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December 16, 2022

**-VIA ELECTRONIC FILING-**

Adam Teitzman  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

**RE: Docket No. 20200181-EU - Florida Power & Light Company's DSM  
Rulemaking Post-Workshop Comments for November 30, 2022 Rule  
Development Workshop**

Dear Mr. Teitzman:

Please find attached Florida Power & Light Company's DSM Rulemaking Post-Workshop Comments for the Florida Public Service Commission Staff's November 30, 2022 Rule Development Workshop.

If there are any questions regarding this filing, please contact me at (561) 304-5662.

Sincerely,

/s/ William P. Cox  
William P. Cox  
Fla. Bar No. 0093531

WPC:ec  
cc: Jonathan Rubottom, FPSC Staff Attorney (Via email jrubotto@psc.state.fl.us)

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

<b>IN RE: PROPOSED AMENDMENT OF RULE 25-17.0021, F.A.C., GOALS FOR ELECTRIC UTILITIES</b>	<b>Docket No. 20200181-EU FILED: December 16, 2022</b>
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**FLORIDA POWER & LIGHT COMPANY’S POST-WORKSHOP COMMENTS**

Florida Power & Light Company (“FPL”) hereby files comments on the proposed amendment to Rule 25-17.0021, F.A.C., Goals for Electric Utilities (“DSM Rule”), and on the specific proposals from other stakeholders regarding the appropriate cost-effectiveness tests, free ridership considerations, and low-income goals and programs issues. FPL thanks the Staff of the Florida Public Service Commission (“Commission”) for conducting a workshop on November 30, 2022, to discuss the Commission Staff’s proposed rule amendment.

FPL recommends that the Commission move forward on Staff’s proposed rule amendment, which would consolidate and make the process for establishing Demand-Side Management (“DSM”) goals, plans, and programs more efficient. The proposed rule would provide improvements to the process for establishing DSM goals, plans, and programs, thereby allowing FPL and other electric utilities to bring innovative programs to our customers. Consistent with FPL’s prior comments as more fully discussed below, FPL urges the Commission to reject the stakeholders’ additional proposed rule amendments, all of which, both individually and collectively, would result in a less efficient goal-setting process and higher electric rates for FPL customers. Instead, FPL recommends that the Commission move forward to adopt the Commission Staff’s proposed rule amendment.

These comments address the Staff’s proposed rule amendment and the three primary areas of additional proposals from various interested stakeholders: (1) elimination or diminution of the rate impact measure (“RIM”) test as a test for assessing cost-effectiveness of DSM programs and measures and adding the utility cost test (“UCT”) (also referred to as the program administrator cost

test); (2) elimination of the two-year payback screen for measures to address free ridership in favor of an evaluation, measurement, and verification (“EM&V”) approach; and, (3) proposals to increase size and participation in utility low-income programs through specific goals with no requirements for cost effectiveness or free ridership.

#### **I. Staff’s Proposed Rule Amendment**

The proposed rule amendment would improve the process for establishing DSM goals and programs and plans, which would allow FPL and other utilities to bring innovative programs to our customers while continuing to keep rates low. Specifically, Section 3 of the proposed rule amendment would require utilities to file and allow the Commission to review two scenarios for the proposed goals in the utilities’ DSM goals filings: one scenario with programs that pass the RIM test and one scenario with programs that pass the Total Resource Cost (“TRC”) test. Both scenarios would require programs that pass the Participants test (“PT”). FPL supports Staff’s stated goal of improving the administrative efficiency of the Commission’s DSM goals setting process by including programs in the DSM goals setting process and not reserving their consideration solely for the subsequent DSM plans proceeding.

As we have for decades, FPL continues to support cost-effective conservation programs that benefit all customers regardless of whether they participate. FPL’s historical offerings, including home energy surveys and cutting-edge, smart grid-powered Energy Manager and Energy Analyzer, provide all our customers with the opportunity to take control of their energy usage while keeping bills low. We have long believed that empowering our customers to make energy-efficient choices that are right for them is a better approach than charging higher electric rates to pay for non-cost-effective programs that only some customers can use. Staff’s proposed rule amendment is consistent with such a customer-driven and beneficial approach.

## **II. Cost-Effectiveness Tests**

### **A. Proposal to Eliminate or Diminish Use of RIM Test in Favor of the UCT Test**

For the DSM goals setting process, the Commission must comply with the Florida Energy Efficiency and Conservation Act (“FEECA”) (Section 366.80 – 366.83 and 403.519, Fla. Stat.) in addressing cost-effectiveness for DSM measures. The Commission is required under FEECA to consider and assess the cost impact of DSM proposals for both participants and non-participants, *i.e.*, a utility’s entire general body of customers. The Commission has historically done this through the use of the RIM, TRC, and Participants tests in the DSM goals-setting process in order to encourage DSM program participation while not putting undue pressure on electric rates. Of these three cost-effectiveness tests, only the RIM test captures all DSM benefits and costs that are accounted for in electric rates and identifies as cost-effective those DSM options that put downward pressure on rates.

The Southern Alliance for Clean Energy (“SACE”), Advanced Energy Economy (“AEE”), Earthjustice, Southface Institute (“Southface”), CLEO Institute (“CLEO”), and other stakeholders have proposed to eliminate or diminish use of the RIM test in favor of the TRC and/or UCT test. In other words, a DSM measure could fail the RIM test and result in higher rates for customers, but still be found cost-effective under the TRC or UCT tests.

The Commission should reject these proposals. The Commission currently has the requisite tools to assess cost-effectiveness consistent with its statutory mandate under its current DSM-related rules and DSM Cost-Effectiveness Manual referenced by the Commission’s rules. The Commission’s rules and DSM Cost-Effectiveness Manual require the Commission to consider the cost-effectiveness results from analyses under the RIM test, TRC test, and Participants test. These three tests, especially the RIM test, enable the Commission to adequately determine whether a DSM initiative results in upward or downward pressure on electric rates for all customers regardless of

whether the customers participate in the program. If the Commission were to no longer require consideration of the results of the RIM test, it would run afoul of the FEECA Statute and result in a failure to consider the true impact that a DSM program would have on customers' electric service rates because it would fail to consider the impact on the utility's recovery of its revenue requirements.

The stakeholders' proposed addition of the UCT test to the mix of required cost-effectiveness tests would have no practical value. The Commission already utilizes three tests that more than adequately protect customers, ensuring that only DSM measures that will not increase electric rates for all customers, especially non-participants, are ultimately approved and implemented by utilities. The UCT test only includes costs incurred by the DSM program administrator (or utility), the incentives paid to the customers, and the increased supply costs for the periods in which the load is increased. See *California Standard Practice Manual: Economic Analysis of Demand-Side Programs and Projects* (October 2001), p.23. It does not address unrecovered revenue requirements as the RIM test does and, therefore, does not address ultimate customer rate impacts for a given DSM program. In effect, the UCT test is the RIM test without consideration of the impact on unrecovered revenue requirements. Accordingly, there is no need to add the UCT test to the cost-effectiveness tests used by the Commission to assess DSM measures.

Finally, RIM is a Commission-endorsed cost-effectiveness test that has been used for many years for the benefit of customers, and it is the only Commission-endorsed test that includes consideration of utility (paid) incentives in setting goals as required in Section 366.82(3)(b), Fla. Stat. As such, it is the only DSM cost-effectiveness test that accounts for all costs and cost impacts of DSM programs, thus allowing DSM options to be evaluated on a level playing field with supply resource options from an electric rate perspective.

### **III. Free Ridership**

#### **A. Proposal to Eliminate Two-Year Payback Screen**

Under both the current rule and Staff proposed rule amendment, utilities are required to reflect the impact of free riders in the utility's goals projections. Historically, the Commission has supported a two-year payback free rider criterion for setting DSM goals because it is a simple and easy mechanism to limit incentives for DSM measures that already have a reasonably short economic payback. In other words, the customer would have the economic incentive to invest in the measure without any utility incentive payment, so such measures should not be included as a part of a utility's DSM goals, and non-participating customers should not have to pay for such incentives.

SACE, Earthjustice, Southface, AEE, and other stakeholders seek to raise customer rates by asking the Commission to eliminate the two-year payback free rider screen for DSM measures. The Commission should reject this proposal. The proposed rule amendment (unchanged from the current rule as it relates to consideration of free riders) makes it clear that utilities and the Commission should consider free riders, consistent with long-standing Commission precedent dating back to 1994, and the common-sense view that the general body of customers should not pay for, and the Commission should not incentivize, DSM measures that have a reasonable economic payback without an incentive for a customer.

While, as the Staff noted at the rule development workshop, the Commission has flexibility under the rule to consider free riders through the evidentiary hearing process for setting DSM goals, the Commission has consistently utilized the two-year payback screen as an efficient and effective means to consider free riders. The Commission has found that "the two-year payback criterion provides sufficient economic incentive to convince a customer to participate in a given energy

efficiency program, while balancing the requirement to account for free riders and minimizing program costs and undue subsidies.” See Order No. PSC-14-0696-FOF-EU, pp. 26-27.

The Commission has accepted testimony from former Staff member James W. Dean, substantiating the use of the two-year payback as a reasonable criterion to use in balancing program administrative costs and the level of customer incentives used to encourage participation regardless of whether a TRC or a RIM standard is used. See Direct Testimony of James W. Dean, Docket No. 080407-EG, *Commission review of numeric conservation goals (Florida Power & Light Company)*, June 1, 2009, pp. 29-30. Mr. Dean’s opinion was based on many years of research on individual investment behavior with respect to installing energy efficiency measures showing that individuals have extremely high discount rates. As Mr. Dean noted, discount rate refers to the minimum percentage earnings an individual must make on an investment to be willing to forgo current consumption (*i.e.*, spend the money now) versus spending it on something to generate a future return. While most individuals cannot articulate this exact percentage return, economists have estimated ranges from observed energy efficiency purchasing behavior. Mr. Dean testified that the return estimates range from a low of around 26% (essentially a four-year payback) to more than 100% (essentially a one-year payback), while most studies tend to be in the 40% to 60% range, indicating a payback period of approximately two to three years. As a result, Mr. Dean testified that a two-year payback would fit well within the academic literature and reasonably addresses the issue of free riders. See *Id.*

Accordingly, FPL urges the Commission to continue to consider free riders using a two-year payback and to retain the flexibility to do so. FPL believes that the Commission’s long-standing approach of using a simple payback screen is a reasonable, cost-efficient way of accounting for free ridership in the DSM goals setting process and should continue to be used for that purpose.

## **B. Proposal to Replace Two-Year Payback Screen with EM&V**

SACE, Earthjustice, Southface, AEE, and other stakeholders also ask the Commission to eliminate the two-year payback free rider screen for DSM measures for addressing free ridership and replace it with an EM&V process or other benefits analysis. EM&V is a post-implementation process that is intended to assess the performance of a program compared to initial projections, *e.g.*, the difference in energy usage between existing equipment or product and the DSM measure installed in its place. The process is program-specific and often takes multiple years to complete.

EM&V amounts to a very expensive approach for estimating free-ridership and its usefulness in the goal-setting process is questionable at best. Undoubtedly, EM&V will decrease cost-effectiveness of any program due to substantial costs of administration, and it has no practical value to the DSM goal-setting process, given that Section (4)(i) of the current DSM rule already addresses measurements and verification for DSM plans and programs. Accordingly, the Commission should not adopt EM&V as a replacement for the two-year payback screen to address free ridership considerations and instead continue to use the two-year payback as a reasonable tool to assess free ridership considerations.

## **IV. Low-Income Programs**

### **A. Proposals to Set Specific Low-Income Targets or Goals**

FPL has supported low-income customers through targeted DSM programs for many years. With the Commission's approval, FPL has done so in a way that does not put an unreasonable cost burden on all of its customers including non-participating low-income customers. FPL's focus has been to keep rates low, which benefits all customers regardless of income. FPL believes that arbitrary allocations or percentages of DSM goals for certain customer groups, such as low-income customers, can have the unintended consequence of imposing additional costs on all customers, including non-participating low-income customers.



SACE, Earthjustice, Southface, AEE, and other stakeholders have proposed a goal or target for low-income customer DSM programs offered by utilities, featuring a minimum percentage or allocation of programs spending for low-income and multi-family DSM programs, such as 15% of the utility's total energy efficiency budget for its DSM programs or 30% of the overall residential kWh goals. FPL supports low-income programs. However, any proposal to target a percentage of spending or savings to a particular subset of customers is contrary to the objective of setting goals for implementation of cost-effective energy efficiency across the customer base. Further, an arbitrary, quota-based approach based on non-cost-effective low-income programs as advocated here would impose an unnecessary cost burden on non-participating low-income customers, as the costs would be borne by the utility's entire general body of customers.

#### **B. Proposal to Ignore Cost-Effectiveness and Free Ridership for Low-Income Programs**

SACE, Earthjustice, and other stakeholders have proposed eliminating or lowering the threshold for cost-effectiveness and free ridership for specific low-income goals and low-income programs. Earthjustice has asked that the rules be amended so that low-income goals need not be cost-effective, while SACE has argued for low-income programs not having to meet cost-effectiveness tests or the two-year payback screen for free riders but still evaluated for cost-effectiveness.

The Commission should reject these proposals to limit the use of existing cost-effectiveness tests and the two-year payback screen for low-income customer programs. Like the low-income goals or targets proposed, these proposals are arbitrary and will result in undue cost burden on non-participating low-income customers. In other words, the utility's general body of customers will pay for such non-cost-effective programs, including low-income customers who do not participate in such programs. The Commission should maintain its current tools to address and assess cost-

effectiveness of programs for low-income customers, including benefits and rate impacts for low-income customers. Further, the Commission should not require additional measures such as EM&V to assess the cost effectiveness of low-income programs that will result in unneeded additional cost, based on an arbitrary and inconsistent customer survey method. The current cost-effectiveness tests and free ridership screens employed by the Commission are sufficient and will provide the greatest level of benefits and protections for low-income customers.

Respectfully submitted,

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