

**Antonia Hover**

**From:** Antonia Hover on behalf of Records Clerk  
**Sent:** Monday, March 14, 2022 2:54 PM  
**To:** 'david\_s@ourchildrenstrust.org'  
**Cc:** Consumer Contact  
**Subject:** FW: Letter re: Docket No. 20200181-EU  
**Attachments:** 2022.03.14\_OCT Letter re FEECA\_Final.pdf

Good Afternoon, Attorney Schwartz.

We will be placing the comments below in consumer correspondence in Docket No. 20200181, and forwarding them to the Office of Consumer Assistance and Outreach.

Thank you!

*Toni Hover*

*Commission Deputy Clerk I  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399  
Phone: (850) 413-6467*

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**From:** David Schwartz <david\_s@ourchildrenstrust.org>  
**Sent:** Monday, March 14, 2022 2:24 PM  
**To:** Margo DuVal <mduval@psc.state.fl.us>; Records Clerk <CLERK@PSC.STATE.FL.US>  
**Subject:** Letter re: Docket No. 20200181-EU

Dear Ms. Duval,

On behalf of Our Children's Trust, please find attached a letter for the Commission's consideration in Docket No. 20200181-EU, Proposed Amendment of 25-17.0021, F.A.C., Goals for Electric Utilities. Our Children's Trust has a keen interest in the Commission's ongoing FEECA rule revision process and wishes to provide some additional information to the Commission concerning what other states are undertaking with respect to energy efficiency programs. Our Children's Trust hopes that the Commission will consider and utilize this information to develop strong FEECA rules that will help facilitate the decarbonization of Florida's energy system.

We appreciate your time and consideration of this letter and look forward to working with the Commission as it finalizes the FEECA rules and develops comprehensive energy efficiency and conservation policies that help mitigate the impacts of climate change in Florida. We would appreciate a response to this letter at your convenience.

Sincerely,

David

**David Schwartz**  
Staff Attorney

He/Him/His

[Our Children's Trust](#)

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March 14, 2022

Margo Duval, Office of the General Counsel  
Florida Public Service Commission  
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Tallahassee, FL 32399-0850

*Via email to:* PSC Clerk: [clerk@psc.state.fl.us](mailto:clerk@psc.state.fl.us); Margo Duval: [mduval@psc.state.fl.us](mailto:mduval@psc.state.fl.us)

Re: Docket No. 20200181-EU Proposed Amendment of 25-17.0021, F.A.C., Goals for Electric Utilities

Dear Ms. Duval,

On June 28, 2021, Our Children's Trust, on behalf of Florida's youth, submitted comments (Document No. 07072-2021) to the Florida Public Service Commission ("PSC") concerning Docket No. 20200181-EU Proposed Amendment of 25-17.0021, F.A.C., Goals for Electric Utilities. Our Children's Trust ("OCT") is the only law firm in the United States dedicated to representing youth whose fundamental, constitutional rights to life, liberty, property, and equal protection of the law are being infringed by the government's climate change-causing conduct, including the PSC's energy policies and regulatory decisions that exacerbate the climate crisis.

OCT appreciates the PSC providing an opportunity for public and stakeholder input on the PSC's draft rule amending its rules governing implementation of the energy efficiency and conservation programs required by the Florida Energy Efficiency and Conservation Act ("FEECA"), Fla. Stat. § 366.82. As the PSC considers its proposed revisions to its FEECA rules, OCT wishes to provide some additional information to the PSC concerning what other states – namely Massachusetts and California – are undertaking with respect to energy efficiency programs. OCT hopes that the PSC will consider and utilize this information in order to develop strong FEECA rules that will help facilitate the decarbonization of Florida's energy system.

The transformation of Florida's energy system from fossil fuel dependence to one based on clean, renewable sources of energy is absolutely necessary to protect the lives and liberties of all Floridians, and particularly young Floridians. The PSC cannot waste this opportunity and should consider implementing comprehensive energy efficiency programs like those being pursued in states like Massachusetts and California so that Florida can begin on a clear path towards climate stabilization and decarbonization. Given the importance and urgency of this rule, we respectfully request that you provide us an update as to what the next steps in the regulatory process will be and when you anticipate that the rule will be finalized.

Respectfully submitted,  
*/s/ Andrea K. Rodgers*  
ANDREA K. RODGERS  
OCT Senior Litigation Attorney  
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*/s/ Mitchell A. Chester*  
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## The PSC is Out of Compliance with the Florida Energy Policy

The Florida legislature has very clearly articulated its energy policy for the state of Florida: “Play a leading role in developing and instituting energy management programs aimed at promoting energy conservation, energy security, and the reduction of greenhouse gas emissions.<sup>1</sup> Yet, in spite of this clear legislative directive, Florida ranks at the bottom of states nationally in terms of most energy or electricity efficiency programs. The recent “State Energy Efficiency Scorecard: 2021 Progress Report” from the American Council for an Energy-Efficient Economy (“ACEEE”) highlights the extent to which Florida is off course with respect to energy efficiency programs as compared to other states.<sup>2</sup> In particular, ACEEE’s report indicates that:

- **Florida had the 7<sup>th</sup> lowest net incremental electricity savings in 2020 - only 148,956 megawatt hours (“MWh”) (0.06% of 2020 retail sales).** The national median for 2020 was 225,909 MWh (or 0.63% of 2020 retail sales). Florida pales in comparison to the top 2020 electricity savings state of Massachusetts (1,168,304 MWh for 2.34% of 2020 retail sales).<sup>3</sup>
- **Florida also ranked at the bottom nationally in terms of natural gas and fuel efficiency programs in 2020, saving only 60,934 metric million British thermal units (“MMBtu”) (0.06% of 2019 commercial and residential retail sales) of natural gas, compared to the national median of 135,400 MMBtu (0.12% of 2019 commercial and residential retail sales).** California was the top state in terms of natural gas and fuel efficiency programs with a savings of 15,962,390 MMBtu (1.94% of 2019 commercial and residential retail sales).<sup>4</sup>
- **Florida's 2020 spending (\$92.3 million) on electricity efficiency programs was only 0.4% of statewide electric revenues, well below the national median of 1.3% of statewide revenues.** Florida is far behind the top states (MA, CA) who are investing hundreds of millions of dollars more each year than FL is on energy efficiency programs. For instance, Massachusetts spent \$ 585 million on electricity efficiency programs in 2020, or over 6% of its 2020 statewide electric revenue.<sup>5</sup>
- **Florida also falls far behind leading states with respect to its spending on natural gas efficiency programs.** In 2020, Florida allocated \$27.5 million for such programs, or \$33.75 per 2020 residential customer. This compares with Massachusetts’ spending of \$252.6 million in 2020, or \$135.38 per 2020 residential customer, for similar programs.<sup>6</sup>
- **Florida allocates hardly any money for low-income energy efficiency programs – setting aside just under \$8 million for such programs in 2020, or \$1.13 per income qualified resident.** This compares with Massachusetts’ spending of \$83.2 million or \$61.13 per income qualified resident. California spent the most of any state on such programs in 2020 – over \$300 million, or \$28.62 per income qualified resident.<sup>7</sup>

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<sup>1</sup> Fla. Stat. § 377.601(2)(b).

<sup>2</sup> Weston Berg, Emma Cooper, and Marianne DiMascio, *State Energy Efficiency Scorecard: 2021 Progress Report*, ACEEE (February 2022), available at <https://www.aceee.org/research-report/u2201>.

<sup>3</sup> *Id.* at 17-18, Table 1.

<sup>4</sup> *Id.* at 20-21, Table 2.

<sup>5</sup> *Id.* at 22, Table 3.

<sup>6</sup> *Id.* at 24, Table 4.

<sup>7</sup> *Id.* at 38-41, Table 6.

A recent study by the Southern Alliance for Clean Energy (“SACE”) corroborates these findings.<sup>8</sup> Namely, SACE’s report shows that Florida’s 2020 energy savings as a percentage of retail electric sales – amounting to only 0.09% – lagged badly behind other Southeastern states, the Southeast utility average (0.20%) and the national average (0.72%).<sup>9</sup> To put this underperformance in perspective, in 2020, Florida accounted for 27.6% of the Southeast United States’ retail energy sales, yet only accounted for 14.2% of the Southeast’s energy efficiency savings.<sup>10</sup>

Not only is Florida significantly under-performing in the energy efficiency / energy savings space, its energy efficiency trends are heading in the wrong direction. Florida’s 2020 energy savings as a percentage of retail sales was lower than it was in 2015.<sup>11</sup> Florida’s under-performance in the energy efficiency space is largely attributable to the state’s largest utility – Florida Power and Light – which “is not only the worst performing [energy efficiency] utility in the state, it is also spending as much as three times more per kilowatt hour of savings compared to its regional competitors.”<sup>12</sup> Florida Power and Light’s abysmal performance with respect to energy efficiency and savings only underscores the importance for PSC to use the current FEECA goal revision process to transform Florida’s energy efficiency policy for the better, bring the PSC into compliance with Florida’s express energy policy, and mitigate the ongoing and worsening impacts of climate change in Florida.

The evidence is abundantly clear that Florida can and must improve its energy efficiency policies and performance. Both the ACEEE and SACE study indicate that the PSC is out of compliance with Fla. Stat. § 377.601 and should revise its FEECA goal setting rule practices to ensure Florida catches up to the states in the nation leading the energy efficiency revolution. OCT wishes to point to the following examples from Massachusetts and California to guide the PSC’s revised FEECA rule proceedings in PSC Docket No. 20200181-EU.

## **Massachusetts**

Recently, a collection of Massachusetts utilities developed and submitted a detailed “Massachusetts 2022-2024 Energy Efficiency Plan” for approval to the Massachusetts Department of Public Utilities.<sup>13</sup> The utilities’ 2022-2024 energy efficiency plan was approved in early 2022 by the Massachusetts Department of Public Utilities.<sup>14</sup> The utilities’ 2022-2024 energy efficiency plan in Massachusetts is worthy of the PSC’s attention for several reasons.

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<sup>8</sup> Forest Bradley-Wright, Heather Phonan, and Maggie Shober, *Energy Efficiency in the Southeast – Fourth Annual Report*, SOUTHERN ALLIANCE FOR CLEAN ENERGY (February 2022), <https://cleanenergy.org/wp-content/uploads/Energy-Efficiency-in-the-Southeast-Fourth-Annual-Report.pdf>. The SACE report is attached hereto as Appendix A.

<sup>9</sup> *Id.* at 7. (By comparison, other Southeastern states’ 2020 energy savings as a percentage of their retail electric sales were as follows: Mississippi (0.11%), Georgia (0.17%), South Carolina (0.35%), and North Carolina (0.61%). Only Tennessee (0.6%) and Alabama (0.02%) had lower energy efficiency savings than Florida in 2020).

<sup>10</sup> *Id.* at 8.

<sup>11</sup> *Id.* at 9.

<sup>12</sup> *Id.* at 17.

<sup>13</sup> Mass Save, *Massachusetts Joint State Wide Electric and Gas Three-Year Energy Efficiency Plan 2022-2024* (Nov. 1, 2021), <https://ma-eeac.org/wp-content/uploads/Exhibit-1-Three-Year-Plan-2022-2024-11-1-21-w-App-1.pdf>.

<sup>14</sup> Massachusetts Department of Public Utilities, *Order – D.P.U. 21-120 – D.P.U. 21-219* (Jan. 31, 2022), <https://fileservice.ea.comacloud.net/FileService.Api/file/FileRoom/14461268>.

First, Massachusetts’ 2022-2024 energy efficiency plan establishes *quantifiable* emissions reductions goals, expressed in million metric tons (“MMT”) of carbon dioxide (“CO<sub>2</sub>”), to be achieved by *each* fuel type – electricity *and* natural gas. Those goals are listed below.

**Table 1: Greenhouse Gas Emissions Reduction Goal**

	2022–2024 Joint Statewide Energy Efficiency Plan (electric)	2022–2024 Joint Statewide Gas Efficiency Plan (gas)
Emissions Reductions in metric tons of CO <sub>2</sub> e	504,000	341,000

**Table 2: Sector-Specific Goals**

	Residential and Income Eligible Electric Energy Efficiency	Residential and Income Eligible Gas Efficiency	Commercial and Industrial Electric Energy Efficiency	Commercial and Industrial Gas Efficiency
2025 Cumulative Annual Emissions Reduction (metric tons of CO <sub>2</sub> e)	392,000	252,000	296,000	156,000
2030 Cumulative Annual Emissions Reduction (metric tons of CO <sub>2</sub> e)	351,000	191,000	153,000	150,000

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We ask that the PSC similarly require numeric CO<sub>2</sub> emissions reductions goal as part of the FEECA rulemaking. Under Florida law, the PSC is not only required to encourage energy efficiency, it is also required to “[d]evelop and promote the effective use of energy in the state, discourage all forms of energy waste, and recognize *and address the potential of global climate change wherever possible*.”<sup>16</sup> The PSC thus has ample statutory support for similarly establishing quantifiable CO<sub>2</sub> reductions to be achieved through the FEECA process. Under FEECA, the PSC is required to take into consideration “the costs imposed by state and federal regulations on the emissions of greenhouse gases,”<sup>17</sup> but it is impossible to calculate those costs without quantifying the emission reductions that would be achieved through the FEECA process. The science is unequivocal that every single ton of GHG emitted matters and contributes to the worsening crisis, regardless of its source.<sup>18</sup> Accordingly, the PSC should seek to quantify its FEECA goals in terms of the GHG emissions (in MMT of CO<sub>2</sub>) they will reduce, as doing so will provide the PSC with the information it needs to fulfill its statutory responsibilities.

## California

Although not an energy efficiency plan, the following example from California demonstrates the sort of long-term energy planning that states leading the renewable energy

<sup>15</sup> Mass Save, *Massachusetts Joint State Wide Electric and Gas Three-Year Energy Efficiency Plan 2022-2024* (Nov. 1, 2021), <https://ma-eeac.org/wp-content/uploads/Exhibit-1-Three-Year-Plan-2022-2024-11-1-21-w-App-1.pdf> (Exhibit 1, Appendix D, p. 3).

<sup>16</sup> Fla. Stat. § 377.601(2)(a) (emphasis added).

<sup>17</sup> Fla. Stat. 366.82(3)(d).

<sup>18</sup> Intergovernmental Panel on Climate Change, *Climate Change 2021 - The Physical Science Basis* (Aug. 7, 2021), [https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC\\_AR6\\_WGI\\_Full\\_Report.pdf](https://www.ipcc.ch/report/ar6/wg1/downloads/report/IPCC_AR6_WGI_Full_Report.pdf) (p. SPM-37 “Every tonne of CO<sub>2</sub> emissions adds to global warming.” Figure SPM.10).

transition are undertaking and which should be pursued by the PSC. Specifically, on January 31, 2022, the California Independent System Operator (“CAISO”) released a draft “20-Year Transmission Outlook Report,” which sets forth CAISO’s planning approach for CA’s electricity system over the next two decades in order to comply with SB100 – which requires all electric retail sales to end-use customers come from renewable energy and zero-carbon sources by 2045.<sup>19</sup> While Florida does not have a specific date by which utilities must transition to renewable energy, Florida does have a renewable energy policy that expresses legislative intent “to promote the development of renewable energy; protect the economic viability of Florida’s existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida’s dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers.”<sup>20</sup> The PSC is the agency charged with implementing this section of Florida’s renewable energy policy, and the state’s over-reliance on fossil fuels for electricity demonstrates this policy is not being fulfilled.

The CAISO draft report is of use to the PSC not only because it involves energy efficiency planning based on state renewable energy policy, but also because the 20-year time frame is far longer than anything currently considered under the FEECA process. In particular, CAISO plans to meet the high-end energy load forecast for 2040 of nearly 83,000 MW through 37 GW battery energy storage, 4 GW long-duration storage, 53 GW utility scale solar, 2 GW geothermal, and 24 GW wind (mix of out-of-state and in-state), totaling 120.8 GW.<sup>21</sup> This is the sort of comprehensive, long-term energy planning the PSC should be undertaking as part of FEECA and the 10-year site plan process.

In sum, Florida lags badly behind both the national and Southeastern average for energy efficiency savings as a percentage of retail sales. The PSC can look to states like Massachusetts and California for guidance and inspiration as it moves through the FEECA rule revision process. The above examples readily demonstrate that PSC should pursue strong FEECA goals that yield quantifiable GHG emissions reductions by a certain date. OCT appreciates PSC’s consideration of this letter and looks forward to working with PSC as it finalizes the FEECA rules and develops comprehensive energy efficiency and conservation policies that reduce emissions and help mitigate the impacts of climate change in Florida. We would appreciate a response to this letter at your convenience.

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<sup>19</sup> California Independent System Operator, *20-Year Transmission Outlook* (Draft, Jan. 31, 2022), <http://www.aiso.com/InitiativeDocuments/Draft20-YearTransmissionOutlook.pdf>. The CAISO report is attached hereto as Appendix B.

<sup>20</sup> Fla. Stat. 366.92(1).

<sup>21</sup> California Independent System Operator, *20-Year Transmission Outlook* 1-2 (Draft, Jan. 31, 2022), <http://www.aiso.com/InitiativeDocuments/Draft20-YearTransmissionOutlook.pdf>.