

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 150081-EG

PETITION FOR APPROVAL OF
DEMAND-SIDE MANAGEMENT PLAN OF
TAMPA ELECTRIC COMPANY.

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In the Matter of:

DOCKET NO. 150083-EG

PETITION FOR APPROVAL OF
DEMAND-SIDE MANAGEMENT PLAN OF
DUKE ENERGY FLORIDA, INC.

_____/

In the Matter of:

DOCKET NO. 150085-EG

PETITION FOR APPROVAL OF FLORIDA
POWER & LIGHT COMPANY'S
DEMAND-SIDE MANAGEMENT PLAN AND
REQUEST TO CANCEL CLOSED ON CALL
TARIFF SHEETS.

_____/

In the Matter of:

DOCKET NO. 150086-EG

PETITION FOR APPROVAL OF
DEMAND-SIDE MANAGEMENT PLAN OF
GULF POWER COMPANY.

_____/

In the Matter of:

DOCKET NO. 150087-EG

PETITION FOR APPROVAL OF
MODIFICATIONS TO DEMAND-SIDE
MANAGEMENT PLAN BY JEA.

_____/

1 In the Matter of:

2 DOCKET NO. 150088-EG

3 PETITION FOR APPROVAL OF
4 MODIFICATIONS TO DEMAND-SIDE
5 MANAGEMENT PLAN BY ORLANDO
6 UTILITIES COMMISSION.
7 _____/

8 In the Matter of:

9 DOCKET NO. 150089-EG

10 PETITION FOR APPROVAL OF
11 DEMAND-SIDE MANAGEMENT PLAN BY
12 FLORIDA PUBLIC UTILITIES
13 COMPANY.
14 _____/

15 PROCEEDINGS: COMMISSION CONFERENCE AGENDA
16 ITEM NOS. 5, 6, 7, 8, 9, 10, and 11

17 COMMISSIONERS
18 PARTICIPATING: CHAIRMAN ART GRAHAM
19 COMMISSIONER LISA POLAK EDGAR
20 COMMISSIONER RONALD A. BRISÉ
21 COMMISSIONER JULIE I. BROWN
22 COMMISSIONER JIMMY PATRONIS

23 DATE: Tuesday, July 21, 2015

24 PLACE: Betty Easley Conference Center
25 Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, CRR, RPR
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P R O C E E D I N G S

1
2 **CHAIRMAN GRAHAM:** Now, if I'm not mistaken, we
3 will go to the DSM dockets, which are Items No.
4 5 through 11.

5 Okay. Staff.

6 **MR. ELLIS:** Good morning, Commissioners.
7 Phillip Ellis, Commission staff. I will be providing an
8 overview of Items 5 through 11, the FEECA utilities'
9 request for approval of their respective DSM plans, with
10 individual docket staff also present to answer any
11 questions you may have.

12 The recommendations before you today reflect
13 staff's analysis of these plans, including whether the
14 programs offered comply with the FEECA statutes and the
15 Commission's order, whether they are monitorable and
16 measurable, and whether they are cost-effective for both
17 participants and non-participants.

18 Staff recommends approval of the DSM plans and
19 associated tariffs filed by the FEECA utilities with the
20 following proposed modifications.

21 Four FEECA utilities, including Duke, TECO,
22 FPUC, and OUC, claim credit for behavioral savings in
23 their audit programs. Staff recommends that given the
24 difficulty in monitoring and measuring the behavioral
25 impact of audits and to more uniformly treat the

1 utilities, that behavioral savings not be counted
2 towards DSM goal achievements.

3 For Duke specifically, staff also recommends
4 that its proposed custom incentive program be modified
5 to eliminate its annual expenditure cap.

6 In addition to FPL's DSM plan, staff also
7 recommends approval of the company's petition to cancel
8 its residential load control rate schedule RSL, which
9 will -- which was closed to new participants in 2003.
10 Customers on this tariff would be automatically
11 transferred to its open residential load control rate
12 schedule RLP.

13 Overall, the FEECA utilities are proposing DSM
14 plans that even with staff's proposed modifications to
15 remove behavioral savings meet the Commission's annual
16 goals for seasonal peak demand and annual energy. The
17 only exceptions are OUC, which does not meet its
18 commercial industrial winter peak demand goals because
19 some programs have not yet been quantified, and Duke,
20 for which two of the ten years it falls below its
21 residential winter peak goals but meets them on a
22 cumulative basis.

23 Staff notes that Duke would still be
24 responsible for meeting its annual goals, and should
25 continue to monitor participation rates, and, if

1 necessary, seek Commission approval to modify or add
2 programs.

3 Lastly, the DSM plans appear to be
4 cost-effective as a whole. While some individual
5 programs may not be cost-effective, these tend to be
6 audit programs and education and outreach programs,
7 which are required by rule or Commission order. The
8 main exceptions are OUC and JEA, which are municipal
9 utilities and, therefore, have their own governing body
10 to determine the reasonableness of expenditures.

11 Based on staff's review, staff recommends that
12 the DSM plans with the modifications discussed in the
13 individual recommendations be approved, and the
14 investor-owned FEECA utilities should be allowed to file
15 for cost recovery in the Energy Conservation Cost
16 Recovery clause.

17 Staff would also note that for Items 6 and
18 8 an oral modification was distributed to your offices
19 yesterday. Do all Commissioners have a copy of those
20 modifications?

21 **CHAIRMAN GRAHAM:** Yes.

22 **MR. ELLIS:** Staff would like to incorporate
23 those changes into the recommendations today. Staff is
24 available for any questions you may have.

25 Representatives from the utilities are also

1 present. Staff is aware that three groups also wish to
2 comment on these dockets, including SACE, FIPUG, and
3 Wal-Mart.

4 **CHAIRMAN GRAHAM:** Thank you, SACE -- excuse
5 me. Thank you, staff. Commissioners, any questions to
6 staff right now?

7 Okay. Let's start off with the utilities, if
8 there's anything that you guys would like to add. You
9 may want to reply later, but -- okay. Let's start off
10 with SACE.

11 **MR. CAVROS:** Great. Thank you, Chairman and
12 Commissioners, for the opportunity to address you today.

13 The Southern Alliance for Clean Energy is a
14 non-profit, non-partisan clean energy organization that
15 advocates for the use of low-cost and low-risk resources
16 in meeting electricity demand. Energy efficiency is the
17 most obvious low-cost, low-risk resource. It can meet
18 demand at a fraction of the cost of building a new power
19 plant, and it also helps customers reduce energy use and
20 save money on their bills. And I think that's something
21 that we can all agree is a good thing.

22 In this docket, this Commission will approve
23 plans that will implement the conservation goals that
24 were set last year. And as you may recall, in that
25 proceeding there was a robust debate regarding how the

1 Commission should address free ridership. Free riders
2 is -- is a term that -- that means a customer that will
3 adopt a measure regardless of whether that measure is
4 included in a utility-sponsored energy efficiency
5 program. And the Commission chose, in setting those
6 goals, a two-year payback screen in setting those goals,
7 which essentially means that any measure that had a
8 customer payback of two years or less was eliminated
9 from the company's conservation goal potential study.

10 SACE was a party in that proceeding, and we
11 advocated for using actual data on what, you know,
12 actual free ridership is. The two-year payback tends to
13 eliminate high savings, low-cost measures, and those
14 measures tend to be critically important to lower income
15 communities. And it's based -- the two-year payback is
16 based on a couple of assumptions, which was discussed
17 and established at the conservation goal hearings:
18 Number one, that the customer has to be fully informed;
19 number two, that the customer has to have the financial
20 resources to implement the measure; and, number three,
21 that the customer is going to act rationally.

22 Now, what are, you know, what are the free
23 ridership rates in Florida? We didn't know and
24 certainly you did not know because the utilities do not
25 collect that data. Commissions in other states,

1 especially in the southeast, have access to that data:
2 the Commissions in Georgia, the Commissions in Carolina.
3 Georgia Power provides that information to its
4 Commission. Duke Energy Carolinas provides that
5 information to its Commission. Now those Commissions
6 and those states may have different regulatory
7 structures, but nobody can deny that it provides more
8 information to the Commission and allows them to make
9 more informed decisions.

10 And now the Commission, Commissioners, you
11 adopted a two-year payback screen. You know, in
12 essence, you didn't have information available to you
13 regarding what the actual level of free ridership was in
14 Florida, and you appropriately stated in your order
15 that, you know, we couldn't go retro -- go back
16 retroactively and acquire this information, and that
17 the -- the program approval stage was the most
18 appropriate docket in which to consider this.

19 So we are before you now asking that as part
20 of an order approving the companies' plans that they
21 also be required to collect data on free ridership as
22 part of their already existing measurement and
23 verification protocol, which they already use a protocol
24 to establish what the impacts are from their already
25 existing demand-side programs.

1 You know, I mean, I think we can all agree
2 that more information is better than less. I think we
3 can all agree that having to guess at what free
4 ridership is is not as good as actually having the data
5 to do it. And certainly, most importantly, it will help
6 inform the Commission on how many of these high savings,
7 low-cost measures are actually being adopted by
8 low-income communities. I suspect that when the data is
9 in, you will find that very few of those measures are
10 actually being adopted by that community.

11 The utilities may respond that they already
12 have low-income programs, but those programs are not
13 reaching the low-income community in any meaningful way.
14 If you look at the transcripts from the conservation
15 goals proceedings, FPL's program, for instance, was
16 reaching less than 1 percent of that community.

17 The utilities may respond that it costs money,
18 but, in fact, this could be incorporated into their
19 already existing measurement and verification protocol
20 that is part of the program plans that they have
21 submitted to you for approval. And it will also allow
22 them to -- and allow you, Commissioners, to implement
23 better program design, which I'm sure this is something
24 this Commission values.

25 So in light of all that, we respectfully

1 request and, I believe, make a reasonable and modest
2 request that any order issued by the Commission also
3 include a component where actual data will be collected
4 by the utility so Commissioners five years from now,
5 four years from now, I don't know when again
6 conservation goals will be considered, but that future
7 Commissions will have access to the information to make
8 the best informed decisions that they possibly can.
9 Thank you.

10 **CHAIRMAN GRAHAM:** Thank you, SACE. I have to
11 tell you I am also not a fan of the two-year screen, we
12 talked about that before as we went through this, but I
13 do have to compliment the utilities. I know as we went
14 through the hearing, one of the things that they
15 heard -- at least they heard from me very clearly -- was
16 how we need to do more on the education side of things,
17 and that we need to do more on the low-income side of
18 things. Because I thought what was being lost with the
19 two-year screen was a lot of low-income benefits that
20 could have been realized. And I think with the
21 education and with more low-income programs, I think
22 we've addressed some of those things. Granted, I'm
23 still not a fan of the two-year screen, but I am not as
24 upset about it as I was.

25 Commissioners, any other questions of SACE or

1 any comments?

2 Okay. Let's move to Wal-Mart.

3 **MR. WRIGHT:** Thank you, Mr. Chairman,
4 Commissioners. Robert Scheffel Wright appearing on
5 behalf of Wal-Mart Stores East, Limited Partnership, and
6 Sam's East, Incorporated.

7 As I think you know, we are parties -- or a
8 party as Wal-Mart to Docket No. 140226, which is our
9 request that the Commission approve an opt-out option by
10 which large commercial and industrial customers may have
11 the option to opt out of the energy efficiency part of
12 the utilities' Energy Conservation Cost Recovery
13 programs.

14 All we -- this hearing is to be held tomorrow,
15 as you know, and the schedule goes on after that. We
16 simply believe that in these proceedings today, the DSM
17 plans -- we believe that the utilities' DSM plans should
18 include an opt-out option, as we pray in 140226, and we
19 would simply ask that you keep that opportunity or
20 option potential open for inclusion in the DSM plans
21 that are before you today after you rule on our request
22 for the opt-out option in 140226. Thank you.

23 **CHAIRMAN GRAHAM:** Thank you. Questions to
24 staff. If -- depending on the outcome of the hearing, I
25 guess it's tomorrow and the next day -- is there a way

1 of -- how would we go about making changes if there's
2 changes required to these dockets in front of us today?

3 **MS. TAN:** If the Commission were to decide to
4 allow opt out in the 140226 docket, the Commission has
5 the ability to go into the DSM program plans at any time
6 to make modifications. And if that were to be
7 necessary, we would take the necessary steps to do so.

8 **CHAIRMAN GRAHAM:** Okay. Commissioners, any
9 questions of Wal-Mart?

10 FIPUG.

11 **MR. MOYLE:** Jon Moyle of the Moyle Law Firm on
12 behalf of FIPUG. And to -- to the point made by Mr.
13 Wright, we would -- we would echo it. And FIPUG appears
14 before you a lot to try to help shape and better ideas
15 of utilities. We don't have a lot of petitions that we
16 initiate. The one that a panel of you will hear
17 tomorrow is such a petition, and it's quite important to
18 the FIPUG members, to Wal-Mart, and we -- we would
19 suggest to the state to take a hard look at the opt-out
20 issue. It's something a lot of states have done. I'm
21 not going to stray into the substance because the panel
22 will get -- get to that tomorrow.

23 But we want to make sure that, assuming we can
24 make our case and the evidence is persuasive and the
25 Commission says, yeah, we ought to take a look at this

1 and do something, that we're not procedurally foreclosed
2 from doing so because this case and this order got out
3 in front of the opt-out case.

4 You know, I haven't -- I haven't talked to
5 Mr. Cavros, but he has some issues. I don't know if
6 he's going to challenge the PAA or not. But -- but what
7 we are simply asking is that you -- you not let the
8 procedure overcome the opt-out issue. And a number of
9 you have served in the Legislature. We don't want it to
10 be sort of the equivalent of, you know, that's a good
11 idea, we'll take it up in next year's legislative
12 session, which, you know, sometimes happens and
13 sometimes doesn't happen. So we -- we just want to
14 underscore that point.

15 I appreciate you all letting us speak. We did
16 participate in the underlying proceeding related to
17 energy efficiency, but the opt out is something that,
18 that's important, and we want to make sure procedurally
19 that the ability to address an opt out is preserved and
20 not impinged upon by you taking -- taking action in this
21 docket. So thank you.

22 **CHAIRMAN GRAHAM:** Thank you, Mr. Moyle.

23 Commissioners, any questions of FIPUG?

24 Utilities, did you have anything else to add
25 before I brought this back to the Commission?

1 **MR. BEASLEY:** I would just say that we support
2 the staff recommendation in its entirety, and they have
3 worked very hard in this process and we're appreciative
4 of that.

5 **MR. GRIFFIN:** The same is true for Gulf Power.
6 And I would just add that at least as I view the DSM
7 plan, that's not a compulsory document. It just lays
8 out the programs that are available to customers should
9 they choose to avail themselves of those.

10 If the Commissioner were to adopt an opt-out
11 mechanism for a certain subset of customers, I don't
12 know necessarily that that would require a deferral of a
13 ruling on the DSM plan itself.

14 **CHAIRMAN GRAHAM:** Okay.

15 **MS. CANO:** Good morning. Jessica Cano on
16 behalf of Florida Power & Light Company.

17 Just very briefly, with respect to SACE's
18 comments, as noted by staff in their recommendation,
19 FPL's plan does comply with the goals order, including
20 treatment of free riders using the two-year payback
21 criterion, which then was set aside for purposes of the
22 low-income program. So we do support staff's
23 recommendation on approval of FPL's DSM plan.

24 With respect to Wal-Mart and FIPUG's comments,
25 I think this highlights some of the uncertainty

1 surrounding their opt-out proposals. I'm not sure FPL
2 would even include the opt-out approach as a program in
3 its plan. But regardless, putting that aside, I do
4 agree with staff that any necessary modifications could
5 be handled subsequently and that the entire DSM plan
6 doesn't need to be delayed for that reason. Thank you.

7 **MS. TRIPLETT:** Hello. Dianne Triplett for
8 Duke Energy Florida. I agree with all of my colleagues.
9 And I would also just mention with respect to SACE's
10 comments, the fact -- imposing additional requirements
11 for us to collect data would have a cost, and I don't
12 know what that cost would be and I don't think there's
13 any evidence with respect to what that would be because
14 there's really no methodology that has been vetted as
15 far as how that collection of data would occur. So,
16 thanks.

17 **CHAIRMAN GRAHAM:** Ms. Keating, do you have
18 something to add?

19 **MS. KEATING:** Beth Keating with the Gunster
20 law firm here today for FPUC. We also support staff's
21 recommendation, and echo the comments of the other
22 utilities you've heard today.

23 **CHAIRMAN GRAHAM:** Thank you.

24 **MR. PERKO:** Gary Perko of Hopping, Green &
25 Sams on behalf of JEA. JEA also supports staff's

1 recommendation. Thank you.

2 **CHAIRMAN GRAHAM:** Thank you.

3 Okay, Commissioners, I'll entertain a motion.
4 Commissioner Brown.

5 **COMMISSIONER BROWN:** I have just a couple of
6 questions first before we get to that.

7 **CHAIRMAN GRAHAM:** Okay.

8 **COMMISSIONER BROWN:** Actually these are
9 specific to Duke, so I hope you're here to -- prepared
10 to answer some questions.

11 Based on staff's recommendations, the DSM --
12 your DSM plan will not be meeting goals for annual
13 residential winter peak demand in this year, 2015, and
14 expected in 2016. I'm curious how you intend to make it
15 up. Through participation in other types of programs,
16 or how do -- how are you going to proceed?

17 **MS. TRIPLETT:** Sure, and I expected that
18 question from someone. So I think what -- what our
19 folks -- we've already been working on it, and I think
20 the good news is that we built in some flexibility in
21 our plan with respect to those audits to -- we didn't
22 specify the types of -- of actual physical equipment
23 that we would give to customers during those audits.
24 And so I think there is a way to tweak what we offer so
25 it would be low-cost additional gadgets, if you will, to

1 provide to customers that would not -- those are not
2 behavioral savings. Those are actual things that are
3 implemented at the home. And so we think with that
4 tweak we will be able to -- to meet the goals.

5 **COMMISSIONER BROWN:** And encourage
6 participation. Right.

7 **MS. TRIPLETT:** Exactly. But, of course, as we
8 always do, we're going to have to keep an eye on that
9 and monitor participation rates. And we may have to
10 make some other modifications, but hopefully that will
11 get us over the goal.

12 **COMMISSIONER BROWN:** So do you perceive coming
13 back in with modified plans sometime in this year or
14 next year?

15 **MS. TRIPLETT:** Based on what we are looking at
16 now, I don't think so, because I think that our plan and
17 even the participation standards for this -- for the
18 audit program historically has not said, you know, we're
19 going to give a water heater coil and we're going to
20 give a refrigerator, you know, doodad or whatever. It's
21 been more of, well, we are going to provide particular
22 measures to customers, and there hasn't been that level
23 of specificity. So I think that gives us the
24 flexibility to adjust those items. And then, of course,
25 the costs that we incur with respect to those audits

1 would be reviewed in the annual energy conservation cost
2 clause.

3 But, I mean, I'm not going to foreclose the --
4 we may have to come in and do a bigger modification or
5 adding of a -- of a new program or measure.

6 **COMMISSIONER BROWN:** Okay. And, you know, I'm
7 a big proponent. I think these -- these audits,
8 definitely on the residential side but also on the
9 commercial, they are beneficial and they do lead to
10 savings. And unfortunately our staff has found that the
11 behavioral savings are not quantifiable, so you -- you
12 intend -- you filed your original plans including
13 behavioral savings that were associated with the
14 previous -- under the previous DSM goals proceeding.
15 And so without those savings now, you're unable to meet
16 the goals. I just wanted some more clarification on
17 that.

18 We got a tariff yesterday associated with your
19 item, and there's a couple -- there's a couple of
20 revisions in there. Do you have that in front of you,
21 Ms. Triplett?

22 **MS. TRIPLETT:** I'm sorry, I don't. I see
23 staff flipping pages. Maybe they can help me.

24 Okay. I have it.

25 **COMMISSIONER BROWN:** Okay. I don't know if

1 you were involved in the preparation of these tariffs.
2 And I just have one question regarding the load
3 management programs.

4 For schedule -- let me see. Sorry. Sheet
5 6.221, 6.132, and I thought there was another one, I
6 thought there were three of them, but if you go to
7 6.221.

8 **MS. TRIPLETT:** I'm there.

9 **COMMISSIONER BROWN:** All right. On Special
10 Provision 8, there's now an inclusion of the company may
11 discontinue service under this rate schedule and bill
12 for prior load management credits received by the
13 customer plus applicable investigative -- investigation
14 costs associated with that if the customer's Wi-Fi
15 network availability has been disrupted, and I see that
16 there's a couple of other areas that we have that. My
17 understanding, though, that the prior provisions and the
18 previous language in that paragraph reflected more
19 discontinuance based on malfeasance or tampering. Why
20 are you including it? So that the utility can just shut
21 off service or discontinue service if, you know, the
22 Wi-Fi is automatically disconnected for a brief period
23 of time?

24 **MS. TRIPLETT:** So I think the reason, the
25 purpose of this revision is because there is a change in

1 the technology with respect to how the load control
2 devices are that transmit information. Now, with the
3 greater availability of cellular wireless networks --

4 **COMMISSIONER BROWN:** Well, yeah. I
5 understand.

6 **MS. TRIPLETT:** So it's everywhere. So -- so
7 that is to -- is to ensure if we move -- we're moving
8 towards -- away from the, you know, this is just a
9 one-time I'm going to just be communicating using a
10 different, a special network device to I'm going to need
11 to use the Wi-Fi. We wanted to have the flexibility to
12 make sure that if there was a disruption, we can't
13 actually -- with the new load control systems we won't
14 be able to disconnect and disrupt and interrupt in the
15 way that we need to to make the program function.

16 I will tell you I hear what you're saying, and
17 I -- I would not allow my folks to say, you know, it's a
18 may discontinue. I would not allow us to discontinue
19 without further investigating and say is it just your
20 Wi-Fi, is it, you know, one of the Wi-Fi --

21 **COMMISSIONER BROWN:** Well, it doesn't have a
22 time period either in there, you know, for any amount of
23 time.

24 **MS. TRIPLETT:** Right.

25 **COMMISSIONER BROWN:** So it just -- it kind of

1 struck me as awkward. If there was a time provision in
2 there, some time, you know, with more than 24 hours or
3 something to that effect, that would make sense. But it
4 just -- for, you know, if the Wi-Fi, you know, it goes
5 in and out. If the Wi-Fi gets discontinued, can the
6 utility just go ahead and discontinue their service and
7 bill the customer?

8 **MS. TRIPLETT:** I wouldn't interpret it that
9 way, but I hear what you're saying. This provision
10 would allow us to do that. I don't think -- I think
11 that a reasonable time period would be implied in this
12 such that it would not just hit -- someone just happened
13 to be out or there was a storm or some other reason for
14 no fault of the customer that the wireless was out. So
15 I definitely think there is at least an implied
16 reasonableness into -- into this interpret -- into this
17 tariff.

18 **COMMISSIONER BROWN:** Ms. Triplett, but if
19 there are forces outside of the control, like you said,
20 like a storm or something to that effect, under this --
21 under these tariffs, the utility is entitled to collect
22 the investigation costs as well and also bill the --
23 bill the customer.

24 **MS. TRIPLETT:** Right. And I would -- it's a
25 may, so all I would say is that I think that each

1 circumstance would be looked at. I think that's why we
2 have the discretion there rather than saying we shall
3 impose the charge. I think that would be one of the
4 circumstances that we would take under consideration.
5 But if it would assist, I mean, we could certainly look
6 at providing another, you know, a revised set of tariffs
7 to tighten this language up to make sure that there is
8 an exclusion for those sorts of events that --

9 **COMMISSIONER BROWN:** Dropped spots or --

10 **MS. TRIPLETT:** Right. Maybe like a force
11 majeure, something like that, but something beyond the
12 control of the -- of the customer, and maybe it's a --
13 when the utility, when we are considering whether an
14 investigative charge will be imposed, we consider a
15 variety of factors including whether the customer was at
16 fault, whether there was storm activity, something like
17 that, and that would make it clear that those are
18 considerations to be factored in when we're imposing a
19 charge.

20 **COMMISSIONER BROWN:** I would appreciate that.
21 Again, I got this late yesterday and read it, and so I
22 would appreciate tightening up the language a little
23 bit. So, thank you.

24 **CHAIRMAN GRAHAM:** No suggestions on how to
25 tighten up that language?

1 **COMMISSIONER BROWN:** I can come up with some.

2 **CHAIRMAN GRAHAM:** We're all ears.

3 **COMMISSIONER BROWN:** Ms. Triplett, also with
4 that consideration, also if a time frame would be
5 included as well.

6 **MS. TRIPLETT:** Do you think 48 hours sounds
7 reasonable or --

8 **COMMISSIONER BROWN:** Yeah. I was going to go
9 to 24, but 48 --

10 **MS. TRIPLETT:** 24?

11 **COMMISSIONER BROWN:** Yeah. 24 to 48, whatever
12 time frame.

13 **MS. TRIPLETT:** Okay.

14 **COMMISSIONER BROWN:** And tighten the language
15 up on the force majeure events outside of the control.

16 **MS. TRIPLETT:** Uh-huh.

17 **COMMISSIONER BROWN:** I mean, I guess the whole
18 purpose is for intentional acts.

19 **MS. TRIPLETT:** That's right. Uh-huh.

20 **COMMISSIONER BROWN:** Okay. So that's kind of
21 my thinking as well.

22 **MS. TRIPLETT:** Well, yes, intentional
23 tampering but also intentional disconnection. So -- and
24 I think the -- the terms and conditions for the program
25 will make it clear that if you are -- so, for example,

1 if there's a customer, we're relying on their Wi-Fi and
2 they decide I don't want Wi-Fi anymore, then -- then
3 they will be on notice that they can't just call up and
4 say I don't want Wi-Fi but still have load control.

5 So I just want to make it clear, because I
6 know sometimes when we say malfeasance, it's -- I think
7 of meter tampering. And this is not necessarily just
8 I'm going to tamper with the device. It's also I'm
9 taking an action that does not -- that no longer allows
10 me to actually do what the device needs to do, which is,
11 you know, control the load from afar.

12 **COMMISSIONER BROWN:** Okay. And that was
13 really the reason why it came to my attention, too,
14 because that same provision, that same paragraph talks
15 about meter tampering.

16 **MS. TRIPLETT:** Uh-huh.

17 **COMMISSIONER BROWN:** And intentional acts.
18 So, you know, we all know that Wi-Fi can go in and out.

19 **MS. TRIPLETT:** Oh, no, absolutely. I think
20 it's an excellent point. And I think, as I said, I
21 understand that you -- the discomfort. And even though
22 Dianne Triplett is sitting here saying that I may
23 discontinue and I may not charge, I get it. So we can
24 definitely add some language. And I don't know what --
25 the best way procedurally to do that. I mean, I could,

1 you know, probably sit down and write some language out
2 and we can vote on it today, or we can -- I can work
3 with staff and bring it back before you.

4 **CHAIRMAN GRAHAM:** I have somebody right over
5 here that has the perfect answer for you.

6 Mary Anne.

7 **MS. HELTON:** I think that if we can decide
8 upon the conditions this morning that you would like to
9 see in the tariff and you suggest to the company that if
10 you approve the tariff with these modifications or with
11 these conditions, you can do that. And then staff can
12 review the modifications that Duke sends in, and those
13 modifications can be approved administratively as long
14 as you've set out the parameters today.

15 **CHAIRMAN GRAHAM:** Commissioner Brown.

16 **COMMISSIONER BROWN:** I think the parameters
17 have been set out pretty clearly.

18 **MS. TRIPLETT:** Uh-huh.

19 **COMMISSIONER BROWN:** And I think we would give
20 the staff then administrative authority to go ahead and
21 make sure that they're correct.

22 **CHAIRMAN GRAHAM:** Mary Anne.

23 **MS. HELTON:** And Mr. Murphy just whispered in
24 my ear this may affect the close the docket issue. So
25 that if there's any changes that need to be made that

1 kind of fall through and flow through that, then we
2 would need to have the ability to do -- to take care of
3 the changes to the tariff and the close the docket
4 issue.

5 **CHAIRMAN GRAHAM:** Commissioner Brown.

6 **COMMISSIONER BROWN:** Actually, Ms. -- Mary
7 Anne, it says, "Should this docket be closed?" on page
8 13. It says, "No." It was stricken and already
9 circled, so it's already no in your recommendation.
10 There was a modification to the typed --

11 **CHAIRMAN GRAHAM:** And I would say with this
12 specific one when they bring it back to staff, if you
13 would reach out to Commissioner Brown's office, because
14 I'm sure she's got more specifics on what she wants to
15 make sure is in there. You don't have to come to my
16 office.

17 **MS. TRIPLETT:** Thank you.

18 **CHAIRMAN GRAHAM:** Commissioners, anything else
19 for Items No. 5 through 11?

20 Commissioner Edgar.

21 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

22 I just want to be clear. So to staff, because
23 we do have some modifications on Items 6 and other
24 items, so for Item 6 for the Issue 2, close the docket,
25 is the staff recommendation no?

1 I can -- I can re-ask. We do have -- to Item
2 6 in particular and just for clarity on my part, we do
3 have modifications to this item today. So for Issue 2,
4 should this docket be closed, is the staff
5 recommendation yes or no? It is not 100 percent clear
6 in my copy.

7 **MS. TAN:** It is no.

8 **COMMISSIONER EDGAR:** Okay. Again, I just
9 wanted to be clear since that's one that had been
10 changed at some point along the process.

11 **MR. MURPHY:** And I think the hope would be
12 that we would have the revisions and approve them
13 administratively before we put out a PAA order.

14 My concern is -- is if we're approving a
15 tariff here and then we've -- when does the
16 administrative approval occur and when does the PAA go
17 out? So I just -- I just wanted to make sure that we
18 had some latitude in the order to make sure that if we
19 needed to finesse anything on the logistics of this,
20 that we would -- we would be able to to effectuate your
21 purpose.

22 **COMMISSIONER EDGAR:** Thank you.

23 And, Mr. Chairman, I do have just a general
24 comment when we are at the point of closing on these
25 items. But I would like to just pose to Commissioner

1 Brown, have your concerns been addressed and are you
2 clear on the next steps?

3 **COMMISSIONER BROWN:** I am. Thank you.

4 **COMMISSIONER EDGAR:** About that time?

5 Thank you to the parties and to their staff
6 for their work on all of these items. When we went
7 through the part of this process for this Commission to
8 discuss adopting goals, I did have some concerns at that
9 time about the direction and the potential perception of
10 the direction with our decision. I do, however,
11 recognize the vote of the majority and, therefore, the
12 decision of the -- of the Commission as a whole.

13 At that point in time I believe I made some
14 comments, and I want to again, that I believe very
15 strongly in the cost-effectiveness analysis portion of
16 this process and for these programs. I do -- so,
17 therefore, I am in favor of us moving forward and will
18 vote to approve the items before us as modified.
19 However, I would like to just reiterate, as I did
20 previously, that I do think with other changes that are
21 potentially ahead, new requirements from EPA, potential
22 other requirements with renewables, that it may be that
23 we should come back and address both the goals and the
24 programs at some point prior to the five-year
25 requirement. And if, indeed, that time occurs, I look

1 forward to doing that then.

2 So I would move Items -- I would move Items
3 5 through 11 reflective of the oral modifications and
4 the additional discussion on Item 6.

5 **CHAIRMAN GRAHAM:** It's been moved and
6 seconded, Items 5 through 11, with the oral
7 modifications and with the changes that Commissioner
8 Brown had requested.

9 **COMMISSIONER BROWN:** Thank you, Mr. Chairman.
10 I have a question for Commissioner Edgar.

11 With -- staff wanted -- I believe I heard
12 correctly, and correct me if I'm wrong, that you wanted
13 administrative approval to approve the modified tariff.
14 So could we include that potentially in your motion as a
15 friendly amendment?

16 **COMMISSIONER EDGAR:** Consider it included.

17 **COMMISSIONER BROWN:** Second.

18 **CHAIRMAN GRAHAM:** Commissioner Brisé.

19 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.
20 I just want to say that I'm in support of the motion as
21 it stands. And I had a good conversation with staff
22 during my briefing in terms of having the appropriate
23 data that we need in order to take a look at some of the
24 issues that SACE has brought up. And I concur with
25 Commissioner Edgar that, you know, as things change,

1 that it would be appropriate for -- for this Commission
2 at some point to take a look, even before the five-year
3 period, at where we stand in regards to the environment
4 around us. So I think it -- it would be important for
5 us to do so. But staff reassured me that where we are
6 right now, we are able to glean the information that we
7 currently need in order to move forward. So with that,
8 I'm comfortable with -- with the motion.

9 **COMMISSIONER EDGAR:** Thank you.

10 **CHAIRMAN GRAHAM:** Any further discussion?

11 Seeing none, all in favor of the motion, say
12 aye.

13 (Vote taken.)

14 Any opposed? By your action, you've approved
15 the Edgar motion.

16 (Agenda item concluded.)

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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4 I, LINDA BOLES, CRR, RPR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

8 IT IS FURTHER CERTIFIED that I stenographically
9 reported the said proceedings; that the same has been
10 transcribed under my direct supervision; and that this
11 transcript constitutes a true transcription of my notes
12 of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,
14 employee, attorney or counsel of any of the parties, nor
15 am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.

18 DATED THIS 31st day of July, 2015.

19 *Linda Boles*

20 _____
21 LINDA BOLES, CRR, RPR
22 FPSC Official Hearings Reporter
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24
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