

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of demand-side management plan of Progress Energy Florida, Inc.

DOCKET NO. 100160-EG
ORDER NO. PSC-11-0347-PAA-EG
ISSUED: August 16, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
ORDER MODIFYING AND APPROVING DEMAND-SIDE MANAGEMENT PLAN

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Case Background

As required by the Florida Energy Efficiency and Conservation Act (FEECA), Sections 366.80 through 366.85 and 403.519, Florida Statutes (F.S.), we have adopted annual goals for seasonal peak demand and annual energy consumption for the FEECA Utilities. These include Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (PEF), Tampa Electric Company (TECO), Gulf Power Company (Gulf), Florida Public Utilities Company (FPUC), JEA, and Orlando Utilities Commission (OUC).

Pursuant to Rule 25-17.008, Florida Administrative Code (F.A.C.), in any conservation goal setting proceeding, we require each FEECA utility to submit cost-effectiveness information based on, at a minimum, three tests: (1) the Participants test; (2) the Rate Impact Measure (RIM) test, and (3) the Total Resource Cost (TRC) test. The Participants test measures program cost-effectiveness to the participating customer. The RIM test measures program cost-effectiveness to the utility's overall rate payers, taking into consideration the cost of incentives paid to participating customers and lost revenues due to reduced energy sales that may result in the need for a future rate case. The TRC test measures total net savings on a utility system-wide basis. In past goal setting proceedings, we established conservation goals based primarily on measures that pass both the Participants test and the RIM test.

DOCUMENT NUMBER-DATE

05807 AUG 16 =

FPSC-COMMISSION CLERK

The 2008 Legislative Session resulted in several changes to the FEECA Statutes, and our 2008 goal-setting proceeding was the first implementation of these modifications. By Order No. PSC-09-0855-FOF-EG, issued December 30, 2009, in Docket Number 080408-EG, we established annual numeric goals for summer peak demand, winter peak demand, and annual energy conservation for the period 2010 through 2019, based upon an unconstrained Enhanced-Total Resource test (E-TRC) for the investor-owned utilities (IOUs). The E-TRC test differs from the conventional TRC test by taking into consideration an estimate of additional costs imposed by the potential regulation of greenhouse gas emissions. In addition, the numeric impacts of certain measures with a payback period of two years or less were also included in the goals. Further, the IOUs subject to FEECA were authorized to spend up to 10 percent of their historic expenditures through the Energy Conservation Cost Recovery (ECCR) clause as an annual cap for pilot programs to promote solar water heating (Thermal) and solar photovoltaic (PV) installations.

On January 12, 2010, PEF filed a Motion for Reconsideration of our goal setting decision in Docket No. 080408-EG. Order No. PSC-10-0198-FOF-EG, issued March 31, 2010, granted, in part, PEF's reconsideration which revised PEF's numeric goals to correct a discovery response that caused a double-counting error. On March 30, 2010, PEF filed a petition requesting approval of its Demand-Side Management (DSM) Plan pursuant to Rule 25-17.0021, Florida Administrative Code (F.A.C.) (Docket No. 100160-EG). The Florida Industrial Users Group (FIPUG), White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate), the Southern Alliance for Clean Energy (SACE), the Florida Solar Energy Industry Association (FlaSEIA), and Wal-Mart Stores East, LP, and Sam's East, Inc. (Walmart) were all granted leave to intervene in the proceeding.

On July 14, 2010, SACE filed comments on the FEECA Utilities' DSM Plans. These comments were amended on August 3, 2010, to include comments regarding FPUC. No other intervenors filed comments. On July 28, and August 12, 2010, PEF and Gulf, respectively, filed responses to SACE's comments.

On September 1, 2010, our staff filed a recommendation, noting that the DSM Plan filed by PEF on March 30, 2010, did not meet all annual goals we set for PEF in Order No. PSC-10-0198-FOF-EG. On October 4, 2010, we issued Order No. PSC-10-0605-PAA-EG approving six solar pilot programs but denying the remainder of PEF's petition and directing the Company to modify its DSM Plan to meet the annual goals we originally set. During the discussion at the September 14, 2010, Commission Conference, we also encouraged PEF to provide an alternative DSM Plan to reduce the customer rate impact in addition to the DSM Plan to meet our original goals. Therefore, on November 29, 2010, the Company filed two DSM Plans: an Original Goal Scenario DSM Plan and a Revised Goal DSM Plan. For clarity and ease of reference, the Original Goal Scenario DSM Plan, which features programs designed to meet the full demand and energy savings goals, will be referred to throughout the remainder of this Order as the "Compliance Plan" and the Revised Goal DSM Plan, which has a lower rate impact, but reduced projected savings, will be referred to as the "Rate Mitigation Plan."

On December 22, 2010, SACE filed a letter offering comments on the DSM plans submitted by PEF and several of the other IOUs. The letter references the August 3, 2010, filing by SACE relating to the PEF's initial DSM filing, and updates several issues relating to the Company's new DSM Plans. On April 25, 2011, SACE filed another letter offering similar comments and recommendations with regard to PEF's new DSM Plans filed on November 29, 2010, and FPL's modified and alternate DSM Plans filed March 25, 2011. On May 9, 2011, SACE filed a letter providing its comparison of PEF's proposed DSM plans filed on November 29, 2010, with Progress Energy Carolina's DSM/energy efficiency cost recovery rider application filed on May 2, 2011, with the South Carolina Public Service Commission. We have jurisdiction over this matter pursuant to Sections 366.80 through 366.85, F.S.

PEF's Compliance Plan

As noted above, PEF's initial filing submitted March 30, 2010, was insufficient to meet several of the annual goals in multiple categories. We directed PEF, in Order No. PSC-10-0605-PAA-EG, to file a modified DSM Plan which would comply with the goal-setting Order. However, the Compliance Plan PEF filed on November 29, 2010, still failed to fully meet the goals we established. Specifically, PEF's filing failed to achieve the annual and cumulative summer and winter demand (MW) goals for the commercial sector. Consequently, our staff sent a data request¹ to PEF requesting an explanation for PEF's failure to comply with our Order. PEF responded that it had inadvertently developed the portfolio of commercial programs in the Compliance Plan based upon an estimate of the commercial summer and winter demand (MW) goals "at-the-meter" rather than targeting the actual Commission-established demand goals which are "at-the-generator." This resulted in the assumed commercial demand savings being less than the established demand goals. PEF modified anticipated participation levels for measures within its Better Business program which were sufficient to eliminate the deficiency. With the provision of these modifications, PEF's Compliance Plan satisfies our Order and features programs designed to fully meet the established demand and energy savings goals.

Compliance Plan Programs

PEF's Compliance Plan includes seven residential programs and ten commercial/industrial programs. One of the residential programs, Technical Potential, is new. Three of the commercial/industrial programs are new: Commercial Green Building, Business Energy Saver, and Business Energy Response. Modifications, such as adding new measures, have been made to most of the programs. The status of each program relative to PEF programs currently in effect is indicated in Table 1, below.

¹ Staff's 10th Data Request to PEF, Question Number 1 (a – d), issued December 9, 2010.

Table 1 – Compliance Plan Programs

| Program Name | Program Status |
|---|-----------------------|
| Residential Portfolio | |
| 1. Technical Potential | New |
| 2. Home Energy Improvement | Modified |
| 3. Residential New Construction | Modified |
| 4. Neighborhood Energy Saver | Modified |
| 5. Low Income Weatherization Assistance | Modified |
| 6. Home Energy Check | Modified |
| 7. Residential Energy Management | Existing |
| Commercial/Industrial Portfolio | |
| 1. Business Energy Check | Modified |
| 2. Commercial Green Building | New |
| 3. Business Energy Saver | New |
| 4. Commercial/Industrial New Construction | Modified |
| 5. Better Business | Modified |
| 6. Innovation Incentive | Modified |
| 7. Business Energy Response | New |
| 8. Interruptible Service | Modified |
| 9. Curtailable Service | Modified |
| 10. Standby Generation | Modified |
| Renewable Portfolio | |
| 1. Qualifying Facilities | Existing |
| 2. Technology Development | Modified |

Rate Impact of Compliance Plan

The costs to implement a DSM program consist of administrative expenses, equipment costs, and incentive payments to the participants, all of which are recovered by the Company through its ECCR clause. This clause represents a monthly bill impact to customers as part of the non-fuel cost of energy on their bills. Utility incentive payments, not included in the E-TRC, are recovered through the utility's ECCR factor and have an immediate impact on customer rates.

Much like investments in generation, transmission, and distribution, investments in energy efficiency have an immediate rate impact but produce savings over time. Table 2 shows the ECCR Expenditures and Rate Impact on a typical residential customer's bill under the Compliance Plan over ten years. The monthly bill impact of PEF's ECCR factor would range from \$11.28 in 2011 to \$16.52 in 2014, when we are due to revisit the conservation goals as required by Section 366.82(6), F.S.

Table 2 - Estimated Rate Impact of PEF's Compliance Plan Associated with Goals
(1,200 kWh Residential Bill)

| Year | ECCR Component (\$/mo) | Estimated Residential Bill (\$/mo) | Percent of Bill (% Bill) |
|------|---------------------------|--|-----------------------------|
| 2010 | \$3.24 | \$154.58 | 2.10% |
| 2011 | \$11.17 | \$162.51 | 6.88% |
| 2012 | \$12.59 | \$163.93 | 7.68% |
| 2013 | \$13.31 | \$164.65 | 8.08% |
| 2014 | \$14.28 | \$165.62 | 8.62% |
| 2015 | \$16.34 | \$167.68 | 9.74% |
| 2016 | \$16.20 | \$167.54 | 9.67% |
| 2017 | \$16.94 | \$168.28 | 10.06% |
| 2018 | \$16.46 | \$167.80 | 9.81% |
| 2019 | \$16.20 | \$167.54 | 9.67% |

We believe the increase to an average residential customer's monthly bill that would result from implementing PEF's Compliance Plan is disproportionately high and clearly constitutes an undue rate impact on PEF's customers. As will be discussed below, Florida Statutes provide a remedy for addressing such cases of conservation plans having an undue impact on customer rates.

PEF's Rate Mitigation Plan

As mentioned in the case background, due to the significant rate impact associated with the initial filing, we also encouraged PEF to submit an alternative DSM Plan to lessen the rate impact over the planning period. The Company's Rate Mitigation Plan does not project achievement of our approved goals for residential customers. Residential goal achievement is forecast at less than 70 percent for each category, including 64.4 percent for summer peak demand, 69.8 percent for winter peak demand, and 48.8 percent for annual energy. However, goals for commercial/industrial customers are projected to be achieved or exceeded in each category under the Rate Mitigation Plan. Even so, combining the savings from the residential and commercial/industrial categories fails to result in the Rate Mitigation Plan meeting the goals we set.

Mitigation Plan Programs

PEF's Rate Mitigation Plan contains the same programs as the Compliance Plan, except that the Technical Potential program in the residential portfolio has been replaced with three

programs. Two of these programs, Residential Lighting and Appliance Recycling, were formerly measures within the Technical Potential program and have simply been converted to stand-alone programs. The third program, Residential Behavior Modification, is a newly designed program which will provide reports to customers that allow them to compare their energy use and consumption patterns with that of neighbors in similar homes.

Rate Impact of Mitigation Plan

As discussed above, the costs to implement a DSM program consist of administrative expenses, equipment costs, and incentive payments to the participants, which are recovered by the Company through its ECCR clause. This clause represents a monthly bill impact to customers as part of the non-fuel cost of energy on their bills. Table 4 shows the ECCR Expenditures and Rate Impact on a typical residential customer's bill under the Rate Mitigation Plan over ten years. Under the Rate Mitigation Plan, the monthly bill impact would range from \$4.73 in 2011 to \$6.13 in 2014, when we are due to revisit the conservation goals as required by Section 366.82(6), F.S.

Table 4 - Estimated Rate Impact of PEF's Rate Mitigation Plan Associated with Goals (1,200 kWh Residential Bill)

| Year | ECCR Component (\$/mo) | Estimated Residential Bill (\$/mo) | Percent of Bill (% Bill) |
|------|---------------------------|--|-----------------------------|
| 2010 | \$3.24 | \$154.58 | 2.10% |
| 2011 | \$4.73 | \$156.07 | 3.03% |
| 2012 | \$5.20 | \$156.54 | 3.32% |
| 2013 | \$5.67 | \$157.01 | 3.61% |
| 2014 | \$6.13 | \$157.47 | 3.89% |
| 2015 | \$5.98 | \$157.32 | 3.80% |
| 2016 | \$5.66 | \$157.00 | 3.60% |
| 2017 | \$5.25 | \$156.59 | 3.35% |
| 2018 | \$5.05 | \$156.39 | 3.23% |
| 2019 | \$4.92 | \$156.26 | 3.15% |

As with our finding regarding PEF's Compliance Plan, discussed above, we believe the increase to an average residential customer's monthly bill that would result from implementing PEF's Rate Mitigation Plan is also high and constitutes an undue rate impact on customers. As will be discussed below, Florida Statutes provide a remedy for addressing such cases of conservation plans having an undue impact on customer rates.

Modification and Approval of Demand-Side Management Plan

Section 366.82(7), Florida Statutes, states as follows:

Following adoption of goals pursuant to subsections (2) and (3), the commission shall require each utility to develop plans and programs to meet the overall goals within its service area. The commission may require modifications or additions to

a utility's plans and programs at any time it is in the public interest consistent with this act. In approving plans and programs for cost recovery, the commission shall have the flexibility to modify or deny plans or programs that would have an undue impact on the costs passed on to customers. . . .

As we noted above, the Compliance Plan filed by PEF is projected to meet the goals we previously established, but at a significant increase in the rates paid by PEF customers. We further noted that PEF's Rate Mitigation Plan is not estimated to meet the goals we established, yet also has a substantial rate increase. After deliberation, we find that both Plans filed by PEF will have an undue impact on the costs passed on to consumers, and that the public interest will be served by requiring modifications to PEF's DSM Plan. Therefore, we hereby determine to exercise the flexibility specifically granted us by statute to modify the Plans and Programs set forth by PEF.

Currently, PEF has an approved Plan as a result of our 2004 goal setting process, and the programs contained in that Plan have yielded significant increases in conservation and decreases in the growth of energy and peak demand. As noted above, both the Compliance Plan and Rate Mitigation Plan substantially rely on these existing Programs, with some modifications, and only a few new programs. We therefore conclude that the Programs currently in effect, even without modification, are likely to continue to increase energy conservation and decrease seasonal peak demand. As further discussed above, the rate impacts of the existing Plan are relatively minor. We find that the Programs currently in effect, contained in PEF's existing Plan, are cost effective and accomplish the intent of the statute. Therefore, exercising the specific authority granted us by Section 366.82(7), F.S., we hereby modify PEF's 2010 Demand-Side Management Plan, such that the DSM Plan shall consist of those programs that are currently in effect today.

We do wish to specifically note that Order No. PSC-10-0605-PAA-EG, while denying the Petition to approve the DSM Plan, did specifically approve six solar pilot programs. Those programs have been implemented to date. Given that they are pilot programs, we believe they should be continued, and reaffirm that provision of Order No. PSC-10-0605-PAA-EG.

Financial Reward or Penalty under Section 366.82(8), Florida Statutes

Section 366.82(8), F.S., gives us the authority to financially reward or penalize a company based on whether its conservation goals are achieved, at our discretion. In Order No. PSC-09-0855-FOF-EG, we concluded that, "[w]e may establish, through a limited proceeding, a financial reward or penalty for a rate-regulated utility based upon the utility's performance in accordance with Section 366.82(8) and (9), F.S."

As a result of our decision to modify PEF's 2010 Plan, we wish to clarify that PEF shall not be eligible for any financial reward pursuant to these statutory sections unless it exceeds the goals set forth in Order No. PSC-09-0855-FOF-EG. Conversely, PEF shall not be subject to any financial penalty unless it fails to achieve the savings projections contained in the existing DSM plan, which is approved and extended today.

Closure of Docket

By our vote today, we have taken action to approve a DSM Plan and continue existing Programs for PEF. If no person whose substantial interests are affected by this proposed agency action files a protest within 21 days of the issuance of this Order, we will issue a Consummating Order, and the docket shall be closed. If a protest is filed within 21 days of the issuance of this Order, however, the docket shall remain open to resolve the protest.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Progress Energy Florida, Inc.'s November 29, 2010, Original Goal Scenario DSM Plan and Revised Goal DSM Plan are not approved as filed. It is further

ORDERED that a Modified DSM Plan, consisting of existing Programs currently in effect, as detailed in the body of this Order, is Approved. It is further

ORDERED that Progress Energy Florida, Inc. shall only be eligible for a financial reward or penalty pursuant to Section 366.82(8) and (9), Florida Statutes as set forth in the body of this Order. It is further

ORDERED that the Solar Pilot Programs approved in Order No. PSC-10-0605-FOF-EG are continued. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that upon the issuance of a Consummating Order, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 16th day of August, 2011.



ANN COLE
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

LDH

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 6, 2011.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.