

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

- In re: Commission Review of Numeric) DOCKET NO. 20240012-EG
Conservation Goals)
Florida Power & Light Company)
_____)
- In re: Commission Review of Numeric) DOCKET NO. 20240013-EG
Conservation Goals) (Florida Rising and LULAC only)
Duke Energy Florida, LLC)
_____)
- In re: Commission Review of Numeric) DOCKET NO. 20240014-EG
Conservation Goals) (Florida Rising and LULAC only)
Tampa Electric Company)
_____)
- In re: Commission Review of Numeric) DOCKET NO. 20240016-EG
Conservation Goals) (Florida Rising only)
JEA)
_____)
- In re: Commission Review of Numeric) DOCKET NO. 20240017-EG
Conservation Goals) (Florida Rising only)
Orlando Utilities Commission)
_____)

**FLORIDA RISING’S, ENVIRONMENTAL CONFEDERATION OF SOUTHWEST
FLORIDA’S, AND LEAGUE OF UNITED LATIN AMERICAN CITIZENS’
PREHEARING STATEMENT**

Florida Rising, Inc., Environmental Confederation of Southwest Florida (“ECOSWF”), and Florida League of United Latin American Citizens (“LULAC”), by and through their undersigned counsel, and pursuant to Order No. PSC-2024-0022-PCO-EG, Order Consolidating Dockets and Establishing Procedure, hereby submit their Prehearing Statement.

I. Witnesses

All Known Witnesses:

| <u>Direct Witnesses:</u> | <u>Subject Matter:</u> | <u>Issues Nos.:</u> |
|--------------------------|---|---------------------|
| MacKenzie Marcelin | The needs of low-income and marginalized communities, Florida’s historical energy efficiency performance including the effectiveness of prior energy efficiency goals in keeping rates low, recommendations for utility-specific goals to address the needs of low-income households, and all other matters addressed in pre-filed testimony. | 1-5, 7-9, 12 |

All witnesses listed or presented by any other party or intervenor.

Impeachment and rebuttal witnesses as needed.

Any witness revealed during continuing discovery or other investigation.

Authentication witnesses or witnesses necessary to lay a predicate for the admissibility of evidence as needed.

Standing witnesses as needed.

II. Prefiled Exhibits

Florida Rising, ECOSWF, and LULAC will sponsor the direct exhibits as set out below. However, Florida Rising, ECOSWF, and LULAC reserve the right to use other exhibits during cross examination of any other party’s or intervenor’s witnesses and will file a notice in accordance with the orders governing procedure identifying any documents that the utilities claim to be confidential which Florida Rising, ECOSWF, and LULAC may use during cross examination.

| <u>Witness</u> | <u>Proffered By</u> | <u>Exhibit #</u> | <u>Description</u> | <u>Issue Nos.</u> |
|--------------------|-------------------------------|------------------|---|-------------------|
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-1 | 2023 State Average Monthly Bill – Residential | 2-5, 7, 12 |
| MacKenzie | Florida | MM-2 | 2022 State Average Monthly Bill | 2-5, 7, 12 |

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|-----------------------|--|-------|--|------------|
| Marcelin | Rising, ECOSWF, LULAC | | – Residential | |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-3 | 2021 State Average Monthly Bill – Residential | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-4 | 2020 State Average Monthly Bill – Residential | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-5 | 2019 State Average Monthly Bill – Residential | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-6 | 2018 State Average Monthly Bill – Residential | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-7 | 2017 State Average Monthly Bill – Residential | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-8 | 2016 State Average Monthly Bill – Residential | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-9 | 2015 State Average Monthly Bill – Residential | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-10 | 2014 State Average Monthly Bill – Residential | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-11 | TECO's Answers to FLL's 1st RFA | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-12 | 2023 Utility Average Monthly Bill - Residential | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, | MM-13 | 2022 Utility Average Monthly Bill - Residential | 2-5, 7, 12 |

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|--------------------|-------------------------------|-------|---|------------|
| | LULAC | | | |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-14 | SACE Energy Efficiency in the Southeast 5th Report (2023) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-15 | FPL DSM Annual Report (2023) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-16 | DEF DSM Annual Report (2023) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-17 | TECO DSM Annual Report (2023) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-18 | JEA DSM Annual Report (2023) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-19 | OUC DSM Annual Report (2023) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-20 | FPL 10-Year Site Plan Excerpt (2024) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-21 | DEF 10-Year Site Plan Excerpt (2024) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-22 | TECO 10-Year Site Plan Excerpt (2024) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-23 | JEA 10-Year Site Plan Excerpt (2024) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-24 | OUC 10-Year Site Plan Excerpt (2024) | 2-5, 7, 12 |
| MacKenzie | Florida | MM-25 | Utility Energy Efficiency | 2-5, 7, 12 |

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|-----------------------|--|-------|--|--------------|
| Marcelin | Rising, ECOSWF, LULAC | | Performance | |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-26 | FPL Low Income Program Workpapers | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-27 | FPL DSM Report (2019) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-28 | FPL DSM Report (2014) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-29 | FPL Response to FEL's 1 st Interrogatories | 2-5, 7-8, 12 |
| MacKenzie Marcelin | Florida Rising, ECOSWF, LULAC | MM-30 | FPL Expenditures on Load Control Programs | 2-5, 7-8, 12 |
| MacKenzie Marcelin | Florida Rising, LULAC | MM-31 | Duke Spending on Industrial and Commercial Customers | 2-5, 7-8, 12 |
| MacKenzie Marcelin | Florida Rising, LULAC | MM-32 | Duke Response to FLL's 1st Interrogatories | 2-5, 7-8, 12 |
| MacKenzie Marcelin | Florida Rising, LULAC | MM-33 | TECO Historical Performance (2014) | 2-5, 7, 12 |
| MacKenzie Marcelin | Florida Rising, LULAC | MM-34 | TECO Spending on Industrial and Commercial Customers | 2-5, 7-8, 12 |
| MacKenzie Marcelin | Florida Rising | MM-35 | OUC Proposed Program Planner | 2-5, 7, 12 |

All exhibits listed or introduced into evidence by any other party or intervenor.

Standing documents as needed.

Impeachment exhibits.

Rebuttal exhibits.

Exhibits determined necessary by ongoing discovery.

All deposition transcripts, and exhibits attached to depositions.

All documents produced in discovery.

Blow ups or reproductions of any exhibit.

Demonstrative exhibits.

All pleadings, orders interrogatory answers, or other filings.

All documents or data needed to demonstrate the admissibility of exhibits or expert opinion.

Maps and summary exhibits.

III. Statement of Basic Position

By passing the Florida Energy Efficiency and Conservation Act (“Energy Efficiency Act”), the Florida legislature has recognized the importance of curbing electricity consumption, increasing energy efficiency, and promoting demand-side renewable energy to securing the economic future and health of Florida’s citizens. To meet these objectives, the Energy Efficiency Act allocates responsibility to the Florida Public Service Commission (“Commission”) to oversee the actions of Florida’s major utilities. A major element of this responsibility involves the Commission’s oversight over the utilities’ conservation goals to ensure that the utilities meaningfully integrate lower cost and lower risk demand-side energy efficiency and renewable resources into Florida’s energy resource portfolio. Florida Rising, ECOSWF, and LULAC have intervened to advocate for utility conservation goals that prioritize investment in cost-effective efficient sources of energy and address the needs of low-income communities that predominantly bear the burden of high energy costs.

While Florida Power & Light Co. (“FPL”), Duke Energy Florida (“DEF”), JEA, Orlando Utilities Commission (“OUC”) and Tampa Electric Company (“TECO”) (collectively, “the

utilities”) have taken strides towards recognizing the importance of addressing low-income communities’ energy burden compared to the 2019 proceedings, their proposals still fail to adequately reflect the needs of Floridians. By continuing to largely rely on analytical tests that understate the value of energy efficiency, low projections for program participation, and methodology that does not reflect the lived experiences of Floridians, utilities propose setting unambitious goals resulting in some of the worst energy efficiency performance in the nation.

First, the utilities’ use of “bill comparisons” for energy efficiency goal-setting purposes premised on 1,000 kWh of usage rather than actual usage is misleading and makes energy efficiency appear more costly than what people actually pay. These deceptive comparisons understate the actual benefits of energy efficiency while inflating the perceived costs, and when used to set energy efficiency goals, that cost inflation is reflected in inadequate and weak proposed goals. Second, while the utilities took a step back from relying entirely on the RIM and two-year payback screen to evaluate the costs and benefits of potential programs and measures, the two-year payback screen remains a crude and misleading instrument that improperly eliminates a huge portion of cost-effective DSM from consideration under the unsupported and indefensible assumptions that regular people know the payback period for every efficiency measure, and, that those same people have both the resolve and the cash on hand to install all such measures. Without any factual basis for either of these premises in the record, it is patently unreasonable to assume a DSM program with a sub-two-year payback period will be plagued by free-ridership. Moreover, flaws in weighing the costs and benefits of potential energy efficiency measures artificially constrain the energy efficiency potential of utilities and compound on top of rising housing costs and stagnant wages, subjecting residential and low-

income households to exponentially increasing energy burdens while utility companies continue to report record profits on the backs of Floridians.

The utilities understate their proposed goals for residential program participation despite having shown that higher levels of participation are achievable. Many of the utilities had higher program participation prior to scaling back energy efficiency programs in 2014. Because of these historical levels of participation, the utilities should set projected participation at levels much higher than they currently propose. This understatement of participation levels in many of the residential programs and measures tips the cost-benefit analysis of the programs to make them appear more costly than the benefits they reap. The proposed MW and GWh goals could be much stronger with less conservative estimates of participation.

The limited energy efficiency measures offered by the utilities also remain unfairly distributed, with residential customers paying more into programs that predominantly result in savings and benefits for industrial and commercial customers. Most energy efficiency funding is spent on bill credits for commercial interruptible and curtailable service programs despite these entities receiving little to no interruption. As Mr. Marcelin testifies, almost half of FPL's energy conservation spending goes to its curtailable or interruptible commercial customers although they have never been interrupted in recent history and FPL has no plans to interrupt them in the future. And that unequal distribution remains present across most of the utilities with commercial and industrial customers receiving more than 50% of the energy savings shares through FPL, TECO, JEA, and OUC in 2023. With this imbalance in energy savings and lack of interruption in the curtailable and interruptible service programs, residential customers pay into programs that they reap no actual benefits from. Cuts to the program like those proposed by DEF would tip the scales back towards a more balanced distribution of costs and benefits for

residential customers.

The Commission should set meaningful goals that require the utilities to invest in and deliver energy efficiency while ensuring its programs are distributed to provide energy-savings benefits not only to commercial and industrial customers, but to the residential customers that overwhelmingly pay into the costs of the programs. Well-run residential programs that encourage widespread participation will result in cost-effective benefits for both customers and utilities. Aggressive investment in energy efficiency programs is essential to pull Florida from one of the lowest performing and most costly states in the nation to a leader in providing affordable and efficient energy to its residents.

IV. Statement of Issues and Positions

ISSUE 1: Are the utility's proposed goals based on an adequate assessment of the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems?

POSITION: No.

ISSUE 2: Are the utility's proposed goals based on savings reasonably achievable through demand-side management programs over a ten year period?

POSITION: No. The utilities continue to discount potentially cost-effective conservation and efficiency measures by overstating the costs of certain measures while understating potential participation and benefits reaped from those measures. The proposed goals underestimate the potential for more aggressive and widespread goals on the residential demand side that could be met over that ten year period (Marcelin testimony).

ISSUE 3: Do the utility's proposed goals adequately reflect the costs and benefits to customers participating?

POSITION: No. The proposed goals overstate the costs and understate the benefits of certain measures by using an arbitrary two-year screen and misleading methodology that makes energy efficiency measures appear more costly than they are in practice (Marcelin testimony).

ISSUE 4: Do the utility’s proposed goals adequately reflect the costs and benefits to the general body of rate payers as a whole, including utility incentives and participant contributions?

POSITION: No. The utilities’ proposed goals falsely inflate the benefits of the curtailable and interruptible service programs while attempting to diminish the costs that the programs impose on the general body of ratepayers. Further, cost-effective programs for low-income households continue to be screened out by the use of the RIM test (Marcelin testimony).

ISSUE 5: Do the utility’s proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems?

POSITION: No. The continued use of the arbitrary two-year payback screen artificially limits available energy efficiency measures, especially for low-income communities (Marcelin testimony).

ISSUE 6: Do the utility’s proposed goals adequately reflect the costs imposed by state and federal regulations on the emissions of greenhouse gases?

POSITION: No. Nothing pertinent to this question has changed since March 25, 2024, when the Commission, in Order No. PSC-2024-0078-FOF-EI, based key cost-effectiveness findings on imminent high carbon-costs taking effect in less than 18 months (January of 2026). Either the Commission was wrong then, or those same carbon costs should be reflected in this proceeding.

ISSUE 7: Do the utility’s proposed goals appropriately reflect consideration of free riders?

POSITION: No. The continued use of the two-year payback screen is not backed by empirical evidence and results in double-counting for freeriders resulting in otherwise cost-effective measures being screened out, especially measures that are important to low-income communities (Marcelin testimony).

ISSUE 8: Should demand credit rates for interruptible service, curtailable service, stand-by generation, or similar potential demand response programs be addressed in this proceeding or in the base rate proceedings for the rate regulated FEECA Utilities? If this proceeding, what demand credit rates are appropriate for purposes of establishing the utilities’ goals?

POSITION: This proceeding. Interruptible and curtailable service programs should not be used by utilities in setting conservation goals when the service never actually gets interrupted. Because of this fatal flaw in the program, the general body of ratepayers essentially provides funding for commercial and industrial entities to receive energy savings credits without actually bearing any burden. For this reason, the Commission should cut the demand credit rates (Marcelin testimony).

ISSUE 9: Should the savings associated with FPL’s Residential Low Income Renter Pilot program be included in its conservation goals?

POSITION: FL Rising, ECOSWF, and LULAC retain concerns with the logistics surrounding the Residential Low Income Renter Pilot Program. The proposed \$1,000 credit may not be enough to upgrade to a more efficient HVAC unit and FPL falsely assumes that simply because it is providing this credit, landlords will not use the upgraded HVAC system as an excuse to raise rent to recover installation costs (Marcelin testimony). However, Florida Rising, ECOSWF, and LULAC do not believe FPL’s proposed goals, as they are very low relative to the size of the utility, should be cut if this program is not approved.

ISSUE 10: Is FPL’s proposed HVAC On-Bill option for its existing Residential On-Call program with its associated HVAC Services Agreement (proposed Tariff sheets 9.858 through 9.866) a regulated activity within the jurisdiction of the Commission? If not, should the savings associated with FPL’s HVAC On-Bill option and HVAC Services Agreement be removed from its conservation goals?

POSITION: No. FPL’s HVAC On-Bill option for its Residential On-Call program essentially gives FPL the role of a middleman or salesman for its contracted HVAC providers. Because this eventually results in the sale of the HVAC system, which FPL concedes is transferred into ownership of the customer at the end of the program period, this should not be considered a regulated activity falling under the Commission’s jurisdiction. However, given how low FPL’s proposed goals are and how they should be increased to reflect the cost-effective reasonably achievable potential for energy efficiency in its territory, the savings associated with the program should not be removed from FPL’s conservation goals.

ISSUE 11: Should the Commission approve FPL’s proposed plan to cap participation for non-RIM Test passing programs once sector-level goals are achieved?

POSITION: No. This could artificially cap participation in low-income programs, which should remain uncapped given how low they are in relation to other utilities in Florida.

ISSUE 12: What residential and commercial/industrial summer and winter megawatt (MW) and annual Gigawatt-hour (GWh) goals should be established for the period 2025-2034?

POSITION: The Commission should approve residential goals consistent with the testimony of Witness Marcelin. Each utility should aim to increase ambition in setting their summer and winter MW and GWh goals. By increasing goals for participation in residential energy efficiency goals based on levels of participation prior to cuts to energy efficiency goals in 2014, each utility is capable of achieving much more

robust and ambitious MW and GWh goals than currently proposed (Marcelin testimony).

ISSUE 13: What goals are appropriate for increasing the development of demand-side renewable energy systems?

POSITION: Net-metering should be required for all utilities subject to this proceeding in order to increase the development of demand-side renewable energy systems.

V. Stipulated Issues

None.

VI. Pending Motions or Other Matters

None.

VII. Pending Request or Claims for Confidentiality

None.

VIII. Objections to Witness' Qualifications as an Expert

None.

IX. Request for Sequestration of Witnesses

None.

X. Compliance with Order Establishing Procedure

Florida Rising, LULAC, and ECOSWF have complied with all applicable requirements of the order establishing procedure in this docket.

Respectfully submitted this 9th day of July, 2024.

/s/ Bradley Marshall
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 9th day of July, 2024, via electronic mail on:

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DATED this 9th day of July, 2024.

/s/ Bradley Marshall
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