

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company).	DOCKET NO. 130199-EI
In re: Commission review of numeric conservation goals (Duke Energy Florida, Inc.).	DOCKET NO. 130200-EI
In re: Commission review of numeric conservation goals (Tampa Electric Company).	DOCKET NO. 130201-EI
In re: Commission review of numeric conservation goals (Gulf Power Company).	DOCKET NO. 130202-EI
In re: Commission review of numeric conservation goals (JEA).	DOCKET NO. 130203-EM
In re: Commission review of numeric conservation goals (Orlando Utilities Commission).	DOCKET NO. 130204-EM
In re: Commission review of numeric conservation goals (Florida Public Utilities Company).	DOCKET NO. 130205-EI

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
POST-HEARING STATEMENT

Chapter 377, Florida Statutes, gives broad authority and responsibilities to the Florida Department of Agriculture and Consumer Services, Office of Energy (“Department”) in administering renewable energy and energy efficiency grants, promoting energy efficiency and conservation programs, and providing educational outreach on energy issues. As part of the Department’s responsibility to promote energy efficiency and conservation, Section 366.82(5), Florida Statutes, specifically directs the Department to be a party in this proceeding and to file comments on the proposed goals, including, but not limited to:

- (a) An evaluation of utility load forecasts, including an assessment of alternative supply-side and demand-side resource options.
- (b) An analysis of various policy options that can be implemented to achieve a least-cost strategy, including nonutility programs targeted at reducing and controlling the per capita use of electricity in the state.
- (c) An analysis of the impact of state and local building codes and appliance efficiency standards on the need for utility-sponsored conservation and energy efficiency measures and programs.

Pursuant to this statutory directive, the Department hereby files the following comments.

### **DEPARTMENT COMMENTS**

The Florida Energy Efficiency and Conservation Act (FEECA) was enacted by the Florida Legislature in 1980 and directed the Florida Public Service Commission (“Commission”) to adopt goals to reduce the growth rates of weather-sensitive peak demand, reduce and control the growth rates of electricity consumption, and reduce the consumption of expensive resources such as imported petroleum fuels. Subsequent changes to FEECA direct the Commission to adopt goals that also encourage the development of demand-side renewable energy resources.

#### Least-Cost Strategies and Non-Utility Programs

In establishing goals in this proceeding, the Department believes the Commission should pursue a diverse, least-cost strategy to meet the objectives of FEECA to comply with the Legislature’s stated intent. The Department continues to support and encourage energy efficiency, conservation, and renewable energy programs that benefit customers and economic development. In 2013, the Department created renewable energy tax incentives to expand production of renewable energy, increase diversity in the state’s energy production portfolio and create jobs for Floridians. An economic impact analysis of these incentives revealed they had

generated more than \$200 million in economic impact in the first year and created or supported more than 700 jobs.

To assist consumers in reducing their energy usage, the Department created the My Florida Home Energy tool ([www.MyFloridaHomeEnergy.com](http://www.MyFloridaHomeEnergy.com)), an interactive, online platform. With simple information about one's home, the tool builds a customized plan to assist the homeowner to increase energy efficiency and save money, and provides estimated costs and savings. To incentivize Floridians to replace old appliances with more energy-efficient models, the Department created Florida's first ENERGY STAR Sales Tax Holiday. The tax-free weekend, which took place September 19 through 21, 2014, presented an opportunity for residents to save up to \$100 on the purchase of ENERGY STAR appliances. Floridians who took advantage of the weekend will conserve energy and save on their utility bills over the long term.

These programs are examples of how the state can encourage the development of energy efficiency and conservation separate from implementing utility-sponsored programs at ratepayer expense. These efforts, combined with changes to Florida's building codes requiring homes to be more energy efficient and use either ENERGY STAR rated or higher, heating and air condition systems, have resulted in gains in energy efficiency over the last decade. Witness Koch stated in his direct testimony, "[I]n terms of the summer peak, the cumulative impact from Codes and Standards based on savings beginning in 2005 and extending through 2014 is estimated at approximately 1,700 MW. By 2024, the impact from Codes and Standards is projected to increase by an approximate additional 1,800 MW for a cumulative savings of 3,500 MW. Thus, the cumulative impact from Codes and Standards is expected to more than double

during the current goal-setting period (2015 to 2024) thereby reducing the growth in FPL's summer peak by almost 30%." (Tr. 198-199, lines 21-4).

Stronger building codes and appliance standards, together with increased generation efficiency, lower fuel prices, and lower growth rates in electricity use, have reduced the need to impose increased costs on customers for utility-sponsored programs to meet the objectives of FEECA. The Commission should consider these factors when determining the appropriate level of goals for each of the Companies.

The State of Florida should continue to identify ways to educate customers and provide them with the information and resources needed to pursue energy efficiency and conservation. A number of low-cost quick payback measures are available to customers to reduce their energy usage, and educational efforts to make customers aware of these measures can increase customer investment in energy efficiency and conservation. Because low-income customers will likely require financial assistance to implement these measures, the Commission should consider low-income customers when reviewing the proposed FEECA programs.

#### Assessment of the Full Technical Potential of Available Measures

In preparation for the 2009 FEECA proceeding, the investor-owned utilities (Florida Power & Light, Duke Energy of Florida, Tampa Electric Company and Gulf Power Company) hired the Itron Company to conduct a technical potential study. (Tr. 499, lines 7-16). Itron performed an assessment of the full technical potential of all available demand-side conservation and efficiency measures, including demand-side renewable energy systems. (Tr. 499, lines 7-24). During the summer of 2013, the Companies petitioned the Commission for permission to update that study to prepare the new goals instead of bearing the expense of having another study performed. (Tr. 201-202, lines 19-7; Tr. 687-688, lines 2-3). All parties present at the publicly

noticed meeting agreed to the petition, and the Companies stated they would add any additions to the measures with Florida specific data included. (Tr. 201-202, lines 19–7; Tr. 499-501, lines 17–16; Tr. 687-688, lines 2–3; Tr. 821-822, lines 20–5). The Companies worked jointly to update the methodology and, appropriately, to add any new measures when the Florida data was available or provided. (Tr. 822-823, lines 18–6).

The Companies also received input from the Southern Alliance for Clean Energy (SACE) to update the technical potential study and then used the updated information to develop their individual company proposed goals. (Tr. 821-823, lines 21–6). This process involved jointly deciding which measures should be eliminated due to changes to building codes and standards and identifying new measures to be added. (Tr. 822, lines 8–16). The 2014 Technical Potential Study reflects a collaborative update to the 2009 Technical Potential Study approved by the PSC in the last demand-side management (DSM) goals-setting docket.

#### Cost-Effectiveness Screening

In evaluating and approving the Companies’ proposed goals, Section 366.82(3), Florida Statutes, directs the Commission to determine whether the proposed goals reflect the costs and benefits to customers participating in the measure, the costs and benefits to the general body of ratepayers as a whole, and the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems. The Commission has established three methods for analyzing the potential costs and benefits of measures identified by the Technical Potential Study: the Participants Test, the Rate Impact Measure Test (RIM), and the Total Resource Cost Test (TRC). These three cost-effectiveness tests are identified in the Florida Public Service Commission Cost Effectiveness Manual for Demand Side Management Programs and Self-Service Wheeling Proposals, which is adopted by Rule 25-17.008, Florida

Administrative Code. Exhibit 5 shows the costs and benefits considered in the economic screening of potential energy efficiency and conservation measures for each of the three cost-effectiveness tests. The Participants Test is used to determine if it makes economic sense for an individual customer to participate in a specific DSM measure. The RIM and TRC Tests provide preliminary information with which to judge whether a specific DSM measure will be potentially beneficial for all of a utility's customers.

Based on the testimony provided, the Companies used the Participants Test, as identified in Rule 25-17.008, Florida Administrative Code, to analyze the potential cost-effectiveness of DSM measures for customers participating in the measures. (Tr. 326, lines 14-19; Tr. 543, lines 8-11; Tr. 687-688, lines 2-3; Tr. 824-825, lines 22-2). The Participants Test is a measurement tool used by the Companies to account for all the potential costs and benefits that are received and/or incurred by a participant in any given demand-side management measure. The Companies only included in the proposed goals the measures that passed the Participants Test. (Tr. 594, lines 2-6).

The RIM and TRC Tests, which are both used to assess whether a potential measure will be cost-effective for all of a company's customers, consider the same set of benefits, but use different cost factors. Since the RIM and TRC tests identify different costs to be borne by the general body of ratepayers as a whole, the Commission should consider both tests in establishing goals which reflect the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions. The parties to this docket provided testimony in support of both tests. (Tr. 326-327, lines 21-4; Tr. 493 lines 4-12; Tr. 703, lines 6-24; Tr. 818-819, lines 15-6; Tr. 1022-1023, lines 23-5; Tr. 1129, lines 6-20). In addition, the Companies

provided exhibits that identified the results of both tests. (Exhibits 23, 29, 30, 34, 35, 37-41, 45, 184, 185 and 197).

The need for incentives for customers to participate in conservation measures is evaluated during the cost-effectiveness screening process. Incentives are offered to make measures which do not pass the Participants Test more cost-effective for a participating customer. If a measure with incentives included still passes the RIM Test, the measure is included for further consideration in the goal setting process. Evidence was provided that the incentives for participating customers are included and considered in both the Participants and RIM screening tests. (Tr. 100-101, lines 23-5; Tr. 508-509, lines 20-7; Tr. 709-710, lines 14-5; Tr. 824-825, lines 21-25). As stated by witness Deason, “The Commission's use of the RIM Test (coupled with the Participants Test) has been firmly rooted in its concern for the general body of customers. This is evidenced by the fact that the RIM Test is best suited to account for the cost of incentives, to minimize rate impacts, and to avoid subsidies between participating and nonparticipating customers.” (Tr. 108, lines 13-17).

With regard to incentives for utility-owned energy efficiency and demand-side renewable systems, each of the investor-owned utilities has taken the position that no incentives are needed in this proceeding. Three of the utilities confirmed this position during cross-examination by the Office of Public Counsel. (Tr. 569, lines 10-14; Tr. 737, lines 21-25; Tr. 854, lines 2-6). Witness Bryant further explained, “RIM-based goals are the least cost approach; they put the least amount of upward pressure on rates. And so, therefore, if we accomplish these goals, we don't believe we should put additional burden on the ratepayers simply because we've already accomplished the least cost goals that are out there.” (Tr. 738, lines 3-8).

While it is logical to assume that Companies receiving incentives would be more motivated to pursue energy conservation, the concern remains that the additional costs associated with such incentives will be added to customers' bills and would therefore result in a greater burden on customers, especially low-income customers. Such costs seem unduly burdensome given that the Companies most likely to benefit are discouraging the adoption of the incentives. (Tr. 737, lines 21-25; Tr. 837, lines 14-23).

The Legislature was very clear that FEECA programs should not cause an undue burden on customer rates. Section 366.82(7), Florida Statutes, provides that the Commission "has the flexibility to modify or deny [cost recovery] plans or programs that would have an undue impact on the costs passed on to customers." The Commission should balance the goals of energy efficiency and conservation with the impact of the costs of meeting the goals on electric rates paid by utility customers. The Department supports the use of cost-effectiveness tests pursuant to the statutory directive.

The Commission's current practice of setting goals based on measures that take into consideration the Participants Test, the RIM Test, and the TRC Test should continue. Examining the results of multiple tests allows for a better perspective of the cost effectiveness of the energy efficiency and conservation programs. (Tr. 93, lines 1-5, Tr. 100, lines 9-14; Tr. 1567-1568, lines 12-17). The Commission should balance the goal of energy efficiency and conservation with the impact of increased costs for all customers.

#### Consideration of Future Carbon Costs

Section 366.82(3), Florida Statutes, directs the Commission to evaluate whether the Companies' proposed goals reflect the costs imposed by state and federal regulations on the emission of greenhouse gases. Pursuant to the direction provided in the Commission's Order



Establishing Procedure for this proceeding, (Order No. PSC-13-0386-PCO-EU, Attachment A), the Companies did not account for projected CO<sup>2</sup> compliance costs in the RIM and TRC preliminary screening tests for base case analyses, but FPL and DEF included a projected range of carbon costs in their sensitivity analyses. (TR 324, lines 8-19; Tr. 517, lines 18-22).

Subsequent to the Companies filing testimony in this proceeding, the United States Environmental Protection Agency (EPA) sought comments on their Clean Air Act 111(d) proposal that establishes targets for reduced power plant carbon emissions. (Tr. 35, lines 1-11; Tr. 454-456, lines 14-15; Tr. 774, lines 10-24). If the EPA proposal is approved as filed, states will be required to develop a plan to address electric generation air pollution and file that plan by the summer of 2016. Since that is two or more years away and neither the final rule requirements nor the level of compliance cost is known at this time, it seems premature to address projected compliance costs in the current goals setting proceeding. (Tr. 774, lines 10-24). If the proposed rules become more defined and compliance costs are established, the Commission will have the ability to modify the FEECA plans as needed. As stated by witness Bryant, "I have confidence in this Commission being informed and knowing when it is appropriate to look at conservation as it relates to conservation's contribution that it needs to make or may not need to make to the greenhouse gas. I'm suggesting we just don't need to do it prematurely and then burden ratepayers with monies spent that they should not be spending." (Tr. 1610, lines 18-25). Based on the testimony, it appears premature for the Commission to consider in this proceeding the costs of compliance with the Clean Power Plan contained in the proposed EPA rules.

### Impact of Two-Year Payback Screen on Low-Income Customers

During the hearing, several Commissioners expressed concern regarding the effect that the elimination of measures with less than a two-year payback period would have on low-income customers. Specifically, by eliminating such programs, the financial incentives for low-income customers to participate in such programs would also be eliminated. The Department shares this concern.

Rule 25-17.0021(3), Florida Administrative Code, requires the utilities to address the issue of free riders as part of the screening process. A free rider is someone who did not need an incentive to adopt an energy efficiency measure, but who participates in and receives the program incentive anyway. (Tr. 103-104, lines 20–6). To avoid free riders the Companies eliminated from consideration all of the 285 measures that will have a two-year or less payback. (Tr. 29, lines 13-20; Tr. 176, lines 2-11; Tr. 306, lines 10-17; Tr. 484, lines 18-20; Tr. 697, lines 7-14). The two-year payback screening criteria is designed to remove measures from the achievable potential forecasts that exhibit the key characteristics most associated with high levels of free-ridership in utility rebate programs, such as measures with the lowest costs and quickest payback levels to the customer. (Tr. 35, lines 13-23; Tr. 507-508, lines 24-4; Tr. 513-514, lines 1-4; Tr. 603, lines 16-25). The assumption is that the average utility customer will invest in an energy efficiency measure with a low cost that will reduce their electric bill each month and that such costs should not be borne by the general body of ratepayers. (Tr. 54, lines 11-15; Tr. 103-104, lines 22-6; Tr. 263, lines 13-24; Tr. 323-324, lines 21-2; Tr. 383, lines 17-25; Tr. 512, lines 12-22).

Not all customers will adopt energy efficiency measures with less than two-year paybacks. Further, low-income customers may not be able to afford low-cost measures that are

cost-effective for other participating customers. (Tr. 891-892, lines 14–7; Tr. 1285, lines 1-22). Despite their smaller costs, measures such as LED lights and hot water heater wraps are still not affordable for someone living paycheck to paycheck. (Tr. 1285, lines 1-22).

In the absence of utility financial incentives, low-income customers may not be able to make investments in such measures. (Tr. 286, lines 16-19). The Companies indicated that they would address these concerns about financial assistance for low-income customers in the programs development phase of the proceeding. (Tr. 1663-1664, lines 19-9; Tr. 1667, lines 15-23). As stated by witness Deason “...there is latitude within designing the programs to reach out to the...low income community to devise programs that better meet their needs and perhaps address the concerns that ...they don't have the means to avail themselves of some of these lower cost, high payback measures.” (Tr. 1285, lines 16-22).

With the Companies’ commitment to consider low-income customers in the program development phase of the proceeding, the Department believes that the use of a two-year payback screen will not eliminate utility incentives to help low-income families invest in conservation measures. In an effort to balance the equity of the costs and benefits, programs may need to be designed and targeted to capture the needs of low-income customers while eliminating free riders from higher income groups. This issue highlights the importance of further developing non-utility programs to educate all customers about the availability of low-cost measures which allow them to control their electric usage and reduce their monthly electric bills.

#### Demand-Side Renewable Energy Systems

Section 366.81, Florida Statutes, provides:

The Legislature finds and declares that it is critical to utilize the most efficient and cost-effective demand-side renewable energy systems and conservation systems in

order to protect the health, prosperity, and general welfare of the state and its citizens . . . The Legislature directs the commission to develop and adopt overall goals and authorizes the commission to require each utility to develop plans and implement programs for increasing energy efficiency and conservation and demand-side renewable energy systems within its service area, subject to the approval of the commission. Since solutions to our energy problems are complex, the Legislature intends that the use of solar energy, renewable energy sources, highly efficient systems, cogeneration, and load-control systems be encouraged.

This statutory language clearly expresses the Legislature’s intent that the Commission encourage renewable energy systems through the FEECA proceeding, but also emphasizes that efficient and cost-effective demand-side renewable energy systems should be utilized. The Florida Legislature placed repeated emphasis on the commission to develop cost-effective “demand-side renewable energy systems.”

In the final order issued in the 2009 FEECA dockets, the Commission directed the Companies to file pilot programs focusing on encouraging solar water heating and PV technologies. The expenditures were limited to 10 percent of the average annual recovery through the Energy Conservation Cost Recovery clause for the prior five years. The Companies have now had those programs in place for 5 years. Based on the results of the pilots, the Companies have concluded that that the programs have not been cost-effective and have created a large and concentrated cross-subsidy from the general body of ratepayers to a small number of wealthy customers who could afford to invest in PV systems. (Tr. 218, lines 2-11; Tr. 271, lines 12-18; Tr. 529, lines 1-5; Tr. 841, lines 10-14). Witness Koch testified, “The performance and results show that these types of pilots are clearly not cost-effective and do not appear to be an efficient and equitable way to encourage demand-side solar development.” (Tr. 218, lines 3-5).

The NAACP was persuasive in its opening comments in stating that the Commission should not allow Florida’s desire to encourage a good technology come at the expense of higher rates for those customers who can least afford it. “. . . [W]e believe sound environmental policy

and encouragement of conservation must not result in regressive pricing. Implementation of conservation goals and programs should not require those who can least afford to invest in highly efficient air conditioner or solar rooftop panels to support those who do have the financial means and resources to do so and wish to do so. ... Solar rooftop panels may be a very good thing. They certainly have the potential to lower electricity bills for those who have the resources to make the upfront investment. Those ... customers already benefit from a federal tax investment credit and other benefits like a property tax exemption. So there are plenty of incentives already there for those who have the means to make these investments. We submit that there's no need to require low income customers to provide further financial support to the customers who do have the means to undertake these investments.” (Tr. 72, lines 1-23).

The Department believes that any FEECA goals established by the Commission should encourage the development of *cost-effective* demand-side renewable energy resources, per the Legislature’s intent. The Commission should investigate how to meet the FEECA statutory directives without subsidization by the general body of ratepayers and without placing an undue financial burden on non-participating customers.

### Conclusion

As the Commission considers the evidence presented during the hearing and moves forward to establish goals for the Companies, the Commission should continue to balance the goals of energy efficiency and conservation with the impact of the associated costs on all customers, thereby ensuring that every customer benefit from utility-sponsored programs. A diverse, least-cost strategy should be employed to ensure that sound principles of energy efficiency and conservation measures are achieved without further burdening low-income and non-participating customers. As the Commission completes its statutory directive to approve

goals and programs for the Companies, the Department will continue in its statutory role to promote energy efficiency and conservation programs and to provide educational outreach on energy issues through the development of non-utility programs.

Respectfully submitted September 30, 2014,

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and foregoing PREHEARING STATEMENT of the Department of Agriculture and Consumer Services has been furnished by electronic mail to the following on September 30, 2014.

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