

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re:

Petition for Temporary Waiver from Rule
25-17.0021(2) and (3), F.A.C., Orlando Utilities
Commission, Petitioner

DOCKET NO. 130204-EM

Filed: August 28, 2013

PETITION FOR TEMPORARY WAIVER
FROM RULES 25-17.0021(2) and (3)
OF THE FLORIDA ADMINISTRATIVE CODE AND
STIPULATION TO GOALS

Petitioner, **Orlando Utilities Commission** (OUC), by and through its undersigned counsel hereby submits this Petition for Temporary Waiver pursuant to Section 120.452, Florida Statutes and Section 28.104.002, Florida Administrative Code and Stipulation to Florida Energy Efficiency and Conservation Act (FEECA) conservation and efficiency goals.

I. Applicable Rule.

The Petitioner files this Petition for a temporary waiver from the FEECA conservation and efficiency goal adjustment process set forth in Rules 25.17.0021(2) and (3) of the Florida Administrative Code, which provides:

- (2) The Commission shall set goals for each utility at least once every five (5) years. The Commission on its own Petition or petition by a substantially affected person or a utility may initiate a proceeding to review and, if appropriate, modify the goals. All modifications of the approved goals, plans and programs shall only be on a prospective basis.
- (3) In a proceeding to establish or modify goals, each utility shall propose numerical goals for the ten (10) year period and provide ten year projections, based upon the utility's most recent planning process, of the total, cost effective, winter and summer peak demand (KW) and annual

energy (KWH) savings reasonable achievable in the residential and commercial/industrial classes through demand-side management. Each utility's projection shall reflect consideration of overlapping measures, rebound effects, free riders, interactions with building codes and appliance efficiency standards, and the utility's latest monitoring and evaluation of consideration programs and measures. Each utility's projections shall be based upon an assessment of, at a minimum, the following market segments and major end-use categories.

**Residential Market Segment:
(Existing Homes and New Construction should be separately
evaluated) Major End-Use Category**

- (a) Building-Envelope Efficiencies.
- (b) Cooling and Heating Efficiencies.
- (c) Water Heating Systems.
- (d) Appliance Efficiencies.
- (e) Peakload Shaving.
- (f) Solar Energy and Renewable Energy Sources.
- (g) Renewable/Natural gas substitutes for electricity.
- (h) Other.

**Commercial/Industrial Market Segment:
(Existing Facilities and New Construction should be separately
evaluated) Major End-Use Category**

- (i) Building Envelope Efficiencies.
- (j) HVAC Systems.
- (k) Lighting Efficiencies.
- (l) Appliance Efficiencies.
- (m) Power Equipment/Motor Efficiency.
- (n) Peak Load Shaving.
- (o) Water Heating.
- (p) Refrigeration Equipment.
- (q) Freezing Equipment.
- (r) Solar Energy and Renewable Energy Sources.
- (s) Renewable/Natural Gas substitutes for electricity.
- (t) High Thermal Efficient Self Service Cogeneration.
- (u) Other.

II. Underlying Statute Implemented by Rules 25-17.0021(2) and (3).

Rules 25-17.0021(2) and (3) of the Florida Administrative Code implement Sections 366.82 (1) – (4), Florida Statutes. The Legislature established Section 366.82, the Florida Energy Efficiency and Conservation Act, for the stated purpose of assuring that the larger Florida utilities (FEECA Utilities) utilize the most efficient and cost-effective demand-side renewable energy systems and conservation systems for the protection of the health, prosperity, and general welfare of the state and its citizens. This directive was to promote a reduction in, and control of, the growth rates of electric consumption in Florida, and in particular, weather-sensitive peak demand. The Legislature also had the stated purpose of providing a means to deal with the complex problems of increasing the overall efficiency and cost-effectiveness of electricity and natural gas production, promoting the use and further development of demand-side renewable energy systems, and conserving expensive resources, particularly petroleum fuels.

The Legislature directed the Florida Public Service Commission to require the FEECA utilities to (a) adopt goals and plans related to the promotion of demand-side renewable energy systems and the conservation of electric energy and natural gas usage, (b) develop and adopt overall goals to increase energy efficiency and conservation and demand-side renewable energy systems within its service area, and (c) develop plans and implement programs for increasing energy efficiency and conservation and demand-side renewable energy systems within its service area. These goals were to be accomplished by means of a combination of solar energy, renewable energy sources, highly efficient systems, cogeneration, and load-control systems, among other things. The Legislature also indicated that the Public Service Commission was to allow utilities to consider experimental rates, rate structures, or programs.

III. Temporary Waiver Requested by Petitioner.

Petitioner, OUC, hereby requests the Commission grant its Petition for a temporary waiver from the Public Service Commission's conservation goal setting process under Section 366.82, Florida Statutes, and more specifically, the upcoming 5 year re-adjustment cycle for 2014 mandated by Rules 25-17.0021(2) and (3) of the Florida Administrative Code. Petitioner requests a waiver only for the 2014 review cycle under this Docket and the 2014 conservation goals. Petitioner requests the Public Service Commission waive the requirement for Petitioner to participate in this Docket and instead allow Petitioner to stipulate to conservation goals that are set by the formula set out in detail in Exhibit A hereto, which formula would assign Petitioner a goal under FEECA that is proportional to the 2014 goals to be approved by the Commission in Docket 130201-EI for Tampa Electric Company (TECO) (as the closest utility to Petitioner in terms of load characteristics, climate zone, and generation fleet).

IV. Reasonableness of Stipulated Approach.

In Docket 080412-EG, the Commission set OUC's 2009 goals based on their existing programs so as not to unduly increase rates.

OUC and JEA proposed goals of zero, yet committed to continue their current DSM program offerings. We are setting goals for OUC and JEA based on their current programs so as not to unduly increase rates.¹

OUC again commits to continued conservation programs, industry conditions have changed since the 2009 goals for OUC and all the FEECA utilities were set by the Commission. These changes include:

- a. Lower fuel costs

¹ Order No. PSC-09-0855-FOF-EG at Page 16.

- b. Lower load growth pushing the avoided unit out of the 10-year goals planning horizon for OUC
- c. Improvements resulting in greater demand and energy savings due to changes in codes and standards
- d. Development of new conservation measures

These changed conditions will be fully adjudicated in TECO's Docket 130201-EI and the formula in Exhibit A will reasonably apply these changed conditions to OUC's goals without OUC's customers bearing the significant cost of the process to set the goals.

V. Hardship to Petitioner.

a. OUC is the second smallest FEECA utility. The cost for participating in the goal setting process is generally the same regardless of size of the utility. As such, OUC's customers will pay a proportionately larger share on a per customer basis than will the customers of the larger FEECA utilities. Furthermore, OUC does not have the internal resources needed to develop the goals that the larger FEECA utilities have. As a result, OUC will have to rely on outside consultants to conduct much of the work required in the goal setting process. OUC estimates that these costs could be as high as \$400,000. OUC's customers are better served by spending this money on our conservation programs rather than the process of setting the goals.

b. The Commission has previously provided relief to customers when customer cost due to the goals became excessive. When the Commission deemed the rate increases resulting from the 2009 goals for Florida Power & Light and Progress Energy Florida were excessive, the Commission approved plans that met reduced goals to lessen the rate impact to the customers.²

² Order Nos. PSC-11-0346-PAA-EG and PSC-11-0347-PAA-EG.

VI. Granting the Waiver with the Accompanying Stipulation to Goals Still Serves the Purpose of the Underlying Statute.

The goal and directive of the Legislature when enacting Section 366.82 was to promote a reduction in, and control of, the growth rates of electric consumption in Florida. The Legislature also had the stated purpose of providing a means to deal with the complex problems of increasing the overall efficiency and cost-effectiveness of electricity and natural gas production, promoting the use and further development of demand-side renewable energy systems, and conserving expensive resources, particularly petroleum fuels. This Petition, if granted, fully complies with the Statute and Rule 25-17.0021 (1-3) FAC. In fact, 25-17.0021 (1) FAC states:

The goals shall be based on an estimate of the total cost effective kilowatt and kilowatt-hour savings reasonably achievable through demand-side management in each utility's service area over a ten-year period.

This Petition merely requests an alternate way to provide that estimate fully considering all the requirements in Rule 25-17.0021 FAC through the Commission's analysis of TECO's goals as proxy for OUC's goals. Nothing in Rule 25-17.0021 precludes the Commission from approving OUC's proposed alternative methodology to develop the estimated goals. The Commission will have full opportunity to review and approve OUC's final Conservation Plan that will be filed in accordance with Rule 25-17.0021 (4) FAC after the approved alternate goal setting process is completed. OUC will include an estimate of the rate impact from OUC's conservation programs in its Conservation Plan.

VII. Petitioner Information.

Orlando Utilities Commission
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(407) 434-2220 Facsimile

VIII. Petitioner's Representative.

W. Christopher Browder, General Counsel
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Orlando, Florida 32802

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WHEREFORE, Petitioner respectfully requests the Commission enter an Order granting OUC's Petition and providing for the following:

(a) authorizing a temporary waiver from the Public Service Commission's conservation goal setting process under Docket 130204-EM;

(b) allowing Petitioner to stipulate to and adopt conservation and efficiency goals based on the approved by the Public Service Commission for TECO in Docket 130201-EI as adjusted by the formula set out in Exhibit A;

(c) providing for Petitioner to submit its proposed conservation plan for final approval by the Commission within thirty (30) days after the Commission's order setting TECO's efficiency goals in Docket 130201-EI becomes final and non-appealable; and,

(d) relieving the Petitioner of the requirements of Order No. PSC-13-0386-PCO-EU, to the extent such Order would be contrary to the waiver requested under this Petition.

Since time is of the essence for Petitioner to achieve the savings for its ratepayers contemplated by this Petition, Petitioner respectfully requests that this issue be placed on the Commission's September 25, 2013 Agenda Conference for consideration.

/s/ W. Christopher Browder, Esquire
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail to the following parties of record and interested parties, this 28th day of August, 2013:

Florida Solar Energy Industries Association Jennifer Hatfield FL Phone: (941) 345-3263 Email: jen@jhatfieldandassociates.com	

Exhibit A
OUC Abbreviated Process for Developing 2014 Conservation Goals

Calculation Method

The example calculations are presented for annual energy for the residential sector, but the calculation method will be the same for the commercial/industrial sector and for winter and summer peak demand.

Table 1 TECO Residential Energy Goals

	A	B	C	D
Year	2009 Goals (1)	2014 Goals (2)	2009/2014 Ratio (3)	Percent Increase (4)
	GWH	GWH		
2015	23.0	17.2	0.75	
2016	21.3	16.0	0.75	
2017	19.4	14.5	0.75	
2018	18.3	13.7	0.75	
2019	17.3	13.0	0.75	
2020		13.3		2.0
2021		13.5		2.0
2022		13.8		2.0
2023		14.1		2.0
2024		14.4		2.0

(1) From Order PSC-09-0855-FOF-EG
(2) Assumed for this example. Actual to come from Final Order for Docket 130201-EI.
(3) A/B
(4) Percent increase from Column B. For example 2020 = 13.3/13.0

Table 2 OUC Residential Energy Goals

	A	B	C	D	E	F
Year	2009 Goals (1)	Factor (2)	2014 Goals (3)	Percent Increase (4)	2014 Goals (5)	2014 Goals (6)
	GWH		GWH		GWH	GWH
2015	1.8	0.75	1.35			1.35
2016	1.8	0.75	1.35			1.35
2017	1.8	0.75	1.35			1.35
2018	1.8	0.75	1.35			1.35
2019	1.8	0.75	1.35			1.35
2020				2.0	1.38	1.38
2021				2.0	1.40	1.40
2022				2.0	1.43	1.43
2023				2.0	1.46	1.46
2024				2.0	1.49	1.49

(1) From Order PSC-09-0855-FOF-EG
(2) Table 1 Column C
(3) A*B
(4) Table 1 Column D
(5) Percent increase applied to Column C. For 2020 = 1.35*1.02.
(6) Column C and Column E.