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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request to opt-out of cost recovery for investor-owned electric utility energy efficiency programs by Wal-Mart Stores, East, LP and Sam's East, Inc., and Florida Industrial Power Users Group.	Docket No. 140226-EI Filed: August 20, 2015

THE FLORIDA INDUSTRIAL POWER USERS GROUP POST-HEARING STATEMENT OF ISSUES AND POSITIONS AND BRIEF

The Florida Industrial Power Users Group (FIPUG), pursuant to Commission Order No. PSC-15-0149-PCO-EI, issued on April 1, 2015, hereby files its Prehearing Statement.

A. FIPUG'S STATEMENT OF BASIC POSITION

FIPUG members value energy efficiency and know best the operations of their own businesses. When customers invest in cost-effective energy efficiency measures with their own money through an opt-out mechanism, both the state's energy policy and utility goals are advanced, with no additional cost to utilities or ratepayers. This is a win-win solution.

B. FIPUG'S STATEMENT OF ISSUES AND POSITIONS

FIPUG provides this statement of positions on the issues set forth in Order No. PSC-15-0149-PCO-EI, issued April 1, 2015, in accordance with Section III of the Order Establishing Procedure.

ISSUE 1**:** Should the Commission require the utilities to separate their Energy Conservation Cost Recovery expenditures into two categories, one for Energy Efficiency programs and the other for Demand Side Management programs?

FIPUG'S POSITION:

Yes, the Commission should take appropriate administrative steps, as Commissions across the country have, to implement an opt-out program in Florida.

ISSUE 2: Should the Commission allow pro-active non-residential customers who implement their own energy efficiency programs and meet certain other criteria to opt out of the utility's Energy Efficiency programs and not be required to pay the cost recovery charges for the utility's Energy Efficiency programs approved by the Commission pursuant to Section 366.82, Florida Statutes?

FIPUG'S POSITION:

Yes. Eligible customers should be allowed to pursue energy efficiency measures at their own expense and not be forced to also pay for utility-specific energy efficiency programs. A properly structured opt-out program is a win-win proposition. The state benefits and its energy efficiency policy is advanced when eligible opt-out customers invest in additional energy efficiency measures with their own resources. The eligible customers benefit by investing in energy efficiency measures best-suited to serve the particular needs of their respective businesses, and not being forced into utility programs that may not fit or be attractive. The utilities benefit when opt out eligible customers invest in energy efficiency measures that are counted to help meet utility goals, again at no additional costs to the utility or its ratepayers. (The additional energy efficiency resulting from customers opting out should reduce the utilities' programs so that the net effect of the opt-out program is revenue neutral; no costs are shifted to non- participating ratepayers). The ratepayers benefit by additional energy efficiency measures being in place at no costs to them.

ISSUE 3: If the Commission allows pro-active customers to opt out of participating in, and paying for, a utility's Energy Efficiency's programs, what criteria should the Commission apply in determining whether customers who wish to opt out are eligible to do so.

FIPUG'S POSITION:

The eligibility criteria should be as set forth by FIPUG expert witness Jeff Pollock in his pre-filed testimony.

C. DISCUSSION OF ISSUES 1, 2, AND 3 AND PROPOSED FINDINGS OF FACT

This Commission should approve a program in which eligible customers can opt out of utility energy efficiency programs when spending their own resources on energy efficiency measures, as requested by FIPUG and Wal-Mart in this docket. The majority of state Commissions have implemented energy efficiency opt-out programs and this Commission should do likewise.

As proposed by FIPUG, the opt-out program would be revenue neutral and would not result in cost-shifting among rate classes. The additional energy efficiency gains resulting from the opt-out program would be counted toward satisfying Commission-approved goals for the utilities. These gains would enable utilities to adjust utility programs downward so that the costs of the utility energy efficiency programs are not increased.

FIPUG members value energy efficiency measures and know best the operations of their respective business processes. Under the proposed program, eligible customers would pursue energy efficiency measures at their own expense, benefiting by investing in energy efficiency measures best-suited to serve the particular needs of their respective businesses, and would not be forced to also pay for utility-specific energy efficiency programs that have no value to FIPUG members. Under FIPUG's proposal, the state will benefit since its energy efficiency policy is advanced when eligible opt-out customers install cost-effective energy efficiency equipment and invest in additional energy efficiency measures using their own fiscal resources. The utilities also benefit when opt-out eligible customers invest in energy efficiency measures that are counted to help meet utility goals at no additional costs to the utility or its ratepayers. A properly implemented opt out program is a win-win proposition and should be pursued by this Commission.

The Commission should move forward with permitting qualified ratepayers to opt out of investor-owned utilities' energy conservation programs and charges if such customers can demonstrate that they have pursued suitable energy efficiency measures at their respective businesses. Alternatively, as suggested by FIPUG witness Pollock when responding to questions from Commissioner Edgar, Tr. 548-552, the Commission should signal or otherwise express a desire to pursue further an opt-out mechanism and gather additional information about implementing an opt-out program. The public policy reasons for pursuing either approach, set forth below as proposed findings of fact, include the following:

1. An opt-out provision allows certain qualifying customers a choice between paying for and participating in utility-funded energy efficiency measures or self-funding their own cost-effective energy efficiency improvements. Pollock, Tr. 506.

2. Eligible ratepayers typically know their business and attendant operations best; these ratepayers are best suited to make decisions about the optimal energy efficiency measures to install at their respective businesses. Baker, Tr. 52, 73 Ex. 21.

3. Existing investor-owned utility programs for large users of electricity are cumbersome and bound up and burdened by red tape; thus, such programs are not particularly attractive to such large users. Baker, Tr. 74, 82.

4. Implementing an opt-out program should increase recognized energy efficiency because it establishes the means to measure and capture energy efficiency savings that are occurring, but are not being considered or counted. Pollock, Tr. 516.

5. Many other states, a majority in fact, have adopted some manner of opt-out program for qualified ratepayers. Baker, Tr. 54; Pollock, Tr. 511-512, Ex. JP-1. Even FPL's witness Koch acknowledged that good public policy reasons could very well support the opt-out type programs in place in the majority of other states. Koch, Tr. 162.

6. Duke Energy Florida is the only operating company of Duke Energy Corporation that does not have an opt out program presently in place. Duff, Tr. 260, 265, 270, 273, 290. Specifically, Duke Energy Corporation's regulated

utilities offer some type of opt-out program in five of the six states in which its regulated electric companies operate: North Carolina, South Carolina, Kentucky, Indiana and Ohio. Baker, Tr. 54; Duff, Tr. 260, 265, 270, 273, 290.

7. The Commission is able to adopt an opt-out program that does not shift costs from one group of ratepayers to another group of ratepayers. Baker, Tr. 61; Chriss, Tr. 122. Indeed, FIPUG witness Jeff Pollock specifically testified that FIPUG does not intend that any costs be shifted with its proposal. Pollack, Tr. 528-530.

8. The "no cost shifting" objective can be realized by making adjustments to existing energy efficiency programs and counting the energy efficiency measures contributed by opting out customers. Allowing the energy efficiency savings provided by opting out customers should be allowed. Baker, Tr. 74-75; Pollock, Tr. 528-530, 537-539.

9. FPL witness Koch, FPL's manager responsible for FPL's demand side management strategy, cost and performance, admitted that he performed no quantitative analysis regarding whether an opt-out program would shift costs among customer classes. Koch, Tr. 180 Indeed, cost shifting will not occur if the opt-out program is properly implemented. Baker, Tr. 78

10. In implementing an opt-out program resulting in administrative costs, proponents of the opt-out proposal are willing to consider ways in which such costs can be reimbursed by those opting out of energy efficiency programs. Baker, Tr. 125, 127; Pollock, Tr. 523-524.

11. Utility witnesses who suggested that an opt-out program would result in cost shifting assumed, erroneously, that no adjustments were or could be made to

existing energy efficiency programs and that no provision could be made to consider and count the energy efficiency savings contributed by eligible customers who opt out and deploy their own energy efficiency measures using their own capital. Floyd, Tr. 352-353; Roche, Tr. 411-412; Deason, Tr. 474-475.

12. Energy Conservation Cost Recovery can have subaccounts, one for Energy Efficiency programs and the other for Demand Side Management programs. There is no barrier from doing so, and having such subaccounts will help facilitate an opt out program as Wal-Mart witnesses Kenneth Baker and Steve Chriss pointed out. Baker, Tr. 45, 70-72; Chriss, Tr. 118-119.

13. Customers who opt out and are not forced to pay the energy efficiency charge will have more capital that can be invested in energy efficiency programs. Baker, Tr. 84. Charging all customers for utility-sponsored energy efficiency programs without having an opt-out provision results in subsidization and socialization of energy efficiency costs, which is unfair and counterproductive. Pollock, Tr. 507-508, 545.

14. No witness testified that an effective opt-out program could not be implemented in Florida. To the contrary, as detailed by FIPUG witness Pollock and Wal-Mart witnesses Baker and Chriss, there is competent evidence to move forward with the creation of an opt out program in Florida.

15. Florida's energy efficiency goals would be advanced by encouraging qualified businesses to invest their own capital in appropriate energy efficiency measures; additional energy efficiency measures realized through an opt-out program would result in <u>all</u> ratepayers benefiting from an opt out measure. Baker, Tr. 47, 81, 90-94; Ex. 38, 39.

D. CONCLUSION

Wal-Mart and FIPUG have put forward sound reasons, backed by strong evidence that this Commission should move forward with implementing an opt-out mechanism for qualifying customers. In sum, energy efficiency would be enhanced and the goals of the state's Energy Efficiency and Conservation Act, sections 366.80 through 366.85, Florida Statutes, will be furthered by the Commission moving forward with an opt-out mechanism. Encouraging qualifying large customers to spend their own capital to install and report energy efficiency measures should be encouraged. Florida should join the many other states, a majority in fact, who have advanced some type of opt-out proposal. Accordingly, based on the evidence of record, and the state's energy efficiency goals and policy as set forth in the Florida Energy Efficiency and Conservation Act, the Commission should pursue an opt-out program as requested by FIPUG and Wal-Mart.

RESPECTFULLY SUBMITTED THIS 20th day of August, 2015.

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CERTIFICATE OF SERVICE

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