

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company).

DOCKET NO. 130199-EI

In re: Commission review of numeric conservation goals (Duke Energy Florida, Inc.).

DOCKET NO. 130200-EI

In re: Commission review of numeric conservation goals (Tampa Electric Company).

DOCKET NO. 130201-EI

In re: Commission review of numeric conservation goals (Gulf Power Company).

DOCKET NO. 130202-EI

In re: Commission review of numeric conservation goals (FPUC).

DOCKET NO. 130205-EI

FILED: September 30, 2014

**CITIZENS' POST-HEARING STATEMENT OF POSITIONS
AND POST-HEARING BRIEF**

Pursuant to Order No. PSC-14-0356-PHO-EI, issued July 11, 2014, the Citizens of the State of Florida, by and through the Office of Public Counsel (OPC), hereby submit their Post-Hearing Statement of Positions and Post-Hearing Brief.

PRELIMINARY STATEMENT

The Citizens of the State of Florida, represented by the Office of Public Counsel, will be referred to as "OPC." OPC frequently will refer to the four regulated utilities Florida Power & Light Company, Duke Energy Florida, Inc., Tampa Electric Company, and Gulf Power Company, who filed testimony and participated in the conservation goal setting proceeding as "the Companies."¹

¹ Florida Public Utility Company or FPUC did not file testimony or participate in the conservation goal setting proceeding.

SUMMARY OF ARGUMENT

The Commission should establish demand side management (DSM) goals for 2015-2014 that achieve the legislative intent of the Florida Energy Efficiency and Conservation Act (FEECA). Pursuant to Section 366.81, Florida Statutes (F.S.), the intent of FEECA is to utilize the most efficient and cost-effective demand-side renewable energy systems and conservation systems in order to protect the health, prosperity, and general welfare of the state and its citizens, meanwhile achieving a reduction in, and control of, the growth rates of electric consumption and of weather-sensitive peak demand. In addition, Section 366.82(2), F.S., provides the Commission shall adopt appropriate goals to increase conservation of expensive resources, to reduce and control the growth rates of electric consumption, to reduce the growth rates of weather-sensitive peak demand, and to encourage development of demand-side renewable energy resources.

As the statutory representative of all of Florida ratepayers, OPC has taken a limited role in this DSM goals setting proceeding. The ratepayers OPC represents have differing opinions about DSM; thus, they assign differing values to energy efficiency goals and to the rate impacts for achieving those goals. For this reason, OPC has taken no position on which DSM cost-effectiveness test achieves the intent of FEECA or whether the goals proposed by the Companies or the other Intervenors achieve the intent of FEECA.

In this proceeding, the Companies' proposed goals are substantially lower than the goals established in 2009, and in some cases, a Company's goals are lower than goals established in 1999 and 2004.² Three of the Companies' proposed goals are at or near its RIM achievable

² Past Commission Orders authorizing DSM Goals - See Order No. PSC-99-1942-FOF-EG, Issued October 1, 1999 (2000-2009 DSM Goals); Order No. PSC-04-0764-PAA-EG, Issued August 9, 2004 (2005-2014 DSM Goals); Order No. PSC-09-0855-FOF-EG, Issued December 30, 2009 (2010-2019 DSM Goals for FPL, Gulf, and TECO); Order No. PSC-10-0198-FOF-EG, Issued March 10, 2010) (2010-2019 revised DSM Goals for Duke); For the

potential (a/k/a – RIM goals). One Company’s proposed goals are significantly lower than its RIM achievable potential. If the Commission relies upon the Companies’ proposed goals to establish the 2015-2024 DSM goals, OPC submits that there should be no rewards for exceeding those goals especially since 1999 a number of the Companies have a track record for exceeding RIM based goals.³ Moreover, three of the four regulated Companies testified and agreed, on cross examination, that there should be no reward for exceeding RIM based goals.⁴ Furthermore, no Company affirmatively advocated that it should receive a reward for doing so. If the Commission approves the Companies’ proposed goals, OPC respectfully requests the Commission state in its final order that it will not entertain rewarding the Companies for exceeding those goals.

In conclusion, the Commission must decide whether the Companies’ or the Intervenors’ proposed goals, or some midpoint in between, achieves the intent of FEECA. In doing this, the Commission should balance the importance of pursuing energy efficiency and conservation programs to achieve the intent of FEECA while being cognizant of the rate impact on customers in order for the Companies to achieve the new DSM goals.

Companies and Intervenors’ Proposed DSM Goal – See Prehearing Order No. PSC-14-0356-PHO-EU, Issued July 11, 2014 (Proposed 2015-2024 DSM Goals) .

³ See Companies’ responses to OPC Interrogatory No. 1 located in Exh 98, FPL, BSP 000199; Exh 107, Duke, BSP 000423; Exh 125, Gulf, BSP 000842; and Exh 116, TECO, between BSP 000639 and BSP 000640. (Note: TECO’s response is on a spreadsheet showing Commission approved goals and TECO historic achievements and is located in the hearing record between BSP 000639 and BSP 000640).

⁴ Duke – Vol 3, p 569; TECO – Vol 3, p 737-738; Gulf – Vol 4, p 853-854.

ISSUES AND POSITIONS

Issue 1: Are the Company'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, pursuant to Section 366.82(3), F.S.?

OPC: *The Commission should determine whether the technical potential study performed by the utilities achieves the legislative intent of FEECA Sections 366.81 and 366.82(2), F.S.*

ARGUMENT:

The Commission should determine whether the technical potential studies (TPS) performed by the Companies achieve the legislative intent of FEECA Section 366.81 and 366.82(2), F.S. OPC takes no position on whether the Companies' TPS achieved that intent.

Issue 2: Do the Company's proposed goals adequately reflect the costs and benefits to customers participating in the measure, pursuant to Section 366.82(3)(a), F.S.?

OPC: *The Commission should determine whether the Companies' proposed goals adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S. OPC takes no position on whether the Company's proposed goals adequately reflect the costs and benefits to customers participating in the measure.*

ARGUMENT:

The Commission should determine whether the Companies' proposed goals adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S. This consideration was added to the DSM goal establishment process in 2008.⁵ OPC takes no position on whether the Companies' proposed goals adequately reflect the costs and benefits to customers participating in the measure.

⁵ See Laws of Florida, s. 39, ch. 2008-227.

ISSUE 3: Do the Company’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 pursuant to Section 366.82(3)(b), F.S.?

OPC: *The Commission should determine whether the Companies’ proposed goals adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S. OPC takes no position on whether the proposed goals adequately reflect the costs and benefits to the general body of rate payers as a whole, including utility incentives and participant contributions.*

ARGUMENT:

The Commission should determine whether the Companies’ proposed goals adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S. This consideration was added to the DSM goal establishment process in 2008.⁶ OPC takes no position on whether the proposed goals adequately reflect the costs and benefits to the general body of rate payers as a whole, including utility incentives and participant contributions.

ISSUE 4: Do the Company’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, pursuant to Section 366.82(3)(c), F.S.?⁷

OPC: *The Commission should determine whether the Companies’ proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems and safeguard the interests of the general body of ratepayers against undue rate impacts. OPC takes no position on whether the proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems.*

ARGUMENT:

The Commission should determine whether the Companies’ proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy

⁶ See Laws of Florida, s. 39, ch. 2008-227.

⁷ The reference to Subsection (3)(c) was omitted from the issue.

efficiency and demand-side renewable energy systems. In addition to adding subsection (3)(c), the Legislature also amended Section 366.82(2), F.S., to require the Commission to adopt appropriate goals for “increasing the development of demand-side renewable energy systems” and “to encourage development of demand-side renewable energy resources.”⁸ Section 366.82(1)(b), F.S., defines demand-side renewable resource as “a system located on a customer’s premises generating thermal or electric energy using Florida renewable energy resources and primarily intended to offset all or part of the customer’s electricity requirements provided such system does not exceed 2 megawatts.”

OPC takes no position on whether the proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems. It appears that the Companies did not propose any incentives for customer-owned demand-side renewable energy systems. The Companies do not need incentives for utility-owned demand-side renewable energy systems on which they will earn a rate of return.

If the Commission approves incentives for customer-owned demand-side renewable energy systems, it should safeguard the interests of the general body of ratepayers against undue rate impacts falling disproportionately on any given rate class⁹ while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S., to increase and encourage the development of demand-side renewable energy systems and renewable energy resources.

Issue 5: Do the Company’s proposed goals adequately reflect the costs imposed by state and federal regulations on the emission of greenhouse gases, pursuant to Section 366.82(3)(d), F.S.?

⁸ See Laws of Florida, s. 39, ch. 2008-227.

⁹ E.g., a subset of ratepayers within a rate class who cannot afford customer-owned demand-side renewable energy systems.

OPC: *The Commission should determine whether the Company’s proposed goals adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S. Currently there are no costs imposed by state or federal regulations on the emission of greenhouse gases, so OPC takes no position on whether the Company’s proposed goals adequately reflect the costs.*

ARGUMENT:

The Commission should determine whether the Companies’ proposed goals adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S. This consideration was added to the DSM goal establishment process in 2008.¹⁰ Currently, there are no costs imposed by state or federal regulations on the emission of greenhouse gases, so OPC takes no position on whether the Companies’ proposed goals adequately reflect the costs.

Issue 6: What cost-effectiveness test or tests should the Commission use to set goals, pursuant to Section 366.82, F.S.?

OPC: *The Commission should utilize the cost-effectiveness test or tests to set goals which adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S. OPC takes no position on which test or tests achieves that aim.*

ARGUMENT:

In 2008, the Legislature amended FEECA to add additional requirements for the Commission to consider when establishing goals which are set forth in Section 366.82(3), F.S. OPC takes no position on whether these amendments require the Commission to favor one cost-effectiveness test over another. However, the Commission should utilize the cost-effectiveness test or tests to establish goals which adequately safeguard the interests of the general body of

¹⁰ See Laws of Florida, s. 39, ch. 2008-227.

ratepayers against undue rate impacts while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S. OPC takes no position on which test or tests achieves that aim.

In this proceeding, three of the Companies' proposed goals are at or near its RIM achievable potential (a/k/a – RIM goals). One Company's proposed goals are significantly lower than its RIM achievable. If the Commission relies upon the Companies' proposed goals to establish the 2015-2024 DSM goals, OPC submits that there should be no rewards for exceeding those goals. TECO witness Bryant testified no rewards would be needed for RIM-based goals because "RIM-based goals are the least cost approach; they put the least amount of upward pressure on rates. . . . [I]f we accomplish those goals, we don't believe we should put additional burden on the ratepayers simply because we've already accomplished the least cost goals that are out there." Vol 3, p 738. Moreover, three of the regulated Companies agreed on cross examination that there should be no reward for exceeding RIM based goals.¹¹ Furthermore, no company affirmatively advocated or sought such rewards.

If the Commission approves the Companies' proposed goals, OPC respectfully requests the Commission state in its final order that it will not entertain rewarding the Companies for exceeding those goals.

Issue 7: Do the Company's proposed goals appropriately reflect consideration of free riders?

OPC: *OPC takes no position on whether goals proposed by the Companies appropriately reflect consideration of free riders or whether two year payback is the appropriate screen. The Commission should require the Companies to increase educational outreach efforts to ensure customers are aware of all the low cost energy efficiency measures with paybacks of two years or less which the Companies expect the ratepayers to implement without any incentives.*

¹¹ Duke – Vol 3, p 569; TECO – Vol 3, p 737-738; Gulf – Vol 4, p 853-854.

ARGUMENT:

OPC takes no position on whether goals proposed by the Companies appropriately reflect consideration of free riders or whether two-year payback is the appropriate screen. If the two-year payback screen is the appropriate screen, the Commission should require the Companies to increase educational outreach efforts to ensure that all ratepayers are aware of the low cost energy efficiency measures with paybacks of two years or less which the Companies expect the ratepayers to implement on their own without any incentives.

Without further burdening the Energy Conservation Cost Recovery (ECCR) clause with more costly programs, special efforts should be undertaken to educate low income ratepayers, renters, small businesses, and others about the potential cost savings associated with these measures. None of the Companies currently have any educational efforts specifically designed to highlight savings associated with the low cost energy efficiency measures removed by the two-year payback screen.

Issue 8: What residential summer and winter megawatt (MW) and annual Gigawatt-hour (GWh) goals should be established for the period 2015-2024?

OPC: *The Commission should establish goals which adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S. When approving programs to achieve the residential goals, the Commission should ensure that the approved programs benefit all residential ratepayers, including low income and rental ratepayers who historically do not or cannot implement DSM measures or participate in DSM programs. OPC takes no position as to the appropriate residential goals to be established.*

ARGUMENT:

The Commission should establish goals which adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA

Sections 366.81 and 366.82(2), F.S. When approving programs to achieve the residential goals, the Commission should ensure that the approved programs benefit all residential ratepayers, including low income and rental ratepayers who historically do not or cannot implement DSM measures or participate in DSM programs. OPC takes no position as to the appropriate residential goals to be established. If, however, the Commission relies upon the Companies' proposed RIM goals or approves goals that are lower than the RIM achievable potential, OPC submits that there should be no rewards for exceeding those goals.

Issue 9: What commercial/industrial summer and winter megawatt (MW) and annual Gigawatt hour (GWh) goals should be established for the period 2015-2024?

OPC: *The Commission should establish goals which adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA Sections 366.81 and 366.82(2), F.S. When approving programs to achieve the commercial/industrial goals, the Commission should ensure that the approved programs benefit all commercial/industrial ratepayers. OPC takes no position as to the appropriate commercial/industrial goals to be established.*

ARGUMENT:

See OPC's argument for Issue 8, as applied to commercial/industrial customers.

Issue 10: What goals, if any, should be established for increasing the development of demand-side renewable energy systems, pursuant to Section 366.82(2), F.S.?

OPC: *The Commission should establish goals necessary to achieve the intent of FEECA Sections 366.81 and 366.82(2), F.S. to adopt goals and approve plans related to the promotion of demand-side renewable energy systems while adequately safeguarding the interests of the general body of ratepayers against undue rate impacts. OPC takes no position on what goals, if any, should be established for increasing the development of demand-side renewable energy systems.*

ARGUMENT:

The Commission should establish goals necessary to achieve the intent of FEECA Sections 366.81 and 366.82(2), F.S., to adopt goals and approve plans related to the promotion of demand-side renewable energy systems. Pursuant to the 2008 amendment to FEECA, the Commission is required to adopt appropriate goals for “increasing the development of demand-side renewable energy systems” and “to encourage development of demand-side renewable energy resources.” OPC takes no position on what goals, if any, should be established for increasing the development of demand-side renewable energy systems. If the Commission adopts specific goals for increasing the development of demand-side renewable energy systems, it should be cognizant of the rate impacts to the general body of ratepayers, including those who cannot participate in any programs designed to achieve those goals.

Issue 11: Should the Company’s existing Solar Pilot Programs be extended and, if so, should any modifications be made to them?

OPC: *OPC takes no position on whether the Solar Pilot Programs should be extended; however, if the Company’s existing Solar Pilot Programs are extended, the Commission should ensure the programs achieve the intent of FEECA Sections 366.81 and 366.82(2), F.S., while adequately safeguarding the interests of the general body of ratepayers against undue rate impacts.*

ARGUMENT:

OPC takes no position on whether the Solar Pilot Programs should be extended; however, if the Companies’ existing Solar Pilot Programs are extended, the Commission should ensure the programs achieve the intent of FEECA Sections 366.81 and 366.82(2), F.S., while adequately

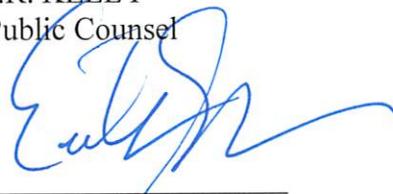
safeguarding the interests of the general body of ratepayers against undue rate impacts, including those ratepayers who cannot afford to participate in the Solar Pilot Programs.

CONCLUSION

For the reasons stated in this Brief, the Commission should adopt demand side management and energy efficiency goals consistent with the legislative intent of FEECA.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and foregoing **CITIZENS' POST-HEARING STATEMENT OF POSITIONS AND POST-HEARING BRIEF** has been furnished by electronic mail and/or U.S. Mail on this 30th day of September, 2014, to the following:

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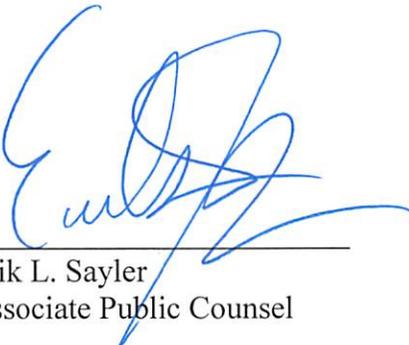
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