hour (GWh) goals should be established for the period 2020-2029?

**POSITION:** The Commission should approve robust residential goals consistent with the testimony of Witnesses Grevatt and Bradley-Wright.

**ISSUE 9:** What commercial/industrial summer and winter megawatt (MW) and annual Gigawatt hour (GWh) goals should be established for the period 2020-2029?

**POSITION:** The Commission should approve robust commercial/industrial goals consistent with the testimony of Witness Grevatt.

**ISSUE 10:** What goals, if any, should be established for increasing the development of demand-side renewable energy systems, pursuant to Section 366.82(2), F.S.?

**POSITION:** Goals should be established to create pilot programs at schools that also serve as storm shelters along with battery storage in order to increase resiliency and offset peak demand.

The SACE proposed framing of this issue, below, better comports with the wording in the applicable statutory provision for the reasons explained below.

**ISSUE 10**

**SACE:** What goals should be established for increasing the development of demand-side renewable energy systems, pursuant to Section 366.82(2), F.S.?

**POSITION:** Goals should be established to create pilot programs at schools that also serve as storm shelters along with battery storage in order to increase resiliency and offset peak demand.

The SACE proposed framing of this issue better comports with the wording in section 366.82(2), F.S. Nothing in the statute suggests that the establishment of goals is optional, as the statute says the “commission *shall* adopt appropriate goals for . . . increasing the development of demand-side renewable energy systems . . . , and to encourage development of demand-side renewable energy resources.” § 366.82, Fla. Stat. (emphasis added).

**ISSUE 11:** Should these dockets be closed?

**POSITION:** Not at this time.

**SACE:** Should distinct goals for low income customers be established, and if so, what should those goals be?

POSITION: Yes, in order to ensure that the needs of low-income communities are met, the Commission should approve the following low-income customer goals. (Witness Bradley-Wright)

	10-Year Total	Summer Peak MW	Winter Peak MW
FPL	395 GWh	124 MW	69 MW
Duke	572 GWh	248 MW	113 MW
TECO	117 GWh	23 MW	18 MW
Gulf	133 GWh	29 MW	28 MW
OUC	67 GWh	16 MW	8 MW
JEA	125GWh	30 MW	18 MW

SACE and LULAC believe this issue should be included to ensure that the needs of low-income communities are met over the next 10-year period. Voluntary programs by the utilities are just that – voluntary. Without specific goals, there is no other way to ensure that the needs of low-income customers will be met and the energy burden these customers face will be reduced.

**V. Stipulated Issues**

None.

**VI. Pending Motions or Other Matters**

1. Southern Alliance for Clean Energy’s Motion to Request Allowance of Public Participation.
2. Petition to Intervene by League of United Latin American Citizens

**VII. Pending Request or Claims for Confidentiality**

None.

**VIII. Objections to Witness’ Qualifications as an Expert**

SACE and LULAC object to Mr. Deason’s expertise as a legal expert in interpreting Florida law and the Commission’s rules, and object to his testimony to the extent it is offered for the improper legal conclusions contained therein. The entire purpose of Mr. Deason’s rebuttal testimony appears to be to offer an opinion as to the meaning of Florida’s laws and regulations. Opinion testimony as to the legal interpretation of Florida law is not a proper subject of expert

testimony. *See, e.g.*, Order No. PSC-11-0228-PCO-GU (May 20, 2011) (“The Commission has generally prohibited the admittance of expert testimony on legal issues. Section 120.57, F.S., provides for a fact-finding evidentiary proceeding and does not contemplate cross-examination of a witness on legal opinion. In addition, Florida case law clearly states that an expert witness should not be allowed to testify concerning questions of law, which are properly reserved for the trier of fact.”). To the extent Mr. Deason’s testimony is offered to set forth legal conclusions and provide an opinion on how to interpret Florida’s rules and regulations, it is improper as it impermissibly attempts to instruct the Commission on how to decide questions of law. SACE and LULAC believe that the applicable laws, rules, and case law speak for themselves and Mr. Deason’s interpretation of them is unnecessary and improper. Additionally, SACE and LULAC object to Mr. Deason’s qualifications to do so. Examples of improper legal conclusions are on page 3, lines 7-14; page 8, lines 14-18; page 9, lines 11-12; page 9, lines 14-23; page 10, lines 1-22; page 12, lines 15; page 13, lines 1-4; page 18, lines 3-14; page 25, lines 17-23; page 26, lines 1-2; page 27, line 23; page 28, lines 1-15; page 28, line 19-21; page 29, lines 2-3; page 30, lines 11-23; page 31, lines 1-4; page 32, lines 7-23 (even admitting that he does “not profess to be an expert in how Arkansas has implemented its rules” before going on to interpret those rules); page 33, lines 1-16; page 35, lines 1-3; page 36, lines 19-20; page 39, lines 5-10; and page 39, lines 15-21.

#### **IX. Request for Sequestration of Witnesses**

None.

#### **X. Compliance with Order Establishing Procedure**

SACE and LULAC have complied with all applicable requirements of the order establishing procedure in this docket.

Respectfully submitted this 22nd day of July, 2019.

/s/ Bradley Marshall

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 22nd day of July, 2019, via electronic mail on:

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DATED this 22nd day of July, 2019.

/s/ Bradley Marshall, Attorney