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CHRIS SPROWLS
*Speaker of the House of
Representatives*

February 15, 2021

VIA: ELECTRONIC FILING

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

Re: Docket No. 20200181 Post-Workshop Comments on the proposed amendments to Rule 25-17.0021, F.A.C.

Dear Mr. Teitzman:

Attached for filing in the above referenced docket are the Office of Public Counsel's Post-Workshop Comments.

Should you have any questions, or need further information, please do not hesitate to contact me at (850) 171-0333.

Sincerely,

/s/Patricia A. Christensen
Patricia A. Christensen
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PAC/pd
Attachment

cc: Service List (w/attachment)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Proposed Amendment of Rule 25-17.0021, F.A.C.,
Goals for Electric Utilities

DOCKET NO. 20200181-EU

FILED: February 15, 2021

**OFFICE OF PUBLIC COUNSEL'S
POST-WORKSHOP COMMENTS**

On December 15, 2020, the Florida Public Service Commission (Commission) issued a Notice of Development of Rulemaking and Workshop regarding the proposed amendments to Rule 25-17.0021, Florida Administrative Code (F.A.C.) – Demand-Side Management (DSM), Goals, Plans, and Programs for Electric Utilities. The purpose of the Commission workshop held on January 14, 2021, was to discuss the changes to Rule 25-17.0021, F.A.C. (Rule) to combine the proceedings for establishing DSM goals and approval of the plans implementing the DSM goals. Commission staff proposed receiving post workshop comments a month later on February 15, 2021. The Office of Public Counsel (OPC) is filing these comments consistent with staff’s request.

The proposed Rule is implementing Section 366.82(1)-(4), Florida Statutes (F.S.). Section 366.82 (1)-(4), F.S., provides the following:

(1) For the purposes of ss. 366.80-366.83 and 403.519:

(a) “Utility” means any person or entity of whatever form which provides electricity or natural gas at retail to the public, specifically including municipalities or instrumentalities thereof and cooperatives organized under the Rural Electric Cooperative Law and specifically excluding any municipality or instrumentality thereof, any cooperative organized under the Rural Electric Cooperative Law, or any other person or entity providing natural gas at retail to the public whose annual sales volume is less than 100 million therms or any municipality or instrumentality thereof and any cooperative organized under the Rural Electric Cooperative Law providing electricity at retail to the public whose annual sales as of July 1, 1993, to end-use customers is less than 2,000 gigawatt hours.

(b) “Demand-side renewable energy” means a system located on a customer’s premises generating thermal or electric energy using Florida renewable energy resources and primarily intended to offset all or part of the customer’s electricity requirements provided such system does not exceed 2 megawatts.

(2) The commission shall adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of demand-side renewable energy systems, specifically including goals designed to increase the conservation

of expensive resources, such as petroleum fuels, to reduce and control the growth rates of electric consumption, to reduce the growth rates of weather-sensitive peak demand, and to encourage development of demand-side renewable energy resources. The commission may allow efficiency investments across generation, transmission, and distribution as well as efficiencies within the user base. Moneys received by a utility to implement measures to encourage the development of demand-side renewable energy systems shall be used solely for such purposes and related administrative costs.

(3) In developing the goals, the commission shall evaluate the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems. In establishing the goals, the commission shall take into consideration:

- (a) The costs and benefits to customers participating in the measure.
 - (b) The costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions.
 - (c) The need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems.
 - (d) The costs imposed by state and federal regulations on the emission of greenhouse gases.
- (4) Subject to specific appropriation, the commission may expend up to \$250,000 from the Florida Public Service Regulatory Trust Fund to obtain needed technical consulting assistance.

Subsection 366.82(7), F.S., provides that:

Following adoption of goals pursuant to subsections (2) and (3), the commission shall require each utility to develop plans and programs to meet the overall goals within its service area. The commission may require modifications or additions to a utility's plans and programs at any time it is in the public interest consistent with this act. In approving plans and programs for cost recovery, the commission shall have the flexibility to modify or deny plans or programs that would have an undue impact on the costs passed on to customers.

Under the Section 366.82, F.S., statutory scheme, the Commission is charged with establishing DSM goals first, then programs are developed by the Utilities and approved, modified, or denied by the Commission. This statutory scheme has been implemented by holding two separate proceedings. One to set the DSM goals at least every 5 years followed by another proceeding for the approval of the proposed DSM programs. See, Section 366.82(6), F.S.

The proposed Rule combines the goal-setting proceeding with the program approval process. Concerns were raised at the workshop regarding how the goals could be set at the same time as the proposed programs are approved. OPC shares concerns that the Commission must be

free to establish appropriate DSM goals without being locked into only what is filed by the utilities for approval. The individual DSM goals in the last proceeding were set very low based on the currently Commission approved technical potential tests. If these Commission DSM-related proceedings are combined, the Commission should remain open to how the technical potential and the other criteria of Section 366.82(3), F.S., are determined in future proceedings. The combining of these DSM-related proceedings for efficiency should not be at the expense of the Commission's full discretion to modify or deny the utility presented DSM goals and require new plans be filed for approval in a subsequent proceeding. Nor should a combined proceeding be a basis for denial of other parties' ability to present other facts or evidence that they believe is necessary for the Commission's consideration of DSM goals and/or plans.

Specifically to the point, both utility and intervenor information should be considered in DSM proceedings, the proposed Rule as currently worded provides at subsection 25-17.0021(3)(b)11., that "[a]ny other relevant information the utility want the Commission to consider." Proposed subsection 25-17.0021(3), F.A.C., provides the criteria for the proceedings to establish or modify DSM goals. Therefore, OPC believes that this section should be amend to include intervenors and should be amended to "[a]ny other relevant information the utility or intervenors want the Commission to consider." This additional language will make clear that both utilities and intervenors may provide relevant information.

OPC recognizes that there is no legal prohibition to a combined proceeding. In fact, there may be advantages to a combined proceeding as proposed under the amended proposed Rule. It would allow the Commission to get a full picture of, not only the utilities' proposed DSM goals, but their proposed programs. Moreover, the actual DSM programs have remained fairly consent over the last decade. The OPC recognizes that the ability to look at the individual programs may assist the Commission in evaluating better the other Subsection (3) criteria regarding customer benefits via the programs.

Moreover, Subsection (5) provides that the Commission on its own motion or petition by a substantially affected person or a utility may initiate a proceeding to review and, if appropriate, modify goals. This subsection provides a substantially affected person the ability to requests a review of DSM goals or plans during the combined goals proceeding or any time in between scheduled DSM goals proceedings.

Therefore, OPC's initial and preliminary position is that it has no objection to using a combined proceeding as set forth in the proposed Rule, *so long as*: (1) a combined proceeding does not provide an impediment to any potential modification of DSM goals and/or plans; (2) and intervenors are not impeded from presenting relevant information that the Commission should consider.

DATED this 15th day of February 2021.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Post-Workshop Comments, filed on behalf of the Office of Public Counsel, has been furnished by electronic mail on this 15th day of February 2021 to the following:

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