

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission Review of Numeric Conservation Goals (Florida Power & Light Company)	Docket No: 20240012-EG
In re: Commission Review of Numeric Conservation Goals (Duke Energy Florida, LLC)	Docket No: 20240013-EG
In re: Commission Review of Numeric Conservation Goals (Tampa Electric Company)	Docket No: 20240014-EG
In re: Commission Review of Numeric Conservation Goals (JEA)	Docket No: 20240016-EG
In re: Commission Review of Numeric Conservation Goals (Orlando Utilities Commission)	Docket No: 20240017-EG

SOUTHERN ALLIANCE FOR CLEAN ENERGY’S PREHEARING STATEMENT

The Southern Alliance for Clean Energy, Inc. (“SACE”), by and through its undersigned counsel, and pursuant to the Order Consolidating Dockets and Establishing Procedure, Order No. PSC-2024-0022-PCO-EG, as amended (“Order Establishing Procedure”), hereby submits its Prehearing Statement.

A. Appearances

William C. Garner
Law Office of William C. Garner, PLLC
3425 Bannerman Road
Unit 105, No. 414
Tallahassee, FL 32312
(850) 320-1701 (tel)
(850) 792-6011 (fax)

B. Witnesses

SACE does not intend to call any witnesses.

C. Exhibits

SACE has no direct exhibits. However, SACE reserves the right to introduce exhibits into the record during cross examination.

D. Statement of Basic Position

As recognized by the Florida legislature, reducing the rate of electricity consumption, increasing the overall efficiency and cost-effectiveness of electricity use, and encouraging further development of demand-side renewable energy systems are critical to Florida's economic future and the health of its citizens. The conservation goal setting process laid out by the legislature in the Florida Energy Efficiency and Conservation Act ("FEECA") provides a framework for the Florida Public Service Commission to play a critical role in meeting these objectives by setting goals that meaningfully integrate lower cost and lower risk demand-side energy efficiency and renewable resources into Florida's energy resource portfolio. SACE has intervened to help the Commission set goals that maximize utility investment in cost-effective energy efficiency, the cleanest and cheapest resource to meet Floridians' power needs, and support improved valuation and increased development of demand-side renewable energy systems.

The Technical Potential Study conducted by Resource Innovations for all FEECA utilities identifies huge potential for energy and demand savings in Florida with available and proven technologies. However, neither the proposed annual nor 10-year goals will achieve even the tiniest percentage of Florida's annual retail sales of electricity. Thus, adoption of the proposed DSM goals would constitute a significant missed opportunity to reduce costs for ratepayers, strengthen the grid, and eliminate waste.

While improved from the 2019 proceedings which resulted in "zero goals," utilities continue to propose unreasonably low savings goals. Despite a less rigorous application of it, the utilities continue to rely on the Rate Impact Measure ("RIM") cost effectiveness test in establishing their proposed goals. The RIM test should not be used to screen efficiency measures. Ratepayer impacts are important to consider; however, the RIM test does not accurately calculate them. The Total Resource Cost test more accurately depicts the costs and benefits of energy efficiency for consumers in Florida. Florida should eliminate its use of the RIM test.

The utilities justify their unreasonably low savings goals by asserting that they are avoiding cross subsidization. However, a concern about cross subsidies is not a sufficient reason to underinvest in cost effective energy efficiency. First, the system-wide benefits of energy efficiency, including lower overall cost, accrue to all customers, not just participating customers. Second, unlike with supply-side resources, cross-subsidies in the efficiency context can be mitigated by increasing participation rates, i.e. by turning non-participants into participants. This can be done by offering well-designed, comprehensive programs that target each customer sector, including hard-to-reach customers, such as low-income residential households. Finally, the utilities ignore the fact that cross-subsidization occurs on the supply-side of the energy picture. For example, customers who live near power plants do not benefit from lower electricity costs as

compared to their counterparts who live further away from the plants, even though it costs the utility less to deliver electricity from the plants to their homes than to more distant homes.

The utilities further suppress the adoption of cost-effective measures when they apply a two-year payback screen to account for “free ridership.” The utilities blindly apply this screen across all measures without any data or information to support that the measures are in fact being adopted by customers. The Commission should direct the utilities to utilize best practices from other jurisdictions that are less restrictive than the two-year payback screen.

The Commission should set meaningful goals that require the FEECA utilities to aggressively and broadly invest in and deliver energy efficiency. Comprehensive, well-run programs will allow all customers to save energy, lower their electricity bills and allow utilities to lower their overall system cost and risk.

E. 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?

SACE: No.

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

SACE: Adopts the position of Florida Rising, LULAC, and ECOSWF.

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

SACE: No.

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?

SACE: No. Although proposals in these dockets rely less rigorously on the Rate Impact Measure (“RIM”) Test than in past dockets, application of the RIM Test nevertheless resulted in utilities ruling out most DSM measures, which has the effect of precluding investments that would quickly reduce electric bills for customers who participate in DSM programs, and that would ultimately reduce electric bills for non-participating customers through cost savings across the electric system. Notwithstanding the long practice of the Commission and FEECA utilities, the use of the RIM Test is contrary to Section 366.82(3)(b), F.S., because the RIM Test does not reflect “costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions.” The RIM Test focuses exclusively on rates. It excludes both the participants’ contributions and the participants’ benefits, which come in the form of reduced energy expenditures and lower energy bills. Because the Total Resource Cost (“TRC”) Test better satisfies this legislative mandate, the Commission should require an expansion of its use.

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?

SACE: No. The utilities’ analyses to arrive at their proposed goals over-rely on the RIM Test and arbitrarily apply a two-year payback screen to address “free-ridership” even though a shorter payback timeframe might be necessary to appropriately incentivize consumer adoption of energy efficiency measures.

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

SACE: No.

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

SACE: No. Blanket use of two-year payback screen is an inappropriate method to address free ridership because it is assigned arbitrarily and is not based on evidence of the behavior of actual customers. The concept of the two-year payback screen wrongly assumes that a customer who is able to do so will take advantage of any measure that has return that pays for itself within 2 years from its implementation. A customer might never become aware of such measure without an incentive or rebate tied to it. A customer might not understand the calculation to determine the payback period or know where to find the information to make the calculation. Rather than a “free rider,” a customer might be a “fence sitter” and be motivated by an incentive to participate, even though the return on investment offers a short payback. A customer that does not fall within the low-income category can nevertheless feel budget constraints or cash flow limitations that restrain participation in the absence of an incentive. In making improper assumptions instead of using data to identify free riders, the two-year payback screen makes the cost-effectiveness tests even

more restrictive and rejects the easiest and cheapest savings. The Commission should require utilities to adopt a data-driven methodology like those used in other jurisdictions, or at a minimum, should reduce the payback period to 1 year.

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?

SACE: Adopts the position of Florida Rising, LULAC, and ECOSWF .

FPL-Specific Issues

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

SACE: The Commission should require FPL to demonstrate that the incentive to a landlord to upgrade HVAC units will not result in higher rents for tenants as a consequence of the landlord's portion of the cost being recovered through rent increases. Nevertheless, even if the program is not approved, FPL's goals should not be reduced.

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?

SACE: With respect to the first question in this issue, adopts the position of FPL. With respect to the second question in this issue, FPL's goals should not be reduced, regardless of how the Commission answers the first question.

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?

SACE: No. FPL's goals are inappropriately low relative to its size and given their relation to the goals of other utilities in Florida. Any cap could result in reduced participation by customers, including low-income customers.

All FEECA Electric Utilities Issues

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?

SACE: Adopts the position of Florida Rising, LULAC, and ECOSWF.

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

SACE: Adopts the position of Florida Rising, LULAC, and ECOSWF.

F. STIPULATED ISSUES:

SACE has not agreed to any stipulations of issues at this time.

G. PENDING MOTIONS OR OTHER MATTERS:

SACE has no pending motions or other matters.

H. PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

SACE has no pending requests or claims for confidentiality.

I. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

SACE currently has no objections to the qualifications of the witnesses that have submitted pre-filed testimony in these dockets, but reserves the right to object to the qualifications of any witness not previously disclosed, and further reserves the right to *voir dire* any witness as to his or her expert qualifications should SACE hereafter determine that it may have such an objection.

J. REQUEST FOR SEQUESTRATION OF WITNESSES:

None.

K. COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

SACE has complied with all applicable requirements of the Order Establishing Procedure in these dockets.

RESPECTFULLY SUBMITTED this 9th day of July, 2024.

/s/ William C. Garner

William C. Garner, FL Bar No. 577189
bgarner@wcglawoffice.com
Law Office of William C. Garner, PLLC
3425 Bannerman Road
Unit 105, No. 414
Tallahassee, FL 32312
Telephone (850) 329-5478
Mobile (850) 320-1701
Fax (850) 792-6011

Counsel for Southern Alliance for Clean Energy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on this

9th day of July, 2024, via electronic mail on:

Jacob Imig, Jonathan Rubottom &
Adria Harper
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399
jimig@psc.state.fl.us
jrubottom@psc.state.fl.us
aharper@psc.state.fl.us

Walt Trierweiler, Patty Christensen
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
trierweiler.walt@leg.state.fl.us
christensen.patty@leg.state.fl.us

Ken Hoffman
Florida Power and Light Company
134 W. Jefferson Street
Tallahassee, FL 32301
ken.hoffman@fpl.com

Christopher T. Wright, William P. Cox
Florida Power & Light Company
700 Universe Boulevard
Juno Beach FL 33408-0420
christopher.wright@fpl.com
will.p.cox@fpl.com

Jon C. Moyle, Jr./Karen A. Putnal
c/o Moyle Law Firm
118 North Gadsden Street
Tallahassee FL 32301
(850) 681-3828
(850) 681-8788
jmoyle@moylelaw.com
kputnal@moylelaw.com

Dianne M. Triplett
299 First Avenue North
St. Petersburg FL 33701
(727) 820-4692
(727) 820-5041
Dianne.triplett@duke-energy.com

Erik Sayler
Kelly Wright
Florida Department of Agriculture and
Consumer Services
The Mayo Bldg, Suite 520
407 Calhoun Street
Tallahassee, FL 32399
Erik.sayler@FDACS.gov
Kelly.wright@fdacs.gov

Mr. W. Christopher Browder
Orlando Utilities Commission
P. O. Box 3193
Orlando FL 32802-3193
cbrowder@ouc.com

Matthew R. Bernier, Stephanie A. Cuello
106 E. College Avenue, Suite 800
Tallahassee FL 32301
matthew.bernier@duke-energy.com
stephanie.cuello@duke-energy.com
FLRegulatoryLegal@duke-energy.com

J. Wahlen/M. Means/V. Ponder
P.O. Box 391
Tallahassee FL 32302
jwahlen@ausley.com
mmeans@ausley.com
vponder@ausley.com

P. J. Mattheis/M. K. Lavanga/J. R. Briscar
1025 Thomas Jefferson St. NW, Suite 800
West
Washington DC 20007
(202) 342-0800
(202) 342-0807
jrb@smxblaw.com
mkl@smxblaw.com
pjm@smxblaw.com

Gary Perko, Valerie Chartier-Hogancamp
119 South Monroe Street, Suite 500
Tallahassee FL 32301
gperko@holtzmanvogel.com
zbennington@holtzmanvogel.com
vhogancamp@holtzmanvogel.com

James W. Brew, Laura Wynn Baker,
Sarah B. Newman
c/o Stone Law Firm
1025 Thomas Jefferson Street NW
Suite 800 West
Washington DC 20007
jbrew@smxblaw.com
lwb@smxblaw.com
sbn@smxblaw.com

Robert Pickels
106 East College Avenue, Suite 800
Tallahassee, FL 32301-7740
Robert.Pickels@duke-energy.com

Ms. Paula K. Brown
Tampa Electric Company
Post Office Box 111
Tampa, Florida 33601
regdept@tecoenergy.com

Bradley Marshall/Jordan Luebke
111 S. Martin Luther King Jr. Blvd.
Tallahassee FL 32301
(850) 681-0031
(850) 681-0020
bmarshall@earthjustice.org
jluebke@earthjustice.org

Mr. Berdell Knowles
JEA
21 West Church Street
Jacksonville FL 32202-3158
knowb@jea.com

William C. Garner
Law Office of William C. Garner, PLLC
3425 Bannerman Rd., Unit 105, #414
Tallahassee, FL 32312
bgarner@wzglawoffice.com

Robert Scheffel Wright/John T. LaVia, III
1300 Thomaswood Drive
Tallahassee FL 32308
(850) 385-0070
(850) 385-5416
jlavia@gbwlegal.com
schef@gbwlegal.com

Stephanie U. Eaton
Spilman Thomas & Battle, PLLC
110 Oakwood Drive
Suite 500
Winston-Salem, NC 27103
seaton@spilmanlaw.com

Steven W. Lee
Derrick Price Williamson
Spilman Thomas & Battle
PLLC 1100 Bent Creek Boulevard
Suite 101
Mechanicsburg, PA 17050
slee@spilmanlaw.com
dwilliamson@spilmanlaw.com

/s/ *William C. Garner*
Attorney