BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20200181-EU

Proposed amendment of
Rule 25-17.0021, F.A.C.,
Goals for Electric Utilities.
______________________________/

PROCEEDINGS: RULE HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN ANDREW GILES FAY
COMMISSIONER MIKE LA ROSA
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Tuesday, May 2, 2023

TIME: Commenced: 9:50 a.m.
Concluded: 11:20 a.m.

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

REPORTED BY: DEBRA R. KRICK
Court Reporter

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WALT TRIERWEILER, PUBLIC COUNSEL; CHARLES REHWINKEL, DEPUTY PUBLIC COUNSEL; PATRICIA CHRISTENSEN, ESQUIRE, OFFICE OF PUBLIC COUNSEL, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400, appearing on behalf of the Citizens of the State of Florida (OPC.).

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EXHIBITS

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P R O C E E D I N G S

CHAIRMAN FAY: All right. We will call this hearing to order. Mr. Rubottom, would you please read the notice?

MR. RUBOTTOM: Good morning, Commissioners.

By notice published in the April 14th, 2023, edition of the Florida Administrative Register, this time and place was set for a rule hearing in Docket No. 20200181-EU as set forth more fully in the notice.

CHAIRMAN FAY: Okay. We will take appearances next, Commissioners. I will start with SACE.

MR. CAVROS: Good morning, Commissioners. George Cavros on behalf of Southern Alliance for Clean Energy. And joining me today is my colleague, Forest Bradley-Wright, who is Southern Alliance for Clean Energy's Energy Efficiency Director to answer any questions that you might have?

CHAIRMAN FAY: Okay. Great. Thank you, Mr. Cavros.

Next we will take up LULAC and ECOSWF.

MR. MARSHALL: Good morning, Commissioners.

Bradley Marshall from Earthjustice on behalf of LULAC and ECOSWF. And also with me here today I have Jordan Luebkemann.

CHAIRMAN FAY: Great. Thank you.

Just to confirm, I don't believe we have somebody from CLEO.

OPC.

MS. CHRISTENSEN: Good morning, Commissioners.

Patty Christensen on behalf of the Citizens. With me today is the new Public Counsel, Walt Trierweiler, and thank you. Good morning.

CHAIRMAN FAY: Okay. Great. Thank you.

All right. We will go down the line here. We will start with FPL.

MR. COX: Good morning, Chairman Fay and Commissioners.

William Cox here today on behalf of Florida Power & Light Company, and with me is John Floyd, who is our manage -- Manager of Demand-Side Management Regulatory.

Thank you.

CHAIRMAN FAY: Okay. Great. Thank you.

Duke.

MS. CUELLO: Good morning. Stephanie Cuello on behalf of Duke Energy Florida, and I also have Tim Duff with me as well.

CHAIRMAN FAY: Okay. All right.

MR. MEANS: Good morning. Malcolm Means with the Ausley law firm on behalf of Tampa Electric, and I have Mark Roche from Tampa Electric here with me as well.

CHAIRMAN FAY: Okay. And FPUC.

MS. KEATING: Good morning. Beth Keating with the Gunster Law Firm here for Florida Public Utilities, and I also have Derrick Craig here with me from the company.

CHAIRMAN FAY: Okay. Great.

And OUC.

MR. WRIGHT: Thank you, Mr. Chairman and Commissioners. Schef Wright appearing on behalf of the Orlando Utilities Commission.

Thank you.

CHAIRMAN FAY: Okay. Great. Thank you, Mr. Wright.

Do we have any other interested persons?

All right. Staff.

MR. RUBOTTOM: Jon Rubottom with Commission legal staff, along with Samantha Cibula with legal staff, Takira Thompson with Engineering and Elizabeth Draper from Economics.

CHAIRMAN FAY: Okay.

MS. HELTON: And Mary Anne Helton is here as your Advisor, along with your General Counsel, Keith Hetrick.

CHAIRMAN FAY: Okay. Thank you, Ms. Helton.

All right. Commissioners, next we will go into preliminary matters before we lay out kind of how this proceeding will work today.

Mr. Rubbotom.

MR. RUBOTTOM: As a preliminary matter, staff wants to provide an overview of the purpose and procedure of this rule hearing.

This public rule hearing was timely requested by SACE, LULAC, ECOSWF and the CLEO Institute following the Commission's decision to propose amendments to Rule 25-17.0021, Florida Administrative Code, goals for electric utilities, or the proposed rule.

In accordance with Section 120.54(3)(c)1, Florida Statutes, this hearing will provide affected persons an opportunity to present evidence and arguments on all issues under consideration.

As required by Section 120.54(3)(c)1, Florida Statutes, staff is available to explain the Agency's proposal, and to respond to questions or comments that may be raised regarding the rule during the course of this hearing.

The hearing will proceed as follows:

First, affected persons will be provided an opportunity to present argument and evidence and to ask questions of Commission staff regarding the rule. The petitioners who requested the hearing will have the first opportunity, followed by any other affected person present who would like an opportunity.

Next, Commissioners, may, if they choose, ask follow-up questions of affected persons or of Commission staff. However, Commissioners may choose to pose such questions or make comments at any time during the hearing.

Any materials provided by participants during the hearing will be marked as an exhibit and received into evidence in the rule hearing record. The rule hearing record will be comprised of the evidence and argument presented in this hearing and any other written material submitted after the rule was proposed.

If the Commission chooses to make a change to the proposed rule pursuant to Section 120.54(3)(d), its decision will be based on the rule hearing record.

CHAIRMAN FAY: Okay. Great. Thank you.

Commissioners, any questions for Mr. Rubottom on the procedure?

Okay. Showing none, we will next move into the argument and evidence portion of the hearing. Let's -- what we will do is, Mr. -- we will start with Mr. Cavros and then go to LULAC, ECOSWF, CLEO, and then on down to the utilities like we presented in appearances.

Commissioners, I -- I know we've got some materials and some additional materials provided by our interested persons here today. If we need to stop for any reason to make sure we are on the right material that's being presented, please just let me know and we will -- we will do so.

We will also allow the interested persons here today some leniency in the time to present your information as would be equivalent to a workshop that staff does. The 120.54 hearing, I think, allows us to intake that information. We do ask you to be mindful of how repetitive you might be of someone else's comments, and if you have the same argument as theirs, feel free to just state that and then move onto your other points.

So with that, Commissioners, are there any other questions or comments? No.

We will start with you, Mr. Cavros.

MR. CAVROS: Great. Good morning, Commissioners. Thank you for the opportunity to engage with you today, and also thank you to your staff for shepherding this rulemaking process to this point.

The reason we are here today is because in 2019, current practices led to the utilities proposing energy efficiency goals, a number of them of zero or near zero, and the Commission rejected those goals, and that was the catalyst for this rulemaking. The current rule doesn't address the issues that led to zero or near zero proposed -- proposed goals. So what we've done is we've offered some different potential rule revisions for your consideration that will address those issues. And the way I would like to structure my comments is to kind of structure them around some -- some high -- high level points. The first one is balance.

Often, Commissioners, you are asked to balance competing interests, and you are often asked to -- to hold costs in one hand and benefits in another, and reach a, essentially a public interest of determination. A good example of that is the storm protection plan docket from last year, where the utilities proposed plans with programs in them, and the different programs had different benefits and different costs, and you had to weigh those benefits and those costs.

Some of the programs maybe weren't as beneficial as others, so you -- you trimmed those costs to limit the cost impact to customers. But at the end of the day, you had to hold costs in one hand and benefits in another to either approve, modify or deny those -- those plans. And that is not unlike what you have to do ever five years when you are setting energy efficiency goals.

The goal setting process really relies on your ability to hold costs in one hand and benefits in another to establish, quote/unquote, appropriate goals, according to Section 366.82 subsection (2).

So what is appropriate? Well, it sounds very much like a public interest determination. In order to make that determination, you need a clear line of sight on the costs and benefits of energy efficiency measures. And you need that, you know, multiple perspectives on -- on those -- on the cost-effectiveness.

And so it's kind of just really important to -- to note that, you know, you have got sort of a critical perspective missing in -- in that regard, because the current rule before you doesn't give you sort of a line of sight on whether an energy efficiency investment offsets more expensive power generation.

The next thing, sort of high level thought that I would like to cover with you is that you are not getting complete information currently from the current cost-effectiveness test that you have.

It's been standard practice since I can remember, and I have been through three of these FEECA goal setting proceedings, that the utilities present two sort of cost-effectiveness test results. The first one is the Rate Impact Measure test result, or RIM, and the second one is the Total Resource Cost test result, or TRC. Unfortunately, they provide an incomplete perspective, so, you know, what -- what do I mean by that?

So the benefits of energy efficiency measures are pretty well-established. They reduce fuel use. They provide transmission and distribution benefits, and they can defer new generation capacity. So a cost-effectiveness test has those

-- those benefits, and sometimes others, in the numerator on -- on the top part of the equation, and the cost in the denominator, or the bottom at that timer part of the equation. So a score of more than one means that that measure is cost effective from that cost-effectiveness test perspective, but the measure cost accounted for varied by each test, so stay with me here if you could.

So the RIM test provides a perspective based on a theoretical upward pressure on -- on rates. It accounts for the utility's costs. The -- those are the costs to administer to the program, and also the utility incentive that's provided to the customer. But it also counts lost sales as a cost of an efficiency measure. It's typically well over half the cost side of the equation. More than half is lost sales.

Clearly, the purpose of an energy efficiency measure is to cut energy waste and help customer lower power bills. And I that bears repeating, that cutting energy waste is accounted as a cost for measures under the Rate Impact Measure test. So, therefore, the RIM test is more of a lost sales test than it is a cost-effectiveness test of -- of a measure, and it provides a muddled picture at best.

Moving over to the TRC test, that also has some -- some drawbacks in providing a clear perspective on a measure's cost. On the cost side of the equation, it accounts for -- for both the utility's costs and the costs of the participant participating in the measure.

For instance, if the incremental cost to upgrade to, say, a more efficient AC is $2,000, the utility might provide a fraction of that as an incentive, say, $200. Now, the $200 is what actually is recovered from customers through the ECCR clause, as well as the cost to administer the program. Not the whole 2,000.

So the TRC has the affect of overstating costs of a measure, and, thereby, also providing somewhat of a muddled picture. And that's why we've proposed adding the Utility Cost test. It's also known as the program administrator test. It's -- it's a well-established test, and it provides another critical perspective.

While the RIM and the UCT test account for the same utility benefits, the UCT provides the cost benefit from the utility's perspective, because it foc -- what's focused, really, is the utility's costs, which are, again, the program administrator costs and the incentive. So in this way, the Utility Cost test directly compares whether cutting energy waste is less expensive for all customers than generating more power supply. So I will provide an example.

If a measure has a UCT score of two, it will cost twice as much to meet demand by providing power than meeting with it with energy efficiency. Conversely, energy efficiency in that case costs half as much as providing power to meet demand. Therefore, the language in our proposed rule revision in Attachment A adds the UCT without having to amend any other rules.

I would like to transition over to the two-year screen now, if I could. It's another issue that we have sort of consistently raised through the -- through the workshop process.

So the two-year payback screen muddles the picture even further. Florida is the only state in the union that uses a two-year payback screen to address free-ridership. It's not standard industry practice therefore. In fact, the two-year payback screen doesn't actually address free-ridership at all. It's a proxy meant to address it, but it doesn't. Instead, it deeply undermines energy efficiency in the state.

First, it's important to note that naturally occurring energy efficiency, customers that are going to adopt measures anyway, is removed at the goal setting stage by reducing projected sales by the amount of projected naturally occurring energy efficiency. So free-ridership is already addressed in the goal setting phase.

Customers engage with programs, Commissioners. They don't engage in goals. So that's why reducing free-ridership takes place at the program design level. And that's why we are proposing a revision in the free-ridership language that simply requests that a methodology -- requests a methodology that's transparent. And we believe, you know, any methodology should be transparent to the Commission that a standard industry practice, you know, we shouldn't be so far removed from what other states are -- are doing. And not a time-based screen, like the two-year payback screen.

This is not overly prescriptive. The utilities would be free to use any methodology as long as it meets that criteria. And the Commission would be free to determine if the guidelines have been met. These are common sense criteria. The utilities are currently working with a consultant on an energy efficiency potential study who can assist them on a standard industry practice to address free-ridership. And that revision is presented in our Attachment B.

And I want to just address sort of the -- the proposed rule that -- that is before you. We do believe that it is inadequate because it doesn't address the incomplete picture that's presented to the Commission every five years, and that's why we are here today.

First, the rule identifies RIM and the TRC test as two goal scenarios that must be presented to you, but that's already standard practice. Neither test provides the clarity that you need to balance costs and benefits.

While the rule before you will -- will likely provide more administrative efficiency between the goal setting process and the plan approval process, you have to ask to what end, when you don't have the information you need to be able to hold costs in one hand and benefits in another and adopt appropriate goals.

The argument that requiring utilities to file potential programs along with goals ensures that it will never lead to zero or near zero goals again is unconvincing. First, aiming for anything above not zero is a very low bar. Secondly, I am not sure it's accurate to assume that utilities would not file zero goals because they have to file potential programs, as called for in the rule before you. A utility could base its proposed goals on RIM, argue that energy efficiency is not cost-effective and propose no potential programs, or minimal ones.

And lastly, that argument is also effectively an end around the real issues here, removing roadblocks, so that you, Commissioners, will have the information you need, and have a clear picture of costs in one hand and benefits in another, in order to set appropriate goals.

Let me just touch on some of the other proposed revisions.

Attachment C exempts low-income programs from conventional cost-effectiveness tests and free-ridership consideration. It would codify the Commission's existing practice that ensures energy efficiency programs for low-income customers can be approved without having them meet the same cost-effectiveness requirements and standard -- of standard energy efficiency programs.

This has actually been the practice of the Commission in past goal settings, but it ought to be codified in the new rule.

Attachment D provides for discrete low-income goals for low-income customers. It would help ensure that the amount of efficiency savings going to low-income customers would be roughly proportionate to the share of the population. At present, it's nowhere close in Florida.

And Attachment E includes all the proposed changes we have offered up to this point, plus some additional minor revisions.

And then Attachment F is all the changes in Attachment E, except that it replaces the RIM test with the UCT test.

And before I conclude, I would like to share one other last high level thought with you, and that has to do with energy efficiency as a resource.

It's well-established that energy efficiency is a low-cost low-risk resource, yet relative to other states, we are leaving a lot of energy savings on the table, Commissioners. And that's reflected in -- in the exhibit I shared with you.

And if we are marking exhibits, I guess I would mark that as Exhibit 1. It's an excerpt from Southern Alliance for Clean Energy Annual Energy Efficiency in the Southeast Report.

CHAIRMAN FAY: And we have two documents from you, Mr. Cavros. It's the Energy Efficiency in the Southeast Report Excerpt, is the one you are referring to first?

MR. CAVROS: Correct, Mr. Chairman.

CHAIRMAN FAY: Okay. So, Commissioners, we would mark that as one, just for purposes of keeping things organized.

(Whereupon, Exhibit No. 1 was marked for identification.)

CHAIRMAN FAY: Go ahead, Mr. Cavros. Go ahead.

MR. CAVROS: Thank you.

And the results that you see there are direct -- directly attributable to the goals that are set every five years. And the goals are directly attributable to the Commission practices, which are the subject of this rulemaking. And the underinvestment in energy efficiency is, in part, responsible for Florida families paying some of the highest power bills in the country.

I -- I do want to mention that energy efficiency helps derisk the system from bill spikes. From a resource perspective, energy efficiency is a resource that helps manage demand and moderate bills for all customers. It helps insulate all customers from rising fuel costs by reducing the fuel burned on a utility system, and it can defer future proposed power generation, creating system savings shared by all customers.

Efficiency programs allow participants to leverage a utility incentive, typically while making a significant personal investment of their he own, for energy efficiency improvements that help not only the participant to reduce their -- their energy use, but also helps the utility system lower costs for all customers.

And lowering utility bills and costs is -- is honestly more important than ever today, Commissioners. Power bills have increased significantly over the last 27 months. And I think we all have a sense of what drives up bills. It's -- it's investments in transmission generation, and absolutely the -- the fuel to run power plants.

As you know, and is captured in the second exhibit, which I will mark as Exhibit 2.

(Whereupon, Exhibit No. 2 was marked for identification.)

MR. CAVROS: It's an excerpt from a Southern Alliance for Clean Energy Fuel Cost white paper. And it shows that the power bills have -- have gone up, obviously, significantly since 2021, and that the fuel charge has been the fastest growing part of the bill.

You have all had to sit through and approve a number of midcourse correction under-recovery requests. Commissioners, just from the midcourse under-recovery requests from the three largest investor-owned utilities since 2021, customers will have paid, when all of those costs are recovered, over $5 billion in additional fuel costs. That's money that leaves the state that could have, you know, stayed in local communities, creating economic development and -- and jobs.

But since you are just passing through these commodity costs, you may feel that you are options are a bit limited. The rule revisions that we've proposed provides you, I believe, an opportunity for two things. Number one is to be proactive in derisking the system, and insulating customers from these types of volatile and costly fuel spikes. And number two, it would put us on a path to lower bills by adopting the suite of revisions that -- that we've proposed, or at a minimum, adopting one -- one of them.

And if we don't provide a framework through this rule for providing you with more information, Commissioners, when setting goals, energy efficiency will continue to be undervalued. And that means more costly generation options will be put in rate base. Customers will continue to be exposed to volatile fuel costs, and we'll never be able to get hard-working families and small businesses off the high bill treadmill.

And lastly, there was a timing concern that was raised at the March 7th Agenda Conference about the timing of adopting a revised rule and the proximity of the next FEECA goal setting proceeding. The utilities -- and I will let them speak to this themselves -- have yet to engage on the economic portion of their potential analysis. The revisions we've offered to you fall within that sort of economic potential of the analysis.

And so if the Commission decides to approve a change to the rule today, the utilities would --

would be on notice that they, you know, would -- that they would have to comply, and I think they -- they would accordingly.

To their credit, they are moving ahead assuming a new rule will be adopted. And they've already reached out to us to ask us about potential programs. So I think the timing issue should not be a major consideration on whether the Commission makes a revision to the rule today.

We want to thank you on behalf of SACE's members, the numerous nonutility stakeholders that participated in this process but could not be here today, and the thousands of customers who filed comments in -- in the docket requesting a meaningful change to the way we set energy efficiency goals.

I think the options we provided here today will -- will resolve the issues with a real rule before you. And the proposed revisions are common sense, standard industry practice. And we trust that you will find them useful and adopt them, and would be happy to take any questions at the appropriate time.

Thank you, Commissioners.

CHAIRMAN FAY: Okay. Great. Thank you, Mr.

Cavros. We will keep going through our presenters and then we will take up any questions from Commissioners at that time.

We will be moving next to LULAC and ECOSWF. Mr. Marshall, you recognized.

MR. MARSHALL: Thank you, Mr. Chairman and Commissioners.

First of all, I agree with everything that Mr. Cavros has said today, so I will try to -- I will try to avoid repeating any of the arguments that -- that the Southern Alliance for Clean Energy has made. Instead, I will be taking an approach of looking at the history of -- of where we have been in Florida with -- with our bills, and what's happened. Has RIM been successful in keeping rates low, and are -- are bills low in Florida? And the answer is -- is, no, it has not.

And so before I begin, I would like to -- just to keep things organized, I have a printout of the -- of the presentation we are about to do, if we could mark that as Exhibit 3.

CHAIRMAN FAY: Okay.

(Whereupon, Exhibit No. 3 was marked for identification.)

MR. MARSHALL: And then some of the underlying data regarding the different Florida utility rates, usage and bill data from 1990 and 2021, 2022 for the investor-owned utilities and JEA is our other exhibit, and if I could request that be marked as Exhibit 4.

CHAIRMAN FAY: Okay.

(Whereupon Exhibit No. 4 was marked for identification.)

MR. MARSHALL: And so I have a PowerPoint that I will be trying out today. And I want to thank staff for -- for helping arrange it, and I hope this works. And if not, we have the printouts fall back on.

So in 2021 -- 2021 is the last year for which data for all utilities was provided to the Energy Information Administration on Form 861. And so it's the comprehensive where do we rank in terms of -- of bills compared nationally.

And by bills here, what we mean is the average bill that customers are paying. Not what we so often mean when we say bills in Florida, which is what people are paying per thousand kilowatt hours, which is another word for rates. This is the actual average bill data. And when I say bills throughout my presentation, I will be referring to the average thing that -- that people pay when they, you know, when they get it in their email or mail and write the -- write the check, or credit card, or however they are paying to their utility.

And so in 2021, Florida ranked 14th in the nation with an average monthly bill of $103.40. Now, there is preliminary data for 2022 from the major utilities that file form EIA 861-M which includes the investor-owned utilities in Florida, plus JEA. And based on that data, and the data from other utilities, Florida has shot up to number 9th in the nation for 9th highest bills in the entire nation. Significantly higher than -- than California, for example, which is down at number 18.

You know, we often, you know, make fun of other states for -- for high bills, but we are that state with -- with really high energy bills.

Now, that number could come down a little bit as the -- the municipal utilities and co-ops report later, but because the investor-owned utilities are the -- the biggest utilities, and sort so the vast majority of customers it in Florida, I wouldn't expect that number to come down much.

And so this is a graphical representation on the next slide of the average bills of FPL, Duke and TECO, with the last dot, 2023, is based on approved rates but 2021 usage. And they have been significantly increasing. I mean, obviously that is being driven a lot by fuel, but there has been the large upward trend. And this is not universally true for -- to the same degree for all utilities in Florida.

So if you take the average bill for -- for the investor-owned utilities and the average bill for the munis and their usage, way back when, in 1990, the usage for -- for the muni and the investor-owned utilities and -- and the bills for the munis and the investor-owned utilities were roughly comparable.

Ever since then, you know, 1995 is when we started our -- our modern -- you know, our modern FEECA practices of reliance of the two-year payback screen, reliance on RIM, there has been an increasing divergence, and that's the munis have the delta of usage, of average usage for -- for residential customers -- this is all residential customers -- has -- has widened. It's continued to widen. I mean, it goes up and down, just like the -- the investor-owned utilities. So, you know, hot years, it's higher; other, you know, more moderate years, it's lower. But -- but the delta between the investor-owned utilities and the municipal utilities has increasingly widened in residential usage. And this is reflected in the increasing delta between the average bill that invest -- that a customer of an investor-owned utility in Florida pays versus the average bill of an average residential municipal customer pays, that has increasingly widened as well.

And so this next slide is sort a tale of two utilities that started off roughly the same and now have widely diverged. And this would be the City of Tallahassee and Florida Power & Light.

In 1990, the average residential customer in the City of Tallahassee actually used more energy than the average customer of Florida Power & Light. And ever since then, there has been an increasing divergence as Tallahassee has -- has focused on energy efficiency and Florida Power & Light has -- has done what this commission has required of it, which is based on RIM and the two-year payback screen.

And this is has reflected an increasingly widened average residential bills between Florida

Power & Light and Tallahassee, where there has been an increasing divergence and the City of Tallahassee now ranks quite -- very favorably when you look at average bills as a result.

So this next slide is a -- includes all of the utility data for those utilities that report, some of the really small ones, like the Town of Havana doesn't all report EIA-861, but all the munis, all the co-ops, all of the investor-owned utilities in Florida, plotting their average monthly residential usage versus their arrange monthly residential bill, and then finding what is the correlation between those two.

Obviously, bills are a function of usage and rates. And what we are trying to find out here is what is better correlated between -- what are bills better correlated with? Are they better correlated with usage, or are they better correlated with rates? What is doing more to drive average bills in Florida?

And so our square numbers are generated there for -- for each year based on each, just a linear trend line in the correlation between average usage and average bills.

And then the same was also done for rates, which also, obviously, have a statistically significant relationship. Rates are important for determining what -- what bills are, and then finding what those correlations are.

And then all those R squared numbers, those correlations are compared for every year. And with the exception of two years, there is a better correlation between a utility's average residential customer's usage and their average bill than there is with their -- with their rate. It's -- usage is more -- is more -- more closely associated with the average bill that a utility's customer has than their rate is.

You can see examples like this with -- Gainesville Regional Utilities has been in the news a lot. They have really high rates. This is not -- there is no denying that. But when you actually look at their average bill, they actually rank quite favorably, significantly lower than the investor-owned utilities, and that's because of the usage component.

And so this next graph takes the -- the correlation of -- of DSM, which only goes back -- we only have those reports -- I was only able to find those reports back to 2001, as reported to the

EIA.

And so the -- the bottom X axis is the average residential energy efficiency savings compared to total residential sales every year. The national average is 0.72 percent, or something. Something in that range. It varies. And then versus the -- the bill changes, how much has the average residential bill changed since 1995, when we started these -- these modern practices?

And as can be seen, some of the -- there is a -- there is a strong correlation, and that the utility with -- with the most energy efficiency, Tallahassee, has seen the -- the least bill change, bill increase. And then Gainesville Regional Utilities, which is number two when it comes to energy efficiency, was also the -- had the -- had the second lowest increase in their average residential bills since 1995, compared to the other utilities.

And so we know that -- so from this data, we can see that that usage is very important for determining what -- what peoples' bills are, and that energy efficiency, you know, as its purpose is, is to lower usage, it works. It works to lower usage and -- and keep bills from -- from increasing.

I am going to briefly walk through our -- our proposed red lines. They are very similar, if not identical, to what the Southern Alliance for Clean Energy has proposed, except they are in the opposite order, so just take the inverse direction and I think they should line up.

So Attachment 1 is LULAC and ECOSWF's preferred alternative. It includes all the other changes, plus some other stuff. It does not include RIM. We don't think of RIM should be used for -- for goal setting. We think it can help as an informational item in -- in -- in program design, but should not be used in -- in goal setting, and should not be primarily relied on, and so this does not include RIM. It also includes other things, too, that we think of could be included.

So in staff's proposed rule change, for example, it deletes the whole consideration of having natural gas substitutes for electricity as part of the energy efficiency process. This reverses that, and say we should consider electrification for -- for gas, because electrification is -- is more efficient, and is a more efficient use of energy and could lower our -- our -- our dependence on out-of-state imports of gas. So that's in here as well. I would be happy to take questions on that.

Our redline Attachment 2 is the same as Attachment 1, except it keeps the RIM test for -- for the goal setting purpose and includes all the following changes.

Our Attachment 3 focuses on having a low-income goal. We believe this is important, and I believe Southern Alliance for Clean Energy explained why having a low-income goal was important, so I won't spend too much time on it, but we have some proposed language there in our Attachment 3 for -- for adopting a low-income goal.

Our redline Attachment 4 is to create an exemption for -- for low-income programs from standard cost-effectiveness requirements and free-ridership consideration. This has been something that has been the Commission's practice, especially when it comes to the program design phase.

And since this -- staff's rule change does envision creating basically, you know, proxy programs for the Commission to consider as part of the goal setting process, it seems like this would be a good point to include that, that any low-income programs would not have to meet those -- those standard cost-effectiveness requirements and free-ridership consideration.

And that's especially important, because if -- if the Commission is going to continue its -- its practice of having a specific payback screen of two years, which we don't recommend, but if -- if they are, you know, low-income customers cannot be expected to make the upfront investments that -- that pay themselves back in two years, and need an exemption from -- from a payback requirement that -- that requires them to make all to the investments that would be expected to pay back with two years. They simply just do not have the money to make those kinds of investments.

Attachment 5 deals with the -- the two-year payback that -- that has been this commission's practice. It does not appear in the rule. There is nothing in the rule that has ever said that the Commission should rely on a -- a simple payback duration for -- for dealing with free riders. We don't believe it's effective. No one has ever been able to name, even the utility's experts, what --

without, you know, looking at the spreadsheets, what measures passed, you know, what the payback period is for -- for all the measures.

I mean, the -- there is no way that lay people can know, or be expected to know the payback duration for -- for -- for measures, and so we think there -- there -- since the purpose of this rule is to bring -- rule change is to bring more information, more information about potential programs as part of the goal setting process, it makes sense that in that program design is how we should be accounting for free riders.

If there are measures that have really high adoption rates on their own, that's something that's more likely going to have free riders. If there are measures, even a payback of one year, and you can see from the adoption curve that no one is -- is adopting them. That is not something that is having a lot of free riders.

And so I think those are the kinds of things that need to be considered as this commission is doing the goal setting process, rather than an arbitrary two-year payback that -- that customers simply are not aware of.

And then finally, our Attachment 6 is to add the Utility Cost test. I won't go into all the reasons that it makes sense to include the Utility Cost test, to repeat Mr. Cavros. But simply taking the language in the rule, and basically use the -- the RIM test to create the UCT and just not include lost revenues from reduced sales as a cost.

The UCT is -- is very easy to implement. This is a -- this next slide is a spreadsheet from the last goal setting process. This is from Duke Energy -- Duke Energy, and you can see their RIM scores in the column U there, and they all are below one, meaning that they are not cost-effective on the RIM test. And you can see the -- the formula, and including where that formula is drawing its numbers from. And, you know, column M is the lost revenue.

And so to adjust the RIM test and turn it into the UCT test, all you have to do is delete the references to the lost revenue, and you have your UCT result, which is over 10 for that first measure. And then you can simply drag it down, and you have your UCT results for all the measures that Duke presented in that year. And a lot of them still fail, because they -- they don't pass the -- the Participant test, but there are ones at the bottom there of that screen -- this is just the top of the spreadsheet. It goes down quite a ways -- that now do pass because they pass the UCT test and the Participant test.

This is just a -- a spreadsheet from -- also from Duke from that -- from the last goal setting process. You can see on this spreadsheet that they are -- are familiar with, and, in fact, set up to include the Utility Cost test. And as part of all their measure, evaluation and processes, they have these spreadsheets for -- for every measure that they are considering. And at the very top -- the top line of all their -- of their test results is set up to have the Utility Cost test results and the information for it as -- I am guessing they brought this in from their other states where that -- that test is used, and so it is not -- would not be hard to implement.

And so in this last slide, I just have the numbers of -- of how it changes depending on -- on what combination you use. So originally on -- on this spreadsheet, Duke had 45 measures passing the -- the RIM, the participant and the two-year payback screen. If you use the -- the Utility Cost test plus participant test, that increases to 145.

And if you get rid of the two-year payback screen, that goes up to 247. And we also have the TRC results on there as well.

And so we believe that including the Utility Cost test would be easy for -- relatively easy for -- to implement. It's the same information that goes into the RIM test, except it doesn't include lost revenue, and would provide additional context and information for this commission to consider in -- in -- in, you know, our effort to save energy and -- and -- and save resources and drive -- hopefully at least not have our bills keep driving every upward.

I am happy to answer any questions, and that is -- that's our present presentation.

CHAIRMAN FAY: Okay. Great. Thank you, Mr. Marshall.

Commissioners, we will move next to Ms. Christensen. You are recognized.

MS. CHRISTENSEN: Thank you. Good morning, Commissioners. Patty Christensen with the Office of Public Counsel on behalf of the Citizens.

I appreciate the opportunity to provide additional input into the amending of Rule 25-17.0021, Florida Administrative Code, setting the demand-side management goals for the utilities.

We can all agree that at the last goals proceeding, there were no numericals were set for some utilities because under the current rule no programs qualified, and this created a situation that we do not want to have happen again.

OPC has previously provided numerous comments in the docket, and would ask to have those comments entered into the record of this proceeding. I will not attempt to reiterate everything that we have addressed in those prior comments, but I will attempt to provide a brief overview.

The Legislature in Section 366.82(2) and (3) provides the general directives to increase the development of DSM and the standards for developing DSM goals, which includes, A, the cost and benefits to customers participating in the measure; B, the cost and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions; C, the need for incentives to provide -- incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems; and D, the cost imposed by the state and federal regulations on the emissions of greenhouse gases.

These are the Legislature's statutory directives to establish DSM goals. The Commission should use its discretion to capture the greatest amount of DSM goal cost savings that can be achieved.

OPC agrees with the fellow intervenors in this matter, that to achieve the greatest amount of DSM, the Commission needs to expand the types of test that it considers in its goal proceedings. As we have said in our filed comments, we believe that the rule should require all the tests to be considered, the Rate Impact Measure test, the Total Resource Cost test, the Utility Cost test and the participant cost test. Each of these tests take a different perspective on looking at the customers and the general body of ratepayers cost and benefits.

The Commission should be able to weigh the results of each of these tests. And if the DSM programs pass at least two out of the four tests, then the Commission should consider implementing the goals and the programs to develop the greatest amount of DSM.

We also believe that the screen for the naturally occurring adoption of DSM measures already accounts for free riders, the two-year payback screen, and the rule applies in the additional screening for the same behavior adopting a cost-effective quick payback DSM measure. We believe that some DSM measures should look to target low-income households.

The only persons who are likely not to naturally adopt these kind of two-year payback type measures are low-income persons, who otherwise cannot afford to implement the measures.

So we believe that the two-year screen should be eliminated for low-income, and have no issue with the poverty standard that's being requested or provided by intervenors in their redline version of the rule.

OPC believes that the Commission can implement these changes in a manner that achieves the maximum DSM goals while minimizing undue rate impact.

Thank you.

CHAIRMAN FAY: Okay. Great. Thank you.

All right. Next we will move to FPL.

MR. COX: Good morning again, Chairman Fay and Commissioners.

FPL reiterates its support for the Commission's proposed amendment to the DSM goals rule. The updated rule, which we think will benefit all of our customers, is the direct result of your staff's thorough and diligent work in this rulemaking since it was opened in 2020.

Staff has worked to refine the language with input from the rulemaking participants through three workshops and numerous written comments, which culminated with your consideration at your March 7th, 2023, Agenda Conference. From these efforts, we believe the proposed rule will add clarity and transparency to the goal setting process.

Now, as your staff emphasized, I think at the Agenda, all of the utilities subject to FEECA have a need for certainty with this rule to prepare their analyses, studies and filings for the next DM goal -- DSM goals proceeding in early 2024.

In the April 25th, 2023, proposals that you have received recently from SACE, ECOSWF and LULAC, there is nothing new that has not already been considered and rejected by the Commission and the staff. The updated rule that was approved for notice at the March 7th Agenda Conference provides you with additional flexibility in setting DSM goals under FEECA. Conversely, the rule amendment proposals from SACE and ECOSWF and LULAC would result in less flexibility, a less efficient goal setting process and what we believe will be ultimately higher rates for utility customers. And I would like briefly to address three main topics raised by those parties.

First, with regard to the Utility Cost test, or the UCT as a cost-effectiveness test to be used, that's been raised numerous times throughout this proceeding. And the impact of this, what we think is unnecessary fourth test, is not fully clear, but it would no doubt increase costs for utility customers.

What we do know is that the UCT intentionally discards, as was discussed today, the RIM test's critical consideration of pressure on electric rates. The pressure on rates still exist, UCT simply ignores it.

We don't see how that adds value to the goal setting process. It would require additional and necessary work for everyone involved to develop an additional set of goas that would inevitably drive up costs for all customers through a significant increase to charges under the Energy Conservation Cost Recovery Clause.

Second, the updated rule does not need to be restricted by a blanket prohibition on time-based free rider screens. Free rider screens serve the limit those DSM measure that customers can and should otherwise implement without any incentive, thereby avoiding the increased cost to all of the utilities customers. Minimizing the amount of free-ridership as much as practical is really essential to an effective and efficient DSM program, ensuring customers are not overpaying for conservation activities.

And third, and importantly, FPL does support programs for low-income customers, and believes that the updated rule already enables the Commission to direct utilities to offer substantial low-income programs that include a variety of energy efficiency measures with paybacks of less than two years. In fact, we are already offering some of those measures today.

FPL's current residential low-income program provides free installation of energy saving measures, such as LED lightbulbs, air conditioning checks and duct seal, weatherization and water heater pipe wrapping. Both homeowners and renters can participate in the program.

Now, as a part of the 2024 DSM goals filing that we will be making early next year, FPL intends to propose a significant expansion of low-income customer offerings while, at the same time, being cognizant of upward pressure on customer rates for the general body.

Preliminarily, we are in the process of analyzing additional low-income offerings, such as professional air conditioning tuneups and system cleaning, duct repair and testing, addition of ceiling insulation and recycling of extra refrigerators, as well as measures funded through the Federal Inflation Reduction Act for installation of heat pumps, heat pump water heaters and ceiling insulation.

FPL is -- FPL is also exploring more ways to directly help customers who rent, and reviewing the prospect of encouraging rental property owners to make energy efficiency investments that would benefits their tenants.

In summary, Commissioners and Chairman Fay, we believe appointments that were proposed by the other parties should be rejected. The updated truly that you approved in March, that your staff supports, will improve the process for establishing goals, programs and plans, thereby, allowing utilities to bring innovative programs to our customers while continuing to keep rates low, ensuring that DSM goals and programs appropriately balance costs and benefits.

Thank you for this time today, and we are available for any questions.

CHAIRMAN FAY: Okay. Great. Thank you.

Next we will go to Duke.

MS. CUELLO: Good morning. I would say Duke Energy agrees with a lot of the comments that were made by FPL. And since we are not aware of any material changes to the facts or circumstances surrounding this proceeding, we would -- we support the rule as proposed by staff. And then we have myself or Tim Duffy if you have any questions.

CHAIRMAN FAY: Okay. Great. Thank you.

Next TECO.

MR. MEANS: Good morning, Commissioners.

Based on the Chairman's caution about repeating prior comments, I will just say that we echo and support the comments made by Florida Power & Light and Duke Energy Florida. But also, as you consider the public comments on the proposed rule here today, we just wanted to highlight Florida's long history of offering meaningful energy efficiency programs to utility customers. In particular, Tampa Electric has been offering cost-effective energy efficiency programs since 1978, when the company started its first residential walk-thru energy audit program.

Following the enactment of FEECA in 1980, the company began expanding its demand-side management programs to include other energy efficiency and load management programs, such as heating and air conditioning, commercial energy audits and residential load management.

Between the establishment of FEECA in the end of 2022, these efforts resulted in cumulative summer demand savings of over 800 megawatts, winter demand savings of over 1,300 megawatts, and annual energy savings of over 1,800 gigawatt hours.

Tampa Electric has also a history of supporting energy efficiency programs designed for low-income customers. The company's neighborhood weatherization program offers comprehensive energy efficiency kits that include 12 energy saving measures, such as LED lamps and low flow shower heads. Since the inception of this program, Tampa Electric has served 70,751 low-income households, including 9,158 just last year. The company fully intends to continue this practice of promoting energy efficiency for low-income households.

We would like to conclude by thanking your staff for their efforts in preparing the proposed DSM rule that you adopted at the March 7th Agenda Conference. We believe that the proposed rule will add clarity, flexibility and transparency to the goal development and plan development process, and will allow Tampa Electric to continue providing cost-effective energy efficiency programs to customers, and we encourage you to proceed with the adoption of the rule as proposed.

Thank you.

CHAIRMAN FAY: Okay. Great. Thank you.

All right. Next we will move to FPUC.

MS. KEATING: Thank you, Mr. Chairman and Commissioners.

FPUC agrees with the comments of our other IOU colleagues, but I just want to emphasize a couple of quick points. As others have said, flexibility is a key component of staff's changes to the proposed rule, and one that may open doors to create solutions to some of the challenges around ensuring that all customers see the benefits of DSM and conservation programs.

And as a utility that serves two very different service areas with very different customer segments, FPUC views enhanced flexibility as an opportunity, as well as a challenge, to get creative when it comes to designing programs that bring the benefits of conservation to all its customers.

With regard to the proposals that the intervenors, FPU shares the concerns of the other IOUs, and is concerned that the intervenors' proposals could actually reduce the Commission's flexibility, while also all adding additional delay, work and likely cost to the process. That won't enhance the implementation of FEECA and it won't facilitate creative approaches.

As such, FPUC supports the proposed rule as it stands, and asks that the Commission reject the additional proposals of the intervenors.

CHAIRMAN FAY: Okay. Thank you, Ms. Keating.

Next we have OUC, Mr. Wright.

MR. WRIGHT: Thank you, Mr. Chairman and Commissioners. Good morning. Thank you again, and thanks again to the staff for pushing this process along for these last two-and-a-half years.

We support the proposed amendments, or the proposed -- proposed rules as they stand and set forth in the Commission's order, because they will promote efficiency, and they will give the Commission additional information to move forward in goal setting, because you will now have portfolios of programs that will meet the various tests, as you -- so you will have all the information you need there in setting goals that -- based on knowledge of the utility's programs.

Finally, I just simply want to affirm to the Commission that we -- excuse me -- we thought and talked a lot about this at OUC, and we affirm to you that we can is work with the rules as proposed to continue to develop and to implement programs that will meet the needs and best interests of the Orlando community, all of our customers and all of our citizens, even though, frankly, a lot of our programs don't pass the cost-effectiveness test.

Thanks very much.

CHAIRMAN FAY: Okay. Great. Thank you.

All right. Showing no other interested persons, we will move to questions, Commissioners, for either staff or the affected persons here today. So -- so either one, just let me know who you would like to address, and we will make sure we have staff avail -- the right staff available and/or the affected person, just let me know who you would like to direct those to and we will make sure they are able to respond. Seeing any questions on the rule.

Commissioner Passidomo, you recognized.

COMMISSIONER PASSIDOMO: Thank you, Mr. Chairman.

Yeah, I have a couple of questions. I really just kind of want to flesh out this -- the -- how comprehensive it is what -- to add the UCT test, because we had Mr. Marshall kind of go through seemingly that it would not be -- that it would seem simple enough. You would just remove the lost revenues. So if I could have one of the utility representatives explain why it would be more -- more comprehensive, and that maybe needing a follow-up from our staff about what that would mean as it -- as it -- as it applies to SERCs and all of that. It this, like, a linear process here?

CHAIRMAN FAY: Yeah. And, Mr. Wright -- I know you have an expert with you. If you prefer to have that question answered in more detail by the expert, that's fine, too.

MR. COX: Yeah, I will ask Mr. Floyd to come up here in just a moment, but I will start out by saying, Commissioner Passidomo, that you saws that the Duke information that was presented to you today about their doing the UCT, and then it is some incremental work. It would require developing programs to meet specific goals for that. It's not just the calculation, right?

But, you know, the biggest thing for us I think at the end of the day is that when you -- when you -- when you rely on UCT for your goals, you are essentially saying you are not going to consider which way DSM puts pressure on rates, and that's our biggest consideration.

But I am going to let Mr. Floyd step up here and add anything to what I missed in terms of the work involved to do that.

MR. FLOYD: Thank you. Good morning, Commissioners. John Floyd with the Florida Power & Light.

So the question about UCT, as -- as Will just mentioned, is not simply doing a recalculation. There is a significant effort to develop a third scenario of programs to be considered in this proceeding. The proposed draft already brings forward the program development effort into the goal setting docket for both the RIM and TRC scenarios, and this was something that was previously done after the goals were set.

And FPL recognizes the benefit of -- of considering programs in the goal setting process that are associated with these two scenarios, but adding a third scenario here is effectively a 50-percent increase in the effort to provide programs associated with a -- a -- another cost-effectiveness construct. And -- and -- and we don't believe that that really provides any meaningful information that is not already provided through the other scenarios of RIM, and TRC, and the Participant consideration.

CHAIRMAN FAY: Does that answer your question?

COMMISSIONER PASSIDOMO: Well, a little bit of follow-up.

So you don't think it's beneficial for the Commission to have an additional test, a tool that the Commission can use, there is no additional benefit to having that?

MR. FLOYD: Well, again, in terms of just a calculation, it's a -- it's a relatively straightforward thing to do, but in terms of building an entirely another set of, or scenario of programs, it is a 50-percent increase, you know, in that effort. And at the end of the day, you already have, through the TRC, and RIM, and Participants test, the information to evaluate how programs affect the general body of customers, how they affect nonparticipants and how they affect participants.

COMMISSIONER PASSIDOMO: Mr. Chairman, do you mind if I ask a question of staff now just --

CHAIRMAN FAY: Go ahead.

COMMISSIONER PASSIDOMO: -- given that information?

Okay. So, you know, with that being said, then that would -- I know we've had some discussions about how that would impact the SERCs. And so if -- if it is much more comprehensive and we are going to add a lot more costs, we would have to go through a SERC process and a revised SERC if that's, you know, you want to comment on that? And then a follow-up also would be, like, how that's going to impact the timeline of implementing a new rule before the next goals proceeding.

MR. RUBOTTOM: Thank you, Commissioner.

If the -- the statute requires that if a change made to the proposed rule would increase regulatory costs, the Commission would be required to amend the SERC that has already been prepared based off of the proposed rule. And so if we have specific language, if the Commission has specific language, we can -- we would need to investigate what that increase would be. And depending on the results of that, if it's above a certain threshold, legislative ratification could be required.

And so any -- any increase would require, by statute, an amended -- an amended SERC, and so we would just need to find out what that increase would be, potentially do a data request if the utilities aren't prepared at this time to -- to answer the details on how much that increase might be. But we would have to amend the SERC to match any potential change the Commission considers.

COMMISSIONER PASSIDOMO: So this could potentially draw out this process, where we would not have a new rule in place before the next goals proceeding?

MR. RUBOTTOM: Potentially. I don't know exactly how long it might take, but amending the SERC, you know, would -- would potentially require a little bit more time, which would then push out likely the -- the Commission's ability to vote on whether to make that change, and then push out the window on adopting the rule.

COMMISSIONER PASSIDOMO: Thank you.

Thank you, Mr. Chairman.

CHAIRMAN FAY: Okay. Great.

And I don't know if Duke or the other utilities have anything they wanted to add, especially since your spreadsheet was used in the presentation.

MS. CUELLO: I would just like to add Duke, our concern is also the material increase in costs that would affect our clause dockets if we were to implement this test.

Iffy you want any further information, more technical, we can answer that as well, but that is also our main concern, is the additional cost in implementing this.

CHAIRMAN FAY: Okay. Great.

And I want to go to Commissioner Graham, but I want to make sure just on this issue, if possible -- and I don't know if it would be Mr. Floyd or another expert. I would like some clarity as to this idea of developing the program side of it. So I know we -- we can look at a spreadsheet and say if we include a certain formula, and we put a zero in one spot, we can run all those numbers. But to me, it's important to you understand, would that mean bringing in a bunch of other programs that maybe weren't previously considered to then see if they would meet that test?

So I am sure there is industry, sort of, common standard programs, the LED bulbs, those types of things, and then there is others that require you to be more creative. And if you have got that additional test, is it -- do you -- do you have to -- how do you go about bringing in those additional potential programs that would -- would qualify?

MR. COX: I will let Mr. Floyd comment on that. But I will say, Chairman Fay, with the way the rule is proposed, it does require us to develop programs to meet the specific goals, and that would be part of our filing. So if we were to have UCT, and you see a prospective increase in -- on the screen right now of how many programs we would have to add, that would involve a significant amount of work, but I will let Mr. Floyd comment on that further. Thanks.

CHAIRMAN FAY: Okay.

MR. FLOYD: Chairman, I think your perspective on that is -- is on track. And if you think about the -- just that table that is on the screen right now, adding a -- a UCT framework to developing programs does potentially bring in more measures to be considered into a program design, potentially different types of programs that would be created and put together under that kind of construct. And that effort in itself, it is a significant effort. To essentially start with, okay, now we have a different framework, a different set of measures that are being considered, building that up.

As I mentioned earlier, we are already doing that for the RIM scenario and the TRC scenario. And so adding yet a third scenario, and set of measures, and potential program designs, effectively, you know, is a very significant increase in the, you know, in the effort to -- to propose the programs and the associated goals.

CHAIRMAN FAY: Okay. And then knowing that there -- just with this whole rule process, there is -- there is some intent to kind of move forward with what's out there in the rule and update it, are you still going to have to -- even if the UCT wasn't included, are you still going to have to go out and -- and consider some creativity and ways to bring in new programs to satisfy what the statute is requiring of us?

MR. FLOYD: Yes. Absolutely. We will -- we will definitely have to do that.

As it -- as the rule is proposed, that will be done in two scenarios. Whereas, as I mentioned earlier, in the previous process, we first set a goal, and then just went and developed one set of -- of programs associated with that goal.

But one of the things that -- that we support about this change is that it gives the Commission now two sets of -- of programs to evaluate in determining what the appropriate goals should be. So it's -- it provides much more information than -- than you had previously, and it -- and it gives the utilities an opportunity to consider new things maybe that had not been considered before, because now we'll be developing potential programs under each of these cost-effectiveness frameworks.

CHAIRMAN FAY: Okay. Great.

And then just one quick question for staff. I think historically we have seen where the utilities will bring forward programs that maybe don't specifically meet the criteria or the threshold of one of these tests. Is there any prohibition if --

if numbers are run and something does not meet either test, that they would -- they would be prohibited from bringing it to the Commission to say, we think this is a good program, and here's reasons why, and we could still accept it without being in conflict with kind of what the rule requires?

MS. THOMPSON: No, Commissioner. Usually in the program approval proceeding, specifically the low-income program specifically don't pass the Rate Impact Measure test, but we still approve it. So it doesn't prohibit them from presenting programs that don't -- that fail the RIM test, like low-income programs.

CHAIRMAN FAY: Okay. Great. Thank you.

Commissioner Passidomo, anything follow-up or are you good?

COMMISSIONER PASSIDOMO: No, I am okay.

CHAIRMAN FAY: Okay. Commissioner Graham, you are recognized.

COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

First of all, it's kind of weird seeing Mr. Wright on the generation side of things.

MR. WRIGHT: I am glad to be here. Thank you.

COMMISSIONER GRAHAM: It's an absolute rarity, but I am glad to see you are flexible.

I have a question, Mr. Marshall, on your presentation. I think it was the first -- the first chart, average monthly bill. This looks so different than whenever I see these numbers, as far as how we compare to other states. Explain to me again what numbers we are looking at here.

MR. MARSHALL: So in this -- it's the 2021 average monthly bill residential. This is from the Energy Information Administration.

What they do is they take all the data from -- from all the utilities that is submitted. And so they look at all the revenue that comes in from the residential customers for all the utilities in the state, and then basically divide that by the -- the number of customers in the state, and -- and calculate an average monthly bill based on that data. And so it is not -- well, obviously rates go into how much people pay, but does not consider rates.

Most of the comparisons that this commission presents on its website that are made to this commission are what is a bill based on a thousand kilowatt hours. This does not consider a thousand kilowatt hours. It considers -- it reflects the actual usage. And so a lot of states have usage that is a lot lower than a thousand kilowatt hours, and others, like Florida, have usage that is above a thousand kilowatt hours. And so all of that data goes in, together it's usage and rates to create bills, and then you actually have your -- your average bill.

And so this information for 2021, this is just from the Energy Information Administration. I didn't do anything to it. The 2022 is -- is my calculations based on the preliminary data that was submitted by the -- the major utilities, including the investor-owned utilities and other major utilities, like JEA.

COMMISSIONER GRAHAM: So this does not include, like, the hurricane damage and that sort of stuff. This is just --

MR. MARSHALL: So -- well, 2021, I -- well, there is certainly hurricanes reflected in, like, certainly for -- for Gulf customers. And so that revenue, that would be reflected in the average monthly bill. So it includes everything.

COMMISSIONER GRAHAM: So it is included in this?

MR. MARSHALL: Yes. So that helps drive up --

I mean, that is -- you know, that's a factor that drives up Florida bills for sure, is hurricanes.

COMMISSIONER GRAHAM: And what this does not include, because I spent time, lived up north, and I remember that fuel oil truck come along and dragging that hose out and filling up the fuel in the basement, running that boiler. And so if you are living up north, you are heating with oil and not with electricity. So that's not reflected in this?

MR. MARSHALL: Well, it's reflected in the sense that bills up north would have -- would have lower usage, because they are not using electricity to -- to heat, so it's reflected in that they would probably have, consequently --

COMMISSIONER GRAHAM: So it -- it makes us look worse because they are not using electricity to heat the house in the wintertime.

MR. MARSHALL: Right. And so that's why the rest of the presentation goes into the comparison between Florida utilities, to try to show whether is it all utilities? Are we all doing the same? Or is just because we are in Florida? Or is there a difference between the investor-owned utilities and the other utilities?

Because you are quiet right, Commissioner, in that, yes, other states have lower usage because they do rely on predominantly non -- you know, other sources than electricity to provide heating, for example, in the winter, and so, thus, they would not have -- they would have lower usage, which would be reflected in -- in lower bills.

COMMISSIONER GRAHAM: Because I am sitting here looking at this, and we have always seen that the numbers in the southeast are always better than most of the rest of the United States. And here, you have got all of the southeast up at the top, which is the worst category --

MR. MARSHALL: Yes, the southeast --

COMMISSIONER GRAHAM: -- I just wanted to make sure I was reading this correctly.

MR. MARSHALL: You are reading it exactly correctly. The southeast does have the highest average electricity bills in the nation because, I think, in part because of higher usage, and in part, that is because -- well, I think in part, why we are here today, is because we argue that it lacks energy efficiency, but part of it is also, for sure, that electricity is used for heating in large parts of the south, and in other parts of the country it's not so. And so we do have, on average, the highest, in the southeast, some of the highest electricity bills in the nation. Hawaii is -- is -- is at the top. They obviously have their own issues, extremely high rates, et cetera, but we are --

COMMISSIONER GRAHAM: I just think this is kind of misleading.

MR. MARSHALL: It's -- it takes into account usage and rates together. And so we have lots of things that drive up our usage, and -- and certainly, I would argue one of them is our lack of energy efficiency, as seen by the divergence, increasing divergence between the investor-owned utilities in Florida and the municipal utilities.

COMMISSIONER GRAHAM: Thank you.

CHAIRMAN FAY: I just have a quick follow-up.

I mean, to your point, you pulled the EIA data, and -- and they are typically a little bit behind for you to get, like, a full year picture obviously. But I guess they don't provide, like, a BTU comparison, or something that would be the equivalent energy used that, you know, maybe you could be better apples to apples. This the kind of the only data that they provide, is that why you pulled -- because to Commissioner Graham's point, there is the holistic bill and the use of natural gas or other fuels -- other fuels to heat and the obvious use of electric in the southeast, so this is all they had, I guess, essentially for you to reference?

MR. MARSHALL: I was only look -- honestly, Mr. Chairman, EIA has so much data, I -- I don't know the answer to that questions. I was solely looking at electricity data, and this is solely reflecting of electricity usage and data.

CHAIRMAN FAY: Okay. Got you.

All right. Commissioner Clark, you are recognized.

COMMISSIONER CLARK: Thank you, Mr. Chairman. Yeah, I wanted to make a couple of comments. And, Commissioner Graham, you hit right into one of my key concerns, is that sometimes we look at data, and -- and overall, the data looks like it presents an interesting picture. When you really get down to it, I take some serious exceptions to some of the data.

And, Chairman, you are right on target as well. There are other things that could be considered, and you can do a BTU calculation to look at total energy costs. We typically look at heating degree days and cooling degree days. That's a great comparison. I know EIA also -- EIA also gives that information out. But when you look at the number of cooling degree days in Florida, Alabama, Georgia, compared to the rest of the country, you see a pretty significant increase.

You also, you know, have to make some comparisons. I am speaking just in general. I spent a lot of years working in energy efficiency, and -- and I am a huge advocate for helping customers figure out ways to lower their bills. But I am also an advocate that that is where the responsibility lies. It lies with the customer predominantly. They have to make those decisions and choices.

And we are not helping that in a lot of cases. We are continuing to promote certain types of technology that can be improved, and can make a significant difference. And I think that the most prominent place that we could do that is not necessarily from the Public Service Commission's perspective, but from our building code endorsements, and -- and taking a -- a stronger look at energy efficiency when it comes to the building code.

There is some other things. We don't look at fuel costs. You don't look at average fuel cost based on the states. Kentucky, for example, you know, they would be primarily generating with coal. Some of the Virginia -- West Virginia, Virginia, would be generating with coal. You are going to have a typically lower production cost. Look at the states that are primarily fueled with nuclear, and what those average costs are. I noticed Tennessee, they had the TBA system with extraordinary rates for a number of years, and I think that kind of thing is false.

So when you start looking and comparing average retail cost, you have to know the fuel cost that the generation sources are mixing with. And then when you begin to talk about the number of kilowatt hours used on an average per state, one of my first considerations is price.

You see California using half the kilowatt hours that the state of Florida uses. At 22 cents a kilowatt hour, you can obviously argue that higher average prices are going to force lower usage. I mean, that's kind of economics 101.

You also see the tradition. You presented back from 1990 going through 2019, showing the increase in kilowatt hour consumption over the time period. And there is a thousand reasons. Look at the homes that are bigger than they used to be. I grew up in a house that had one television. I think I have six in -- in my house. The number of things that we brought from the outside and have added to our houses today have gone up dramatically over the years.

And I just want to hit one last issue, and I have got 25 items and I am going to quit after this.

One on the RIM test, the RIM test is important to me. I think it is the single most important thing that we, as a commission, can look at. I want to know what the impact is on the consumer. And when you begin to look and take out lost revenue, and that's everybody's big objection to the RIM test, is what happens to lost revenue. But any kilowatt hour that you lose from sales drives the average price of every other kilowatt hour up until you get beyond 100 percent load factor. And I don't think we've got a utility company in here that's even remotely close to 100 percent load factor.

Now, I will submit that as we've gone to more gas generation, which is probably not our best move ever, we probably have more ability to ramp up and control our load factor during those times of peak demand. But the bottom line to it is we are still raising the average cost for every single customer when you don't consider the RIM test, and you -- you throw lost revenue out of this equation.

And I would just say, Mr. Chairman, I have reviewed the staff's draft. I like what the staff has. I have don't necessarily -- I am not necessarily in favor of having the two separate tests being proposed. But then again, I am simply -- RIM test is good enough for me, but having both of them, having the utilities go through both of the programs, I agree, it's going to be a little bit more work. We are going to end up eating a little more cost on it -- the customers, excuse me, are going to eat a little more cost on it. I don't think it's significant enough to throw it out, as long as we are not bound in any decision that we make by the tests that come in, we still have the prerogative to give that the necessary weight that it deserves, and we can chooses which one of the ones we go with and implement, then I am in favor of staff's recommendation, and hope we can get through with this today.

CHAIRMAN FAY: Okay. We will go to Commissioner La Rosa next.

COMMISSIONER LA ROSA: Chairman, thank you.

And honestly, I don't know how to follow that up rather than just saying ditto, and I feel a very similar sentiment. At the end of the day, I feel that I don't want our hands tied either, or handcuffed. I do want to make the decisions ultimately freely.

I do have a question, I guess maybe just to clarify, because data means a lot to me, and I do -- I do make a lot of decisions based on data.

So looking -- I am sorry, this is to you, Mr. Marshall. Looking at the presentation, on the second page, you broke down -- and I think this question was asked, but I am just clarifying -- you broke down the list of states, and then you added the two big municipals, OUC and JEA. So if I am understanding, what that does is bump Florida up to number nine from -- from that perspective, but I guess I am prying trying to verify is OUC and JEA's rates are included this that.

MR. MARSHALL: So the second one for 2022, it includes JEA but not OUC. OUC did not report the data for -- for 2022 yet. So it's just the IOUs and JEA.

COMMISSIONER LA ROSA: I am glad I asked that question then.

So my understanding is that reading that, that basically moves Mississippi down below us, but that, at the end of the day, still keeps us relatively lower cost than all the other southern -- southern states, if I am reading that right. Is that correct?

MR. MARSHALL: Yeah, generally, there are -- yeah, Alabama has always been one of the highest states, and that's --

COMMISSIONER LA ROSA: Texas, Louisiana, Georgia, South Carolina --

MR. MARSHALL: Yep, and then you have Tennessee below us, and -- yeah.

COMMISSIONER LA ROSA: Sure. Okay. Thank you.

Thank you, Chairman. I am good.

CHAIRMAN FAY: Great.

Commissioners, any other -- any other questions?

With that, I know Commissioner Clark is, I think, prepared to make a motion on it. I won't -- I won't -- well, let's do -- let's do this first, Commissioners. Let's just make sure that we don't have any objection to taking this up today as a bench decision. If anybody does need more time, I know we -- this has been a long time for the rule workshops and the hearings, so as long as we are comfortable taking it up today.

Mr. Rubottom, if we take a -- a bench decision up today, what would the process be for the rule going forward after that?

MR. RUBOTTOM: If -- if the Commission makes a bench decision to make no change to the rule, we would proceed with adoption of the proposed rule as -- as it was proposed in the March Agenda.

If a change is made, we would need to clarify a few, issues confirming specific language and the potential impact on regulatory costs, things like that. But that's only in the case that the Commission is considering making a change to the rule today.

If, like I said, no change is -- is in the Commission's -- under the consideration by the Commission, nothing further would need to be done. We would -- staff would proceed with adoption of the rule in the coming days.

CHAIRMAN FAY: Okay. Great.

With that, then, Commissioners, we will go ahead and take this up.

I would just like to make some brief comments. I don't want to be repetitive from the previous hearing that we had, and my positions on those issues. I do think the more information on -- on these tests, the better for us to make decisions on going forward. And I know the way it's set up that sometimes it's every five years, it could be less to come up.

But one thing I did hear today that does gives me optimism about this going forward is the openness for the utilities to have creativity to provide programs that meet some of these requirements. And I think, in particular, the low-income one is that we hear -- we hear a lot about. And I think other state commissions grapple with this, and under setting rate structure, how valid that is, and if you are even able to do that. And so I think just the broad sort of approach that the inclusiveness of those goals are -- they are neither prohibited nor required, I think probably puts us in the right legal posture to allow some of that to be done, and some creativity applied.

And so even though I am -- even though I am not great at math, and I think I can do my math up here, I still think, going forward, there will be some optimism as to what we will see for these programs. And once again, my point just being that I really want to make sure we are consistent with what the Legislature directed us to do, and that we don't find ourselves with the situation where we have zero in front of us, or near zero.

So with that, Commissioners, if there are any other comments, otherwise, I will take a motion from Commissioner Clark.

Commissioner La Rosa.

COMMISSIONER LA ROSA: Thank you, Chairman.

And I don't -- I don't want that point to be missed, is that this is -- this was, by no means, a waste of time. I mean, the truth of the matter is, is that I went back and reviewed a lot of the stuff that was provided us to, and went black to -- to other things that we've -- that' we've heard and before this commission before.

So with that, Chairman, I -- I -- I agree partly with -- with what you are saying, is that I think that this should not be taken for granted at the end of the day. And I think, you know, going through these questions, staff did a good job of -- of going through things with me.

And again, you know, we may look like we are rushing to a decision. I don't think we are. There is a lot that's happening behind the scenes, you know, certainly, from my -- from my behalf and my staff, and working with staff here at the Commission, there is certainly a lot of thought that's gone into it and this.

And this -- you know, I did come back a second and third and fourth time and review this, even though I thought of this one way beforehand. So thank you, and that's certainly a point well -- well made, Chairman.

Thank you.

CHAIRMAN FAY: Commissioner Graham.

COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

The last time this came before us, I think it was March? March. And I had a lot of -- a few people ask me afterwards why I voted against this thing, because I just voted, so I figured I would let everybody in on my secret. Not that it's been a secret. I think I have been saying this for the last 12 years, that I find a big problem with the standard.

I find a big problem with you are asking everybody that pays a residential bill to pay into the DSM program. But the problem you run into is for them to realize any of the benefits, for them to use any of the incentives, you have to be replacing the refrigerator in your home. You have to be replacing the dishwasher in your home. You have got to be replacing some of these other large appliances. But if you are a person that rents -- and I appreciate Florida Power & Light talking about this earlier -- if you rent, you are not going to be replacing those things, but yet you are paying into the fund that pays for those incentives.

So what does this do -- what does this program do for those people that rent, that pay into this fund but aren't realizing any of the benefits? That's one of the big problems I have.

You sit back and think. It's roughly about a third of your customers are paying into something that they can't touch. And that's where I think it's very problematic in this whole thing. And that's why I don't have a problem with zero goals, because any minimum impact is what we are going to deal with.

I think one of the fix for those is the low-income problem -- the low-income program. I think that helps a lot of the low-income people that are renting, that now they can see some sort of benefit out of that. But renters aren't all low-income people. There is a lot of, you know, medium income people and high income people that are renting now, and so where do they get their benefit from this?

I think if you get rid of this two-year payback, I have a problem with that. And a lot of people say, well, that's how you deal with the free riders. Well, maybe 10 -- maybe 15 years ago I think that dealt with the free riders, because if you were going to switch out your LED lights back then, then you would have done it by now. By now, 15 years later, if you're not -- if you haven't changed them out yet, you are not going to change them out. The only thing -- the only reason why you are going to change them out now is through some sort of incentive.

So I think it's no longer freely riders anymore. I think the incentive gets people to start making those changes.

You start talking about putting the film in your window. Some of these other things that are least expensive, but still have an impact when it comes to energy efficiency. And that's why I think you should get rid of this two-year payback.

I don't have a problem with the tests you want to run. I don't have a problem with the rest of this stuff. I mean, let everything deal with its merits. If it passed the test without the two-year payback, then so be it. I think it should be part of the program. And that's what my issue is right now with what we have before us.

Thank you.

CHAIRMAN FAY: All right. Great. Thank you, Commissioner Graham.

Commissioner Clark, I am going to go to you, but I just -- before I do, I just want to make very clear, and Commissioner La Rosa mentioned this. A lot of time went into getting to this point, and I appreciate the interested persons' engagement on this, and I appreciate our staff's engagement. I think we are -- we are coming up on essentially the -- the 30 years anniversary of since this rule was put into place, and there hasn't been a material change since then. And so this is a heavy lift just to make any change in this rule, and that goes to the proof of it hasn't been done previously since the origination of the rule.

So I want to thank the interested persons, but also our staff, for working through this for us, and making sure that we took the time to get the information and make a decision on it that we think will be valuable, and I hope going forward, we will see the results of that -- that decision that will lead to programs and goals that will be appropriate for us to review and approve. So just thank you for the time that's been spent on this. I really do appreciate it.

And with that, Commissioner Clark, you are recognized.

COMMISSIONER CLARK: First, let me thank my fellow Commissioners for apologizing for my rant. I don't -- I don't mean to seem ungrateful to the parties by any stretch of the imagination.

I do appreciate any time we have an opportunity to go back and to take a look at any decision we've made, or anything that this commission does. It's extremely important to me. This just happens to be one that I am kind of a little pigheaded on. I will be the first to admit that I am set in my ways, so I think I may not understand a lot, but I think I have a descent grasp of this one, so it's going to take a whole lot to change my mind.

With that said, Mr. Chairman, I would offer a motion to accept the staff's modifications to the rule and to submit those as proposed.

CHAIRMAN FAY: Okay. So there is a motion to approve staff's rule as proposed. Do we have a second?

COMMISSIONER LA ROSA: Second.

CHAIRMAN FAY: Okay. A motion and second.

All that approve say aye.

(Chorus of ayes.)

CHAIRMAN FAY: Voting no?

COMMISSIONER GRAHAM: No.

CHAIRMAN FAY: Voting no. Okay. With that, show the rule, as proposed by staff, approved with a 3-2 vote.

Commissioners, let's make sure that we are in the right posture going forward. So since that rule has not changed, Mr. Rubottom, just clarify for us how you will move forward with that.

MR. RUBOTTOM: Mr. Chairman, at this point, with a vote not to change the proposed rule, staff will proceed toward adopting the rule and filing it with the Department of State in the coming days to -- to adopt it as proposed with no change.

CHAIRMAN FAY: Okay. Great. And that will give us sufficient time to then get information back on those goals?

MR. RUBOTTOM: As far as I am aware, it should --

CHAIRMAN FAY: Okay.

MR. RUBOTTOM: -- it should not delay the process, but we are -- we are -- it will not delay it from the original timeline.

CHAIRMAN FAY: Okay. Great. Thank you.

Commissioners, any other thing before we adjourn?

With that, show this meeting adjourned. Thank you.

(Proceedings concluded.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED this 16th day of May, 2023.

DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024