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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company).	DOCKET NO. 20190015-EG
In re: Commission review of numeric conservation goals (Gulf Power Company).	DOCKET NO. 20190016-EG
In re: Commission review of numeric conservation goals (Florida Public Utilities Company).	DOCKET NO. 20190017-EG
In re: Commission review of numeric conservation goals (Duke Energy Florida, LLC).	DOCKET NO. 20190018-EG
In re: Commission review of numeric conservation goals (Orlando Utilities Commission).	DOCKET NO. 20190019-EG
In re: Commission review of numeric conservation goals (JEA).	DOCKET NO. 20190020-EG
In re: Commission review of numeric conservation goals (Tampa Electric Company).	DOCKET NO. 20190021-EG

POST-HEARING STATEMENT OF THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

The Florida Department of Agriculture and Consumer Services, Office of Energy (FDACS), pursuant to the Order Consolidating Dockets and Establishing Procedure, Order No. PSC-2019-0062-PCO-EG (Order Establishing Procedure), issued on February 18, 2019, in these dockets, hereby submits its Post-Hearing Statement.

BACKGROUND

Sections 366.80 through 366.83, and 403.519, Florida Statutes (F.S.), are known collectively as the Florida Energy Efficiency and Conservation Act (FEECA). As declared by the Legislature, the goal of Florida's energy policy should be to secure a stable, reliable and diverse supply of energy to meet the demands of Florida's growing population.[1] Recognizing that reducing and controlling the growth rates of electric consumption, weather-sensitive peak demand, and reducing the consumption of expensive fossil fuels were important to achieving this goal, the Legislature enacted FEECA in 1980.

There are seven electric[2] utilities in Florida currently subject to FEECA – five investor-owned utilities (IOUs) and two municipal-owned utilities. The five IOUs are Florida Power & Light Company (FPL), Duke Energy Florida, LLC (DEF), Tampa Electric Company (TECO), Gulf Power Company (Gulf), and Florida Public Utilities Company (FPUC). The two municipally-owned utilities are: Orlando Utilities Commission (OUC) and JEA (formerly known as Jacksonville Electric Authority). No rural electric cooperatives are currently subject to FEECA. All the electric utilities subject to FEECA, except FPUC, are generating utilities. The electric utilities subject to FEECA are referred to herein collectively as the "FEECA Utilities."

Purpose of FEECA

FEECA emphasizes four key areas: (1) reducing the growth rates of weather-sensitive peak demand and electricity usage, (2) increasing the efficiency of the production and use of electricity and natural gas, (3) encouraging demand-side renewable energy systems, (4) and conserving expensive resources, particularly petroleum fuels. Conservation, renewable energy, and demand-side management (DSM) measures and programs are vital components of Florida's overall energy market, now and in the future.

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[1] §§ 377.601 and 366.82, F.S.
[2] Peoples Gas Company is the only gas utility subject to FEECA.

Florida currently ranks third in the nation for total electric consumption, just behind Texas and California, due to its population size and climate-induced demand for cooling.[3] Florida is the second largest producer of electricity in the United States, second only to Texas.[4] When compared to the rest of the country, Florida's energy market is unique. The distinction is largely due to the state's geographical location, climate, high proportion of residential customers, and the reliance on electricity for heating and cooling. Florida is typically a summer-peaking state.[5] According to the Commission's 2018 FEECA Report, "87.7 percent of Florida's electricity customers are residential, consuming approximately 52 percent of the electrical energy produced," while, "nationally, residential customers account for only 41 percent of total electric sales, while commercial customers represent 35 percent of electric consumption and industrial customers represent 23 percent."[6] Utility DSM programs are one factor in reducing energy usage, shifting peak demand, and reducing the need to dispatch relatively fuel-inefficient generating units. In addition, utility-sponsored DSM programs and conservation efforts by individual consumers can avoid or defer the need for new electric generating capacity.[7]

The potential demand and energy savings from utility-sponsored DSM programs are affected by consumer education and behavior, building codes, and appliance efficiency standards.[8] Customer education and participation is vital to implementing and sustaining conservation

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[3] FDACS Office of Energy 2018 Annual Report (FDACS 2018 Energy Report), at p. 2, available at: https://www.fdacs.gov/ezs3download/download/82803/2395231/Media/Files/Energy-Files2/2018%20Office%20of%20Energy%20Annual%20Report.pdf; and the Florida Public Service Commission Annual Report on Activities Pursuant to the Florida Energy Efficiency and Conservation Act (FPSC 2018 FEECA Report), at p. 6, available at: https://www.fdacs.gov/ezs3download/download/82803/2395231/Media/Files/Energy-Files2/2018%20Office%20of%20Energy%20Annual%20Report.pdf

[4] FDACS 2018 Energy Report, at p. 4.

[5] On a typical summer day, the statewide demand for electricity can increase from approximately 18,000 MW to 34,000 MW over the span of hours. FPSC 2018 FEECA Report, at p. 6.

[6] Id.

[7] Id., at p. 8.

[8] Id., at p. 3.

programs and measures. Consumer actions to implement energy efficiency measures outside of utility programs, as well as codes and efficiency standards, create a baseline for a new program's cost-effectiveness and reduce the potential incremental electric demand and energy savings available from utility-sponsored DSM programs.[9]

The Role of the Florida Public Service Commission (Commission)

The Commission is the state agency charged with "jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities." § 366.04(5), F.S. As part of its jurisdiction over the grid, the Commission has the responsibility for implementing FEECA, which includes promoting demand-side renewable energy systems and the conservation of electric energy and natural gas usage. Moreover, FEECA designates the Commission as the sole forum in the State for determining the need for an electrical power plant subject to the Florida Power Plant Siting Act[10] (PPSA). In addition to other factors the Commission must consider in making a determination whether there is a need for an electrical power generating plant subject to the PPSA, the Commission *must* take into account "whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available" and the "conservation measures taken by or reasonably available to the applicant or its members which might mitigate the need for the proposed plant . . .."[11]

Sections 366.82(2) and (6), F.S., require that the Commission establish overall conservation goals for the FEECA Utilities, and require the utilities to develop DSM plans for

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9 Id.
10 §§ 403.501-518, F.S. (Florida Power Plant Siting Act).
11 § 403.519(3), F.S.

increasing energy efficiency and conservation and demand-side renewable energy systems within the utility's service area and implement the plans approved by the Commission. Establishing conservation goals and programs is done in two phases. First, the Commission must set goals for summer and winter electric-peak demand and annual energy savings over a ten-year period, with a re-evaluation every five years. Once goals have been set, the FEECA Utilities must develop DSM plans, containing cost-effective programs intended that meet those goals and submit them to the Commission for approval.

In 2008, the Legislature amended FEECA and directed the Commission to consider the benefits and costs to program participants and ratepayers as a whole, the need for energy efficiency incentives for customers and utilities, and costs imposed by state and federal regulations on greenhouse gas emissions in adopting conservation goals. Over the last 10 years, the Commission has balanced the importance of pursuing energy efficiency and conservation programs against the cost of the programs and their impact on all ratepayers. Because Utility-sponsored DSM programs are ultimately funded by all of the utility's ratepayers, the Commission and the FEECA Utilities must ensure that the DSM programs they create are cost-effective for all ratepayers and less costly than building new generation in order to reap the benefits of reducing fuel usage and deferring additional generating capacity.[12]

The Role of the Florida Department of Agriculture and Consumer Services' Office of Energy (FDACS)

The FDACS Office of Energy is not a regulatory body. Chapter 377, Florida Statutes, gives broad authority and responsibilities to FDACS in administering renewable energy and energy efficiency grants, promoting energy efficiency and conservation programs, and providing

[12] FPSC 2018 Annual FEECA Report, at p. 8.

educational outreach on energy issues. Pursuant to Section 377.703(2)(i), F.S., FDACS is charged with promoting energy conservation in all energy use sectors throughout the state. As part of its responsibility to promote energy efficiency and conservation, Section 366.82(5), F.S., specifically requires that FDACS be a party to these conservation goal-setting proceedings and file comments with the Commission on the proposed goals, including, but not limited to:

(a) An evaluation of utility load forecasts, including an assessment of alternative supply-side and demand-side resource options;

(b) An analysis of various policy options that can be implemented to achieve a least-cost strategy, including nonutility programs targeted at reducing and controlling the per capita use of electricity in the state; and

(c) An analysis of the impact of state and local building codes and appliance efficiency standards on the need for utility-sponsored conservation and energy efficiency measures and programs.

Pursuant to this statutory directive, FDACS filed its Notice of Intervention in these dockets on April 10, 2019,[13] and participated in the hearing at the Commission held on August 12 and 13, 2019. Because Florida law mandates that FDACS participate in this proceeding, the law places FDACS in a unique role of providing comments to the Commission in the FEECA the goal-setting proceeding. In addition to promoting energy conservation in all energy use sectors throughout the State and administering grants and conservation programs at the direction of the Legislature, a key role of FDACS has been to provide policy analyses, recommendations, and options to the Legislature and state policy-makers for consideration.

[13] On April 16, 2019, FDACS filed a corrected Notice of Intervention in Docket No. 20190017-EG, and the Commission acknowledged FDACS' intervention on April 23, 2019, by Order No. PSC-2019-0146-PCO-EG.

FDACS RECOMMENDATIONS

Pursuant to Section 366.08(5), F.S., FDACS respectfully submits the following comments and recommendations based on the record developed during this proceeding for the Commission's consideration:

As declared by the Legislature in Section 366.81, F.S., it is critical 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. Reduction in, and control of, the growth rates of electric consumption and weather-sensitive peak demand are of particular importance. The goal of Florida's energy policy should be to secure a stable, reliable, resilient, and diverse supply of energy in order to meet the demands of Florida's growing population. An all-of-the-above approach must be employed in order to meet this objective and that includes energy efficiency and conservation measures.

In establishing and setting goals to meet these mandates, the Commission should consider various policy options to achieve a least-cost strategy, employ market-based technologies, and yield greater efficiencies of electric consumption. The effects of non-utility programs that are targeted at reducing and controlling the per capita use of electricity in Florida must be considered, as well as the impact of state and local building codes and appliance efficiency standards. These factors increase energy efficiency and reduce or control the per capita use of electricity in the State, and thus reduce the level of appropriate goals and need for utility-sponsored programs. The Commission should balance the importance of pursuing energy efficiency and conservation programs against the cost of the programs and their impact on all ratepayers. The Commission should continue to encourage the FEECA Utilities to maintain and develop energy efficiency and conservation programs targeted to low-income customers, and require the FEECA Utilities to report the costs and savings of low-income programs to the Commission. The Commission should continue to encourage the FEECA Utilities to implement programs to educate customers on conservation measures and programs, and require the FEECA Utilities to include the costs and successes of these programs to the Commission. Finally, the Commission should encourage the FEECA Utilities to further seek out and develop new demand-side conservation measures and programs that assist customers with reducing energy consumption and enable utilities to shift peak energy demand.

FDACS recommendations regarding the eleven issues identified for consideration in the 2019 FEECA goal-setting hearing are addressed below.

ISSUE 1: The goals proposed by the FEECA Utilities appear to be an adequate assessment of the full technical potential of all *available and cost-effective* demand-side and supply-side conservation and efficiency measures.

ISSUE 2: The goals proposed by the FEECA Utilities appear to adequately reflect the costs and benefits to customers participating in the measures pursuant to Section 366.82(3)(a), F.S. The Commission should continue to balance the goal of energy efficiency and conservation with the impact of the costs and benefits of these measures and programs on rates and overall bills of all of the FEECA Utilities' rate payers.

ISSUE 3: The goals proposed by the FEECA Utilities appear to adequately reflect the costs and benefits to the general body of rate payers as a whole, including utility incentives and participant contributions, as required by Section 366.82(3)(b), F.S. More and more customers are installing energy efficient measures and renewable energy technologies to reduce their electric consumption without incentive from utility-sponsored programs. The Commission should continue to balance the goal of energy efficiency and conservation with the impact of the costs and benefits of these programs on the rates and overall bills of all the FEECA Utilities' rate-payers.

<u>ISSUE 4</u>: The goals proposed by the FEECA Utilities appear to 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.

In determining whether the proposed goals reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems, the Commission must examine and consider the impact of state and local building codes and appliance efficiency standards on the need for utility-sponsored measures and programs. More and more customers are installing conservation measures without consideration to utility incentives, and improved building codes and efficiency standards increase energy efficiency, which reduce or control the per capita use of electricity in the State. The Commission, therefore, should consider policy options that can be implemented to achieve least-cost strategies that consider the costs and benefits of the programs and their impact on all of the FEECA Utilities' ratepayers.

<u>ISSUE 5</u>: The goals proposed by the FEECA Utilities appear to adequately reflect the costs imposed by state and federal regulations *currently* in existence, on the emission of greenhouse gases over the past five years, pursuant to Section 366.82(3)(d), F.S.

<u>ISSUE 6</u>: The Commission's current practice of setting goals based on measures that take into consideration various tests, such as the Participant's, Total Resource Cost (TRC), and Rate Impact Measure (RIM) Tests, should continue. The use of multiple tests allows for a better perspective of the cost-effectiveness of the energy efficiency and conservation programs. The Commission should continue to balance the goal of energy efficiency and conservation with the impact of the costs and benefits of these programs on the rates and overall bills of all the FEECA Utilities' rate-payers.

ISSUE 7: The goals proposed by the FEECA Utilities appear to appropriately reflect consideration of free riders. In considering whether the Companies' proposed goals appropriately reflect free riders, however, the Commission should consider policy options that take into account the payback period of the proposed program measures.

In the prior goals proceeding, the Commission acknowledged that consumer education is a critical component of energy efficiency initiatives and the utilities should continue to educate customers regarding the benefits of energy efficiency, with specific focus on outreach and educating customers on measures with a quick payback period.[14] The Commission directed the FEECA Utilities to address how they would assist and educate their low-income customers, specifically with respect to the measures with a two-year or less payback.[15] The FEECA Utilities appear to have appropriately considered customer education and measures targeted to low-income customers as required by the Commission in the prior FEECA goals proceeding and should be commended for the new programs created and customers reached within their low-income communities. The FEECA Utilities acknowledged the programs and measures targeted to low-income customers were successful.[16] All of the FEECA Utilities, including those proposing the Commission set residential goals at zero, have committed to continue to offer low-income conservation programs.[17] In addition, all of the FEECA Utilities, including those proposing zero goals, have requested that programs targeted to low-income

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[14] Order No. PSC-2014-0696-FOF-EU, issued on December 16, 2014, at pgs. 26-27.
[15] Id.
[16] TR-3: P. 211, L. 19-24
[17] TR-2: P. 31, L. 1-5; TR-3: P. 80, L. 10-16; P. 81, L. 18-20; TR-4: P. 132, L. 5-8; P. 222, L. 1-2; TR-7: P. 118, L. 16-18

customers be counted in their goals.[18] The Commission should require the FEECA Utilities to maintain and continue to develop these low-income programs as well as to continue to educate and assist these customers, which are the least able to afford energy efficiency improvements and realize the benefits of such improvements.

The State of Florida should continue to identify ways to educate customers and provide them with the information and resources needed to pursue energy efficiency and conservation. A number of low-cost quick payback measures are available to customers to reduce their energy usage, and educational efforts to make customers aware of these measures can increase customer investment in energy efficiency and conservation. Because low-income customers will likely require financial assistance to implement these measures, the Commission should consider low-income customers when reviewing the proposed FEECA Utilities' programs.

All of the Intervenors in this proceeding expressed concern regarding the effect that the elimination of measures with less than a two-year payback period have on low-income customers. Specifically, by eliminating such programs, the financial incentives for low-income customers to participate in such programs would also be eliminated. FDACS shares this concern.

Rule 25-17.0021(3), Florida Administrative Code (F.A.C.), requires the FEECA Utilities to address free riders as part of the screening process. A free rider is defined "as a customer who receives an incentive for a measure he/she would have installed even without receiving a financial incentive from a utility-sponsored

[18] TR-3: P. 108, L. 1-11, P. 131, L. 18 – P. 132, L. 18, P. 190, L. 4-13.

program."[19] To avoid free riders, measures that would have a two-year or less payback were eliminated from consideration. The two-year payback screening criteria is designed to remove measures from the achievable potential forecasts that exhibit the key characteristics most associated with high levels of free-ridership in utility rebate programs, such as measures with the lowest costs and quickest payback levels to the customer. The assumption is that the average utility customer will invest in an energy efficiency measure with a low cost that will reduce their electric bill each month and that such costs should not be borne by the general body of ratepayers.

Neither Rule 25-17.0021, F.A.C., nor any other Commission rule or statute, however, specifically sets out a "two-year" payback period as the criteria when considering free riders.[20] Rather, the "two-year" payback period for considering free riders is "discretionary"[21] and based on long-standing Commission practice.[22] There is no "bright-line" that all customers will adopt energy efficiency measures with less than two-year paybacks.[23] Further, low-income customers may not be able to afford low-cost measures that are cost-effective for other participating customers. Despite their smaller costs, measures such as LED lights and hot water heater wraps may still not be affordable for someone living paycheck to paycheck.

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[19] Order No. PSC-2014-0696-FOF-EU, at p. 23.

[20] TR-1: P. 92, L. 1-18;

[21] Order No. PSC-2014-0696-FOF-EU, at p. 25 (The "selection of the most appropriate approach to account for free riders as required by Rule 25-17.0021(3), F.A.C., is discretionary.")

[22] Id., at pg. 23-24 ("We initially recognized a two-year payback period to address the free-ridership issue in the 1994 DSM goals-setting proceeding. Since that initial decision, we have consistently approved a two-year payback criterion in our goals-setting proceedings.); see also, TR-1: P. 69, L. 1-9; P. 92, L. 1-18; P. 183, L. 13-14; TR-2: P. 69, L. 8-10; TR-3: P. 133, L. 8-10, P. 173, L. 6-9; P. 208, L. 7-19; TR-4: P. 58, L. 20-22, P. 107, L. 7-9.

[23] TR-1: P. 118, L. 18 – P. 119, L. 1; P. 122, L. 25 – P. 123, L. 1;

In the absence of utility financial incentives, low-income customers may not be able to make investments in such measures.

As set out previously above, the FEECA Utilities acknowledged that programs and measures targeted to low-income customers were successful and all of the FEECA Utilities, including those proposing zero goals, have committed to continue to offer programs targeted to low-income customers. Significantly, the FEECA Utilities did not strictly apply a two-year payback screen or automatically exclude measures that failed the RIM Test, in order to justify low-income programs in this proceeding.[24] While the FEECA Utilities' have committed to continue to offer programs targeted to low-income customers, the use of a two-year payback screen does not eliminate the need for utility incentives to help low-income families invest in conservation measures, as low-income customers do not make economic decisions based on how quickly the measure pays for itself but instead on whether they can afford it.[25]

In an effort to balance the equity of the costs and benefits, programs may need to be designed and targeted to capture the needs of low-income customers while eliminating free-riders from higher income groups. This issue highlights the importance of further developing *non-utility* programs to educate all customers about the availability of low-cost measures that allow them to control their electric usage and reduce their monthly electric bills. In order to ensure low-income customers have access to conservation programs and encourage their participation

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[24] TR-2: P. 30, L. 21-25; TR-3: P. 189, L. 15-23
[25] TR-5: P. 229, L. 4-6.

in the programs, the two-year payback screen and RIM should not be strictly applied when designing low-income programs.

ISSUE 8: The residential summer and winter megawatt (MW) and annual Gigawatt-hour (GWh) goals proposed by the FEECA Utilities for the 2020-2029 period appear appropriate. The Commission, however, should continue to balance the goal of energy efficiency and conservation with the impact of the costs and benefits of these programs on the rates and overall bills of all the FEECA Utilities' rate-payers, particularly low-income customers.

The FEECA Utilities acknowledged programs and measures targeted to low-income customers are successful and all of the FEECA Utilities, including those proposing zero goals, have committed to continue to offer programs targeted to low-income customers. In addition, all of the FEECA Utilities are requesting their low-income programs be counted toward the goals established by the Commission.

As set out under Issue 7, the Commission should require the FEECA Utilities to maintain and to continue to develop these low-income programs as well as to continue to educate and assist these customers, which are the least able to afford energy efficiency improvements and realize the benefits of such improvements. While there is no statutory requirement for the Commission to set goals specifically for low-income residential customers, the Commission should require each of the FEECA Utilities to report to the Commission the annual costs and energy savings of any programs designed for and/or targeted to low-income customers in order for the program to be "counted in" the Utility's residential goals or "counted toward" the Utility achieving its residential goals.

In addition, the Commission should require the FEECA Utilities to identify ways to educate customers and provide them with the information and resources needed to pursue energy efficiency and conservation. The Commission can further promote conservation by encouraging the FEECA Utilities to focus their education efforts on the K-12, low-income, and senior population sectors. The FEECA Utilities should be required to report to the Commission the costs, savings, and Utility successes of these education programs.

ISSUE 9: The commercial/industrial summer and winter megawatt (MW) and annual Gigawatt hour (GWh) goals proposed by the FEECA Utilities for the 2020-2029 period appear to be appropriate. The Commission, however, should continue balance the goal of energy efficiency and conservation with the impact of the costs and benefits of these programs on rates and overall customer bills.

ISSUE 10: The Legislature has declared that it is critical to utilize the most efficient and cost-effective demand-side renewable energy systems. The Commission should encourage the FEECA Utilities to seek out innovative research and development programs to develop new measures and programs that assist customers with conserving their energy consumption while enabling utilities to shifting peak energy demand.

ISSUE 11: The dockets should be closed upon the Commission making a determination on all of the issues in the dockets and upon the Commission's Order issued in this proceeding becoming final.

As the Commission considers the evidence presented during the hearing and moves forward to establish goals for the FEECA Utilities, the Commission should continue to balance the goals of energy efficiency and conservation with the impact of the associated costs on all customers, thereby ensuring that every customer benefits from utility-sponsored programs. A diverse, least-cost strategy should be employed to ensure that sound principles of energy efficiency and conservation measures are achieved without further burdening low-income and non-participating customers. In setting goals for the FEECA Utilities, the Commission should particularly consider and encourage:

(1) Development and implementation of low-income conservation programs, by requiring the FEECA Utilities to develop and offer programs targeted to low-income customers, not applying the two-year payback screen for low-income programs, and requiring FEECA Utilities to report the annual costs and energy savings of any programs targeted to low-income customers to the Commission;

(2) Development and implementation of education programs, by requiring FEECA Utilities to continue their outreach efforts to educate customers, particularly low-income, K-12, and seniors, on energy conservation measures and programs offered and requiring the FEECA Utilities to report to the Commission on the costs, savings, and Utility successes of these education programs; and

(3) DSM research and development programs, by requiring the FEECA Utilities to seek out innovative research and development programs in order to develop new measures and programs that assist customers with conserving their energy consumption while enabling the Utilities to shift peak energy demand.

ADDITIONAL COMMENTS

As the Commission performs its statutory directive of approving goals and programs for the FEECA Utilities, FDACS offers the following additional comments in conclusion:

Has FEECA Achieved its Purpose?

Florida's total electric consumption ranks among the highest in the country due to its large population and extended season for hot weather and ranks second-highest in energy production. FEECA's purpose is to reduce the growth of Florida's peak electric demand and energy consumption. FEECA emphasizes four key areas:

(1) reducing the growth rates of weather-sensitive peak demand and electricity usage;
(2) increasing the efficiency of the production and use of electricity and natural gas;
(3) encouraging demand-side renewable energy systems; and
(4) conserving expensive resources, particularly fossil fuels.

As noted by the Commission in its 2018 FEECA Report, the seven FEECA Utilities account for approximately 87.9 percent of all Florida energy sales and residential customers consume approximately 52 percent of the electrical energy produced in the State.[26] Since FEECA was enacted, the Commission estimates that DSM programs offered by the FEECA Utilities have reduced summer peak demand by 7,863 megawatts (MW) and winter peak demand by 7,285 MW.[27] In 2017, the Commission reported that the FEECA Utilities offered 110 residential and commercial programs focused on demand reduction and energy conservation and performed over 200,000 residential and commercial energy audits.[28]

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[26] FPSC 2018 FEECA Report, at p. 6.
[27] Id., at p. 3.
[28] Id.

During the last FEECA goal-setting proceeding in 2014, the evidence presented showed that even though overall energy usage per customer continued to decline, the decline was less attributed to utility-sponsored conservation programs. Rather, the evidence indicated that federal and state building codes and energy efficiency standards, such as the Florida Building Commission's actions in setting energy efficiency standards for buildings and HVAC installations and Federal Energy Star Appliance requirements, resulted in more energy savings statewide than the FEECA goals and programs.[29] The Commission identified fewer cost-effective energy conservation programs due to more stringent building codes and appliance efficiency standards. The higher the current efficiency standards and codes, the less opportunity there is for utility-sponsored programs to be cost-effective.[30] Additionally, the Commission found that low natural gas prices reduced the amount of costs the utility could avoid through FEECA programs and resulted in fewer utility-sponsored programs being cost-effective.[31]

For these reasons, the Commission approved lower winter and summer peak demand and annual energy savings goals for the seven FEECA Utilities in the 2014 FEECA proceeding than the goals approved by the Commission in the 2009 proceeding.[32] Despite setting lower goals, the Commission mandated the FEECA Utilities focus on energy efficiency and conservation programs targeted to low-income residential customers, which are least able to invest in or make energy efficiency improvements, and to educate and assist these customers in reducing their energy demand.

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[29] Order No. PSC-14-0696-FOF-EU, at p. 33; see also, FPSC 2018 FEECA Report, at pgs. 14-15.
[30] Id.
[31] Id.
[32] Order No. PSC-14-0696-FOF-EU, pgs. 28-29.

In the current FEECA proceeding, all of the FEECA Utilities are again requesting the Commission establish lower conservation goals than those previously set. All of the FEECA Utilities are proposing lower goals than approved by the Commission in 2014, and several are proposing the Commission set their residential goals at zero. The testimony and evidence presented by the FEECA Utilities in the current proceeding once again indicates that building codes and appliance efficiency standards are more effective at capturing energy efficiency and reducing customer energy demand than FEECA utility-sponsored conservation programs. Building codes and efficiency standards are factors that may increase energy efficiency and reduce or control the per capita use of electricity in the State. As a result, building codes and efficiency standards have reduced the level of appropriate conservation goals and the need for utility-sponsored DSM programs.

FEECA Goals and Programs: Still Necessary or Obsolete?

It is FDACS' position that the State should give serious consideration to eliminating the goal-setting and program implementation process requirements under FEECA. Rather than continuing with an outdated and ineffective process, the State should pursue other methods of reducing customer demand and increasing energy efficiency and conservation that have been proven to be effective, such as increased energy efficiency requirements in building codes and appliances and implementing a public benefits charge.

Any utility that generates electrical power is required to take into account DSM and renewable energy programs when considering whether to add additional generating capacity to its systems, including whether to construct traditional or renewable generating resources. In addition to having to consider other factors when determining whether there is a "need" for an electrical generating plant, Section 403.519 of FEECA requires that the Commission take into account "whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available" and the "conservation measures taken by or reasonably available to the applicant or its members which might mitigate the need for the proposed plant . . .." § 403.519(3), F.S. Thus, utilities that generate electricity must provide some DSM programs in order to provide the Commission with all of the information required in order for the Commission to make a determination of need under the statute.

Thus, a clear purpose for establishing conservation goals and implementing DSM programs under FEECA is to defer or negate the need for additional generating facilities. Since the last goal-setting proceeding in 2014, however, five new fossil-fuel electrical generating plants have received siting approval under the PPSA.[33] The Commission affirmatively found a need for four of the five facilities pursuant to Section 403.519 of FEECA.[34] Since the last goal-setting proceeding, the IOUs and other utilities have steadily continued to invest in and construct utility-scale renewable generating resources, such as large solar fields. According to the Commission's 2018 Annual Report, FPL added 596 MW of solar generation through the construction of eight 74.5 MW sites, TECO added 144.7 MW of solar generation through the construction of one 74.4 MW site and one 70.3 MW site, and JEA added 75 MW of solar generation in 2018.[35] None of the solar generating sites required a finding of need by the Commission under FEECA because the sites did not meet

[33] Order No. PSC-2016-0032-FOF-EI, issued January 19, 2016, in Docket No. 2015-0196, In Re: Petition for determination of need for Okeechobee Clean Energy Center Unit 1, by Florida Power & Light Company; Order No. PSC-2018-0150-FOF-EI, issued March 19, 2018, in Docket No. 2017-0225, In Re: Petition for determination of need for Dania Beach Clean Energy Center Unit 7, by Florida Power & Light Company; Order No. PSC-2018-0263-FOF-EC, issued May 25, 2018, in Docket No. 2017-0267, In Re: Joint petition for determination of need for Shady Hills combined cycle facility in Pasco County, by Seminole Electric Cooperative, Inc. and Shady Hills Energy Center, LLC; and TR-1: P. 186, L. 9-24; P. 252, L. 15-17.

[34] The TECO Big Bend Modernization Project was sited as an existing facility under Section 403.5175, F.S., which does not require Commission approval. Final Order on Certification, In Re: Tampa Electric Company Big Bend Unit 1 Modernization Project Power Plant Siting Application No. PA79-12A2 (FDEP July 29, 2019)

[35] FPSC 2018 Annual Report, at p. 23; see also, TR-1: P. 252, L. 22 – P. 263, L.2.

the 75 MW threshold set out in the PPSA, which would require Commission approval.[36] While Florida's electric utilities work admirably to increase the efficiency of natural gas and electricity production and invest in more renewable energy sources as part of good business and environmental practices, utility-owned solar fields are additional generating resources that demand-side programs under FEECA seek to defer.[37]

Since FEECA's inception almost 40 years ago, Florida's electric utilities, whether subject to FEECA or not, have offered some kind of DSM and/or energy conservation programs, and most have offered low-income energy programs. These programs not only create a positive public presence for the utilities, they help customers understand their electric use, ways to conserve, and manage their bills. Evidence presented in the current FEECA proceeding indicates that more and more customers are installing energy efficient measures and renewable energy technologies to reduce their electric consumption without incentive from utility-sponsored programs.

Stronger building codes and appliance standards, together with increased generation efficiency, lower fuel prices, and lower growth rates in electricity use, have reduced the need to impose increased costs on customers for utility-sponsored programs to meet the objectives of FEECA. FDACS has firsthand knowledge of the effectiveness of the Florida Building Codes and Energy Star Appliances in reducing customer energy demand. FDACS sits on the board of the Florida Building Commission and actively participates in meetings and advocates for greater energy efficiency and conservation requirements. Further, in 2009, FDACS organized and administered the Florida Energy Star Appliance Rebate program, which was very popular and effective in educating citizens of the State regarding the effectiveness of energy efficient

[36] § 403.506(1), F.S.
[37] TR-1: P. 263, L. 6-12.

appliances in reducing energy consumption and promoting energy conservation through such appliances. In addition, FDACS has also advocated for a state Energy Star sales tax holiday weekend to further promote energy conservation.

As in 2014, additional emphasis has been placed on continuing and expanding low-income energy efficiency programs. In the current proceeding, the FEECA Utilities presented evidence that they intend to do more than just the bare minimum to achieve their proposed goals and are committed to fulfilling the Commission's mandate with regard to low-income customers. In fact, the FEECA Utilities ignored several practices and standards used by the Commission in setting conservation goals, such as screening out measures with less than a two-year payback and measures that failed the RIM Test, in order to justify these low-income programs. The FEECA Utilities acknowledged the programs and measures targeted to low-income customers were successful. All of the FEECA Utilities, including those proposing the Commission set residential goals at zero, have committed to continue to offer low-income conservation programs. In addition, all of the FEECA Utilities, including those proposing zero goals, have requested that programs targeted to low-income customers be counted in their goals.

Utility-sponsored DSM programs are funded by all ratepayers. Therefore, in order to meet FEECA requirements, the Commission and FEECA Utilities must ensure that the DSM programs they create are cost-effective for all ratepayers and less costly than building new generation in order to reap the benefits of reduced fuel usage and deferred generating capacity. The difference between the FEECA Utilities and all the other electric utilities in the state is that the FEECA Utilities are required to report the expenditures and energy savings of their programs to the Commission each year and the IOUs must justify the expenditures to the Commission in order to recover the costs of the programs from their ratepayers. Additionally, every five years the FEECA

Utilities are required to repeat the entire goal-setting process, which requires the Utilities to expend large sums of capital to perform complex analyses, retain consultants, prepare filings, and participate in a hearing. Whether an IOU or a municipal utility, the ratepayers of each FEECA Utility ultimately pay the cost for these FEECA proceedings. Today, electric customers are investing in energy efficiency and renewable technologies and implementing energy conservation measures regardless of utility-sponsored programs. Further, the implementation and improvement in energy efficient building codes and appliance standards continue to contribute to the decline in the cost-effectiveness of utility-sponsored conservation measures and programs. These two situations alone make it apparent that that the costs and resources expended to administer the FEECA proceeding and programs would be better spent directly on customer conservation measures and programs.

While the trend appears that FEECA numeric goals will continue to decline or even be eliminated, there is still work to be done to increase residential energy efficiency and conservation. The question, however, is whether the utilities are the appropriate point-source in which to implement energy efficiency and conservation requirements? It is clear the FEECA goal-setting and program implementation process is expensive and outdated. In the last ten years, utilities have continued to require and build additional generating capacity, building both fossil-fuel and renewable generating facilities. Customers are implementing conservation measures and investing in renewable energy without incentive from the utility. Rather than continuing with an outdated and ineffective process, the State should pursue other methods to reduce customer demand and increase energy efficiency and conservation that have been proven to be effective, such as increased energy efficiency requirements in building codes and appliances and implementing a public benefits charge.

FDACS acknowledges that the Commission is not the proper forum to make such policy changes and determinations as those responsibilities lie with the Florida Legislature. Rather, the purpose of these additional comments is to assist in understanding FDACS' recommendations in this proceeding and open discussion for possible future changes.

CONCLUSION

The Commission should continue to balance the goals of energy efficiency and conservation with the impact of the associated costs on all customers, thereby ensuring that every customer benefit from utility-sponsored programs. A diverse, least-cost strategy should be employed to ensure that sound principles of energy efficiency and conservation measures are achieved without further burdening low-income and non-participating customers. The Commission should require the FEECA Utilities to continue to develop and offer programs targeted to low-income customers, not apply the two-year payback screen for low-income programs, and require FEECA Utilities to report to the Commission the annual costs and energy savings of any programs targeted to low-income customers. While the FEECA Utilities' have committed to continue to offer programs targeted to low-income customers, the use of a two-year payback screen does not eliminate the need for utility incentives to help low-income families invest in conservation measures, as low-income customers do not make economic decisions based on how quickly the measure pays for itself but instead on whether they can afford it. This issue highlights the importance of further developing *non-utility* programs to educate all customers about the availability of low-cost measures that allow them to control their electric usage and reduce their monthly electric bills. Therefore, rather than continuing with an outdated and ineffective process, the State should pursue other methods of reducing customer demand and increasing energy efficiency and conservation that have been proven to be effective, such as increased energy efficiency requirements in building codes and appliances and implementing a public benefits charge. As the Commission completes its statutory directive to approve goals and programs for the FEECA Utilities, FDACS will continue in its statutory role to promote energy efficiency and conservation programs, to provide educational outreach on energy issues through the development of non-utility programs, and to provide recommendations to the State on energy matters.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Florida Department of Agriculture and Consumer Services' Post-Hearing Statement has been furnished by electronic mail on this 20TH day of September 2019, to the following:

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