

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

PROPOSED AMENDMENT OF)
RULE 25-17.0021 , F.A.C.,) Docket No. 20200181-EU
GOALS FOR ELECTRIC UTILITIES)

COMMENTS OF SOUTHFACE ENERGY INSTITUTE

I. INTRODUCTION

Southface Energy Institute (“Southface”) respectfully submits these comments on the proposed amendments to Rule 25-17.0021 F.A.C., Goals for Electric Utilities (hereinafter “proposed rule”) to the Florida Public Service Commission (“Commission” or “PSC”) in the above-captioned docket. For the last 40 years, Southface has been a leader in building efficiency research and the design and construction of sustainable homes and businesses. Southface appreciates the opportunity to provide recommendations and thanks the Commission and Staff for their efforts to improve Commission rules and processes for setting utility goals.

At the request of PSC Staff, a docket was opened in July 2020 to add clarity and specificity to the Florida Energy Efficiency and Conservation Act (“FEECA”) goal setting rule.¹ Proposed amendments to the rule were filed December 2020. Then, two staff rule development workshops were held on January 14, 2021, and May 18, 2021. We are now responding to the second draft of the proposed rule amendments filed on September 12, 2022² and the staff workshop held on November 30, 2022. The PSC received over 1,200 public comments since the docket opened. Public commenters include Representative Anna V. Eskamani, Florida State House District 47 and Senator José Javier Rodríguez, Florida State Senate, District 37, as well as dozens of city officials.

¹ Docket NO. 20200181-EU, Document NO. 12666-2020

² Docket NO. 20200181-EU, Document NO. 06203-2022

II. SUMMARY

Southface does not support the proposed amendments to the rule as drafted. We acknowledge the attempt to clarify cost-effectiveness in the proposal. However, the proposal does not go far enough to protect the interests of all ratepayers, especially low- and moderate-income customers, and does not support the intent of FEECA. The current rules and procedures have not produced significant investment in cost-effective demand-side management (“DSM”) by regulated utilities. The Commission must address this by modernizing the rules and introducing more flexibility to comply with the mandate, purpose, and intent of FEECA - to increase cost-effective utility DSM investments in the state.

The following recommendations, discussed further below, suggest improvements that better enable the Commission to meet its own stated goals and the intent of FEECA. As Commissioner Clark stated in 2019, prior to opening this docket, *“We must seek to obtain the most value for Floridians by ensuring that conservation and efficiency measures are widely implemented.”*³ Integrating the following recommendations into the FEECA goal setting rule and process helps broaden the amount of cost-effective DSM programs available for all ratepayers.

Recommendations:

- 1. Implement the Participant Cost Test (“PCT”) and the Total Resource Cost Test (“TRC”) as appropriate cost-effectiveness Tests;**
- 2. Set specific goals for low- and moderate-income DSM programs;**
- 3. Preclude Simple Payback Screening and adopt Evaluation, Measurement, and Verification (“EM&V”); and**
- 4. Consider additional DSM policy supports that modernize the goal setting process.**

³ ORDER NO. PSC-2019-0509-FOF-EG, DOCKET NOS. 20190015-EG, 20190016-EG, 20190017-EG, 20190018-EG, 20190019-EG, 20190020-EG, 20190021-EG. PAGE 11

We generally support the consensus approach described within the line-by-line redline version of proposed rule language submitted by Southern Alliance of Clean Energy (“SACE”) on December 12, 2022. We offer further specific modifications to the proposed rule, discussed below.

III. **BACKGROUND**

A. *FEECA Intent and Purpose*

The Florida Legislature has consistently recognized the value and benefits that energy efficiency, conservation, and DSM resources can provide to the state (hereinafter referred to generally as “DSM resources” or “DSM”).⁴ In 1980, the Florida Legislature codified its intent to increase utility investments in cost-effective DSM resources.⁵ FEECA provides clear direction and authority to the Commission to enact rules and procedures necessary to *increase* utility investment in cost-effective DSM programs, consistent with the public interest:⁶

“The Legislature directs the commission to develop and adopt overall goals and authorizes the commission to require each utility to develop plans and implement programs for increasing energy efficiency and conservation and demand-side renewable energy systems within its service area, subject to the approval of the commission.” (emphasis added)

FEECA establishes the urgency of deploying DSM resources, as well as prioritizes non-energy benefits such as health, job creation, and air pollution:

*“The Legislature finds and declares that 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.”*⁷

⁴ § 366.81 Fla. Stat. Legislative findings and intent: *“The Legislature finds and declares that 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.”*

⁵ § 366.80 through 366.83, and 403.519 Fla. Stat.

⁶ § 366.81 Fla. Stat. Legislative findings and intent: *“...The Legislature further finds that the Florida Public Service Commission is the appropriate agency to adopt goals and approve plans related to the promotion of demand-side renewable energy systems and the conservation of electric energy and natural gas usage.”*

⁷ § 366.81 Fla. Stat.

FEECA emphasizes four key areas: reducing the growth rates of weather-sensitive peak demand and electricity usage, increasing the efficiency of electricity and natural gas production and use, encouraging demand-side renewable energy systems, and conserving expensive resources, particularly petroleum fuels. Furthermore, FEECA directs the Commission to value DSM resources as a competitive alternative when determining the need for a new electrical power plant(s).

“In making its determination, the commission shall take into account... whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available.”⁸

B. Outcomes of the Current FEECA Process and Procedures

The lack of clarity in current rules and guiding documents creates unnecessary barriers to effective implementation. For example, current rules and policy manuals do not specify how to use cost-effectiveness test results to set DSM goals. In practice, the FEECA utilities rely on complex call-backs of decisions by the PSC within final orders approving numeric conservation goals to justify setting goals of zero.⁹ This rule-making proceeding presents an opportunity to end the confusion and clarify cost-effectiveness consistent with the intent of FEECA.

Due to unclear language in existing rules,¹⁰ the six Florida electric utilities subject to Commission regulation under FEECA consistently fail to make progress toward the statutes' clearly stated purpose of achieving a more resilient and cost-effective electric grid through utility investment in DSM across the state. For example, in 2020, the U.S. average for efficiency savings as a percentage of annual retail sales was 0.72%.¹¹ As outlined in Figure 1. below, Florida utility DSM investments under the current Commission-established framework have not resulted in meaningful utility investment in cost-effective DSM; a result that is inconsistent with the clear

⁸ § 403.519 (3) Fla. Stat.

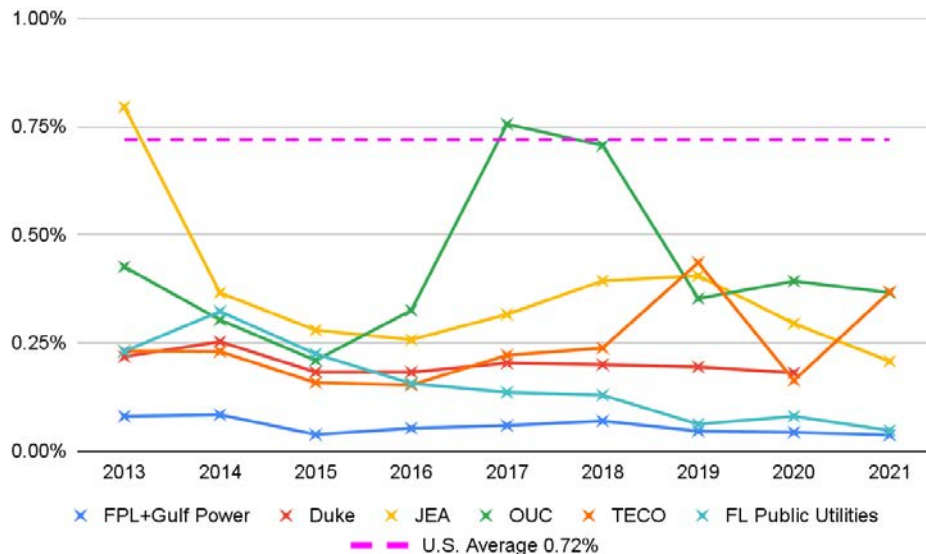
⁹ Such as Order No. PSC-94-1313-FOF-EG approving the Ratepayer Impact Measure (RIM) test and a 2-year payback screen, and ORDER NO. PSC-2019-0509-FOF-EG citing that RIM and TRC determine if a DSM measure is economic.

¹⁰ 25-17.0021 Goals for Electric Utilities and 25-17.008 Conservation and Self-Service Wheeling cost-effectiveness Data Reporting Format

¹¹ Southern Alliance for Clean Energy (2022). Energy Efficiency in the Southeast, Annual Report published February 2022

intent of FEECA. As shown below, since 2013 almost all relevant utilities achieved less than half of the national average in energy efficiency savings from DSM programs.

Figure 1. FEECA Utility Efficiency Savings as a Percentage of Annual Retail Sales



IV. RECOMMENDED IMPROVEMENTS TO COST-EFFECTIVENESS TESTS IN THE PROPOSED RULE

A. Adopt and Implement Participant Cost Test and Total Resource Cost Test as the Most Appropriate Cost-Effectiveness Test Scenario

The use of the PCT and the TRC fully meet the requirements of FEECA - these two cost tests, in combination, effectively and fairly consider (a) the costs and benefits to customers participating in the measure, and (b) the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions, as required by FEECA.¹² This scenario of test combinations should be used as the primary consideration in goal setting.

¹² § 366.82(3)(a) and (b) Fla. Stat.

The Florida PSC holds the position that the FEECA utilities must "*measure cost-effectiveness from three perspectives, at a minimum - the program participant, the utility's ratepayers, and society's overall cost for energy services. The Participants test, the Rate Impact Measure ("RIM") test, and the Total Resource Cost ("TRC") test capture these viewpoints.*"¹³ There is no apparent controversy that the PCT effectively addresses the requirement of § 366.82(3)(a), Fla. Stat..

However, staff previously stated the position that the use of TRC and RIM in combination are necessary to fulfill provision § 366.82(3)(b), Fla. Stat. because neither test includes both utility incentives and participant contributions.¹⁴ Staff go on to say that, "*...neither Test fully satisfies the requirement of Section 366.82(3)(b), Fla. Stat., alone. The TRC Test does not include utility incentives, and the RIM Test does not include participant contributions. Therefore, staff recommends that the results from both Tests are necessary to fulfill the Commission's statutory requirement under Section 366.82(3)(b), Fla. Stat.*"¹⁵ The crux of the argument for requiring RIM evaluation is that TRC does not include utility incentives.

We acknowledge that the staff amendments to the proposed rule attempt to codify current practices. However, current practices are not effective and lead to the rejection of zero goals - *this is contrary to the intent and purpose of FEECA.* The following arguments explain why this position reflects an incomplete understanding of the cost-effectiveness tests.

B. TRC Includes the Incremental Measure Cost, Regardless of Who Pays

Various literature says that the TRC does not include the incentive payment, but simply equating this with a failure to fulfill FEECA's requirement of "including utility incentives" is wrong. As defined in the *Florida Public Service Commission Cost Effectiveness Manual For Demand Side Management Programs and Self-Service Wheeling Proposals* (hereinafter cost-effectiveness manual), TRC includes both utility program costs and participant program costs. Other industry standards define these as combined "incremental measure cost". Utility incentives

¹³ Annual Report on Activities Pursuant to FEECA, Nov 2021, page 11

¹⁴ Staff Recommendation in 2019 Review of Numerical Goals dockets, page 18

¹⁵ Staff Recommendation in 2019 Review of Numerical Goals dockets, page 21

for DSM measures are standardly defined as the percentage of incremental cost that they buy down. Or, how much of the incremental cost that the participant does not have to pay or gets refunded to him/her. So, incremental measure cost is inclusive of (a) utility incentive, and (b) participant cost.

The National Action Plan for Energy Efficiency's Understanding the Cost-Effectiveness of Energy Efficiency Programs highlights this fact, and the use of TRC fulfills the language of § 366.82(3)(b), Fla. Stat. perfectly.:

“The TRC is similar to the PACT except that it considers the cost of the measure itself rather than the incentive paid by the utility... Due to the incentives paid by the utility, the participant and the utility each pay only a portion of the full incremental cost of the measure, which is the cost to the region as a whole considered by the TRC.”¹⁶

As described in the PSC’s cost-effectiveness manual, the costs and benefits of these two tests are compared in Tables 1 and 2 below. Note how the PCT is the perspective of participating customers, and the TRC is the perspective of all ratepayers who must equally pay for the utility program costs and also benefit from fuel savings. Utility incentives are included in TRC as utility program costs, UCT. RIM Should Not be Used as a Primary Cost-Effectiveness Test

Within the last decade, states are updating their cost-effectiveness rules and statutes to deemphasize lost revenues by making RIM optional, and defining cost-effectiveness as passing the TRC or Utility Cost Test (“UCT”). For example, five states specify TRC as the primary cost test used for measuring DSM goal cost-effectiveness (including Illinois¹⁷ and New Mexico¹⁸), and twenty states use TRC as a secondary screen. The RIM test alone cannot be used equitably in assessing DSM resources because it is not also used to analyze competing supply-side investments such as new generation facilities or distribution infrastructure. Those investments would also result in rate increases, yet they are approved by the PSC in other dockets¹⁹.

¹⁶ National Action Plan for Energy Efficiency Understanding Cost-Effectiveness of Energy Efficiency Programs, 2008, pages 6-7.

¹⁷ 220 Ill. Comp. Stat. § 5/8-104

¹⁸ N.M. Stat. § 62-17-4 C

¹⁹ York, D, and Cohn, C. (2021). *Unrealized Potential: Expanding Energy Efficiency Opportunities for Utility Customers In Florida*. ACEEE.

<u>Table 1. Participant Cost Test</u>		<u>Table 2. Total Resource Cost Test</u>	
<u>Costs</u> <u>Ct = ECt + CMt +</u> <u>OCt</u>	<u>Benefits</u> <u>Bt = BSt + TCt + URt +</u> <u>OBt</u>	<u>Costs</u> <u>Ct = ISt + UCt + PCt +</u> <u>OCt</u>	<u>Benefits</u> <u>Bt = AGt + ATt + ADt + FSt + TCt</u> <u>+ OB</u>
ECt customer equipment costs	BSt savings in customer bills	ISt any increased supply costs	AGt are the avoided generation benefits AGt = ACt + AOt + AFt - RF ACt are avoided unit capacity costs AOt are avoided unit O&M costs AFt are avoided unit fuel costs RFt are replacement fuel costs
CMt customer O&M costs	TCt any tax credits	UCt utility program costs	ATt the avoided transmission benefits
OCt other quantifiable costs	URt utility rebates or incentives	PCt participant program costs	ADt the avoided distribution benefits
	OBt any other quantifiable benefits	OCt other quantifiable costs	FSt the fuel savings from decreased sales
			TCt any tax credits
			OBt any other quantifiable benefits

RIM does not measure costs and benefits to the general body of ratepayers as a whole. One only needs to consider the RIM test's original name to understand this. It was called the Non-Participant Test and measures the costs of benefits of a DSM program from the perspective of non-participants. This is not synonymous or coterminous with the general body of ratepayers. RIM costs include lost revenues, which are equal to Participant Savings. Lost revenues is not a traditional cost, like program incentives, but is a transfer payment, and thus can be excluded from the analysis.

The results of the RIM Test can be incorporated in program design, but neither measures nor programs must pass RIM to be included in DSM goals. It is standard practice among utilities across the nation to strike a reasonable balance between TRC and RIM results for DSM measure and program screening and design. TRC more appropriately evaluates the costs and benefits to the general body of ratepayers and considers both utility incentives and customer costs (both included in the incremental measure cost).

Some states, including Montana amended their statute to explicitly prohibit using RIM as a cost test for evaluating DSM programs.²⁰ Others use it as a secondary program screening. In the District of Columbia, the RIM is used for DSM programs. Those which have a cost-benefit ratio of 0.8 and 1.0 may be evaluated for other benefits, including long-term savings, market transformation, peak savings, and societal benefits.²¹

Virginia is the only other state that recently relied on the RIM as its primary cost-effectiveness test. However, in 2018, the Virginia General Assembly passed legislation that effectively prohibits the Commission from using the RIM test alone to disapprove a utility's energy efficiency program or portfolio on the basis of cost-effectiveness. Under HB1558²² the Virginia Commission is required to approve programs that pass three of the following four tests: the TRC, the UCT, the PCT, and RIM. This *three-out-of-four* approach offers flexibility in the goal setting process.

C. Amend the Rule to Include one Additional Goal Scenario of the Participant Cost Test and the Utility Cost Test

The joint stakeholder redline recommendations in Section (3) of the proposed rule introduce a new cost-effectiveness scenario of DSM portfolio goals for Commissioner consideration, PCT+UCT. As discussed in the November 2022 workshop, Commission Staff want flexibility, and Southface finds that increasing the number of scenarios will increase flexibility in consideration of goals. **Therefore, in addition to the two scenarios recommended by staff's proposed amendments, Southface also recommends the inclusion of a third scenario that includes potential demand-side management programs that pass the PCT and the UCT.**

The joint stakeholder redlines only recommends two cost-effectiveness scenarios. However, Southface recommends using three scenarios (PCT+RIM, PCT+TRC, and PCT+UCT)

²⁰Order No. 6836c (June 24,2008) <https://leg.mt.gov/content/Committees/Interim/2017-2018/Energy-and-Telecommunications/Meetings/June-2017/Rosquist-handout.pdf>

²¹ National Action Plan for Energy Efficiency (2008). Understanding Cost-Effectiveness of Energy Efficiency Programs: Best Practices, Technical Methods, and Emerging Issues for PolicyMakers. Energy and Environmental Economics, Inc. and Regulatory Assistance Project.

²² <https://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+HB1558>

during the next goal setting process. We find that this combination best utilizes the current industry tools and modernizes the goal setting process.

D. Free Ridership Screening Should Not Be Based On Simple Payback Duration

The current practice of screening all DSM programs with a simple payback of two years or less as a method for limiting program free ridership is ineffective and contrary to the intent of FEECA.²³ Furthermore, screening DSM measures with a simple payback of two years or less (or any such payback duration) from consideration is an arbitrary approach to reducing free ridership. Additionally, it foregoes cost-effective energy savings and least-cost measures that benefit all ratepayers, and precludes program participation by low- and moderate-income customers who are most in need of bill relief. Finally, it ignores standard practice in the utility industry. Free ridership screening should not be based on the simple payback duration of a DSM measure. At a minimum, low- and moderate-income customers shall be excepted from application of screening designed to address free ridership consideration, such as simple payback duration.

Limiting free ridership is better captured elsewhere in the goal setting process. The current process is redundant because free riders are taken into account in technical potential studies. The testimony of Jim Grevatt, on behalf of SACE, in the 2019 Commission Review of Numeric Conservation Goals docket details how Nextant excludes naturally-occurring efficiency from its estimates of technical potential, which they call “baseline measure adoption.”²⁴ Moreover, free riders are also addressed in load forecasts used in the Nextant Technical Potential Study, as described in the post-hearing brief from SACE and League of Latin American Citizens (LULAC) in the same 2019 Commission Review of Numeric Conservation Goals docket.²⁵

E. Evaluation Measurement and Verification is the Industry Standard for Free Ridership Screening

Experience in other states and industry studies found more effective ways to address free ridership, specifically through a formal EM&V process. **Southface recommends adopting a**

²³ ORDER NO. PSC-14-0696-FOF-EU

²⁴ <http://www.psc.state.fl.us/library/filings/2019/04810-2019/04810-2019.pdf> pg. 19-25

²⁵ <http://www.psc.state.fl.us/library/filings/2019/08973-2019/08973-2019.pdf> pg. 16-20

formal EM&V process to address free riders and other stakeholder concerns. EM&V of utility DSM programs is a standard and best practice for evaluating the effectiveness of utility DSM programs, including evaluating the extent of free ridership, non-participant spillover, and net-to-gross program ratios. While it is true that EM&V may increase costs to customers, it is typically budgeted at 5% of total program costs and provides valuable intelligence on how to continually improve DSM program deployment, well beyond just how to limit free ridership.

Several credible organizations provide guidance on the EM&V process. The U.S. Department of Energy (“DOE”) has published program evaluation guidelines that reference two guidebooks from the Energy Efficiency and Renewable Energy (“EERE”) Office, *EERE Guide for Managing General Program Evaluation Studies*,²⁶ and *Impact Evaluation Framework for Technology Deployment Programs*.²⁷ The American Council for Energy Efficient Economy (“ACEEE”) recommends the National Energy Screening Project (“NESP”) and their publication, the *National Standard Practice Manual* (“NSPM”).²⁸ The U.S. Environmental Protection Agency (“EPA”) published their most recent guidance in the 2019, *Guidebook for Energy Efficiency Evaluation, Measurement, and Verification*.²⁹ These guidelines offer strategies to overcome potential implementation problems like limited contractors approved. Solutions to such roadblocks could be solved in a DSM working group, further explored in the next section.

V. CONSIDER ADDITIONAL ENERGY EFFICIENCY POLICY SUPPORT

A. Replace the Current Cost-Effectiveness Manual with the National Standard Practice Manual

While this rulemaking specifically pertains to Fla. Admin. R. 25-17-0021, the Florida Commission should next open a docket to amend Fla. Admin. R. 25-17-008 because (a) that section

²⁶ Barnes, H, and Jordan, G. (2006). *EERE Guide for Managing General Program Evaluation Studies*. Available at: https://www1.eere.energy.gov/office_eere/pdfs/evaluation_mgmt_guide_final_2006.pdf

²⁷ Reed, J, Jordan, G, and Vine, E. (2007). *Impact Evaluation Framework For Technology Deployment Programs* Available at: https://www1.eere.energy.gov/analysis/pdfs/impact_framework_tech_deploy_2007_main.pdf

²⁸ Woolf, T, Neme, C, Alter, M, Fine, S, Rabago, K, Schiller, S, Strickland, K, Chew, B.(2020)The National Standard Practice Manual. Available at: <https://www.nationalenergyscreeningproject.org/national-standard-practice-manual/>

²⁹Dietsch, N, and Snyder, C, et al (2019). *Guidebook for Energy Efficiency Evaluation, Measurement, And Verification* Published by: EPA’s State and Local Energy and Environment Program. Available at: https://www.epa.gov/sites/default/files/2019-06/documents/guidebook_for_energy_efficiency_evaluation_measurement_verification.pdf

of the Florida Administrative Code is incorporated directly by reference into R. 25-17-0021, (b) it is central to the intent and effective implementation of the provisions of section (3) in R. 25-17-0021, and (c) is narrowly limited to defining the methodology for evaluating the cost-effectiveness of an existing, new or modified demand-side conservation program or self-service wheeling proposal.

In the spirit of modernizing rules for goal setting, all tools should be reviewed against current industry best practices. **It is our recommendation that the Florida Commission replace the current cost-effectiveness manual with the NSPM because it is a more modern and flexible guide to properly evaluate the costs and benefits of energy efficiency and other demand-side resources.** It's time for an update because the cost-effectiveness manual currently used by the Commission was written in 1991. Much has changed in the electric industry since 1991, particularly with respect to use of distributed resources and the functionality of the transmission and distribution grid.

In contrast, the NSPM, published in August 2020, is a modern guide that offers tailored methodologies for evaluating the cost-effectiveness of a range of distributed resources including energy efficiency, demand response, distributed generation, distributed storage, and electrification. Furthermore, the NSPM provides insight on evaluating a broader range of relevant impacts, such as locational and interactive impacts, and the NPSM addresses specific areas of concern to Florida stakeholders such as free rider and non-participant spillover impacts. A unique feature of the NPSM that distinguishes it from past evaluation guides, such as the California Standard Practice Manual, is its deliberate inclusion of state policy goals. The manual even outlines a specific methodology for developing a jurisdictional-specific cost test that responds directly and comprehensively to each jurisdiction's goals and circumstances.

The NSPM is the product of the NESP, a multi-year effort guided by an advisory group represented by a range of energy experts and the NPSM builds upon the industry experience with evaluating energy efficiency forged over the last 30 years. It is specifically recommended in ACEEE's 2021 whitepaper, *Unrealized Potential: Expanding Energy Efficiency Opportunities*

*For Utility Customers In Florida.*³⁰ Adopting a cost-effectiveness manual with all available tests, like the UCT, grants maximum flexibility for portfolio scenarios to be analyzed with more options.

B. Create a DSM Working Group of Energy Efficiency Stakeholders

The Commission should create a DSM Working Group because it can support effective program design and implementation, and promote consensus and administrative efficiencies. Regularly convening utilities, advocates, and interested stakeholders in a collaborative DSM working group can inform Commission decision-making and support the deployment of meaningful and successful DSM programs. It can reduce lengthy hearings at the Commission by creating space for dialogue and finding common ground among stakeholders before the plans are submitted by utilities. At least 12 states are utilizing a stakeholder engagement process.³¹ There is growing interest in Florida to learn from program implementation across utilities and share best practices through collaborative processes such as the one we are recommending.

Within the Southeast region, Arkansas, Georgia, North Carolina, South Carolina, and Virginia all host a unique style of DSM working group. Their origins can be found in legislation, orders from an Integrated Resource Planning process, or other Commission directives. There is great diversity in facilitation and engagement approaches. Working groups can be led by utilities, Commission staff, or third parties. Arkansas is receiving recognition for their novel approach of including EM&V contractors in their Parties Working Collaboratively. Doing so creates an EM&V feedback loop that comes to unanimous agreements on Technical Reference Manuals, EM&V Protocols, and Net-to-Gross savings adjustments, approaches to quantify non-energy benefits and

³⁰York, D, and Cohn, C. (2021). *Unrealized Potential: Expanding Energy Efficiency Opportunities For Utility Customers In Florida*. ACEEE. Available at: [Unrealized Potential: Expanding Energy Efficiency Opportunities for Utility Customers in Florida | ACEEE](#)

³¹ McAdams, Jasmine, 2021, *Public Utility Commission Stakeholder Engagement: A Decision-Making Framework*, National Association of Regulatory Utility Commissioners, Available at, <https://pubs.naruc.org/pub/7A519871-155D-0A36-3117-96A8D0ECB5DA>

carbon cost assumptions for energy efficiency planning.³² Mississippi is now considering whether to follow Arkansas' lead.

In 2015 the Georgia PSC ordered the creation of a DSM working group that meets regularly in between utility DSM program planning cycles. The purpose of the DSM working group is to allow interested public stakeholders to meaningfully engage and give feedback on the design and deployment of utility DSM programs and offer technical assistance and support. GA Power recently said on the record in its 2022 Integrated Resource Planning process at the Georgia Public Service Commission (GPSC Docket #44280) that the Georgia DSM working group supports successful utility DSM programs and contributes to increasing cost-effectiveness and efficiency.

VI. LOW- AND MODERATE-INCOME CUSTOMER PROGRAMS NEED INDEPENDANT GOALS

A. Set Goals for Low- and Moderate-Income Customers to Protect the General Welfare of All Citizens

Establishing separate goals for low- and moderate-income customer programs should be addressed in this rulemaking and prioritized by the Commission consistent with the intent and purpose of FEECA. FEECA states: “*it is critical to utilize ... conservation systems in order to protect the health, prosperity, and general welfare of the state and its citizens.*” **Acknowledging the clear intent of FEECA to address health and welfare of Floridians, the FEECA goal setting should include separate goals for low- and moderate-income customers because their general welfare is threatened by energy burden from high bills.** As a result, low- and moderate-income customer participation in utility-sponsored DSM programs is of interest to state regulators because cities with the most DSM program expenditures have lower average energy burden.³³

³² Johnson, Katherine, and Klucher, Matt, *All Together Now! How Collaboration Works in Arkansas*, Johnson Consulting Group, Available at, <https://www.johnsonconsults.com/presentations/IEPPEC%202014%20All%20Together%20Now%20AR.pdf>

³³ Drehbol, A, and Ross, L. (2016). *Lifting the High Energy Burden in America's Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities*. ACEEE Available at: <https://www.aceee.org/sites/default/files/publications/researchreports/u1602.pdf>

A standard definition of “low- and moderate-income” is generally accepted to be a household earning at or below two hundred percent (200%) of the Federal Poverty Level, as determined annually by the United States Department of Health and Human Services. Despite some utilities offering one or two low- and moderate-income focused programs, there are not enough program options or comprehensive depth of measures available among FEECA utilities to meet the diverse needs of this group of customers.³⁴ In setting separate goals, utilities can allocate more funds per low- and moderate-income customer and meet the need for comprehensive low- and moderate-income strategies. Specific to DSM programs, the ACEEE defines “comprehensive” low- and moderate-income programs as offering measures that go beyond direct installation and address the building envelope.³⁵

Additionally, the Commission has the responsibility to “*adopt appropriate goals for increasing the efficiency of energy consumption.*”³⁶ Appropriateness of goals could be measured by their energy equity. The customers who need it the most, receive the most investment. Setting goals to reach the diverse customer types within the low- and moderate-income population, such as, high energy users, elderly customers, renters, and owners of multifamily buildings will support all grid users and all ratepayers by eliminating waste from the highest volume of potential efficiency at the lowest cost to the system.

B. Separate Goals Improve Access and Boost Low- and Moderate-Income Program Participation

In setting goals, the Commission must weigh the costs and benefits to all ratepayers as a whole.³⁷ All ratepayers pay the costs of DSM programs however, few low- and moderate-income customers participate. A review of Florida DSM program participation in 2021 shows that the average participation rate of low- and moderate-income specific programs is 1.69%. Cumulatively, low- and moderate-income programs were projected to reach 7% of that customer segment, but

³⁴ Relf, G, and Cooper, M, and Gold, R, and Goyal, A, and Waters, C. (2020) *2020 Utility Energy Efficiency Scorecard*, ACEEE. Available at: https://www.aceee.org/sites/default/files/pdfs/u2004%20rev_0.pdf

³⁵ Id.

³⁶ § 366.82 (2), Fla. Stat.

³⁷ § 366.82 (3)(b), Fla. Stat.

only achieved actual penetration of 5.9% by 2021.³⁸ The Commission must acknowledge that low- and moderate-income customers are incurring the costs of DSM programs without access to the benefits. A DOE grant funded study for The Florida Department of Agriculture and Consumer Services ("FDACS") found the following conclusion:

*“A 1% increase in participation in Energy Efficiency (EE) programs could increase disposable income available to LMI households for other household costs, like food, by \$5.1 million.”*³⁹

The role of FDACS in setting goals for DSM programs is to analyze least-cost strategy to reduce per capita electricity consumption.⁴⁰ In the 2019 FEECA goal proceeding, FDACS recommended expanding low- and moderate-income DSM programs by removing the two-year payback screen. They filed the same comments in this docket in 2021. Even during the time this docket (No. 20200181-EU) has been open, FDACS published a study supported by DOE funding that once again recommends adoption of specific goals for low- and moderate-income DSM programs. Ignoring the guidance of this agency, who is identified in FEECA as a responsible party, weakens the overall integrity of the process.

Finally, there is an urgent need to address low- and moderate-income DSM programs because Florida utilities are underperforming when compared to their peers. The following two tables (Table 6 and 7) show data from a national survey. Florida utilities consistently rank at the bottom of low- and moderate-income DSM program outcomes.⁴¹ Setting or mandating low- and moderate-income specific goals will improve energy savings in that customer group, and elevate Florida as a resilience leader who protects the most vulnerable Floridians.

³⁸ The Balmoral Group, 2022. A Study of Energy Equity Within Florida. The Balmoral Group, Winter Park, FL.

³⁹ Id.

⁴⁰ § 366.82 (5)(b)(c) Fla. Stat.

⁴¹ Drehbol, A, and Castro-Alvarez, F. (2017). *low- and moderate-income Energy Efficiency Programs: A Baseline Assessment of Programs Serving the 51 Largest Cities*. ACEEE. Available at: <https://www.aceee.org/sites/default/files/low- and moderate-income-baseline-1117.pdf>

Table 6. Investment (\$) in low- and moderate-income Utility DSM Programs

Spending per all low- and moderate-income customers		Spending per low- and moderate-income program participant	
Five Highest	\$69.21 - \$91.81	Five Highest	\$3,927 - \$6,054
Orlando Utilities Commission	\$1.40	Duke Energy Carolinas	\$318
Florida Power and Light	\$0.06	Florida Power and Light	\$45

Table 7. Energy Savings (kWh) in low- and moderate-income Utility DSM Programs

<u>Savings per low- and moderate-income customer (kWh)</u>		<u>Savings per program participant (kWh)</u>	
Five Highest	52.25 - 84.95	Five Highest	3,279 - 6,066
Orlando Utilities Commission	0.97	San Diego Gas & Electric	186
Florida Power and Light	0.07	Florida Power and Light	52

C. Efficiency Programs Are In The Public Interest Because They Are At The Intersection Of Energy Burden And Public Health

FEECA grants full control to the Commission to reject and request modifications or additions to utility DSM plans when it is in the public interest.⁴² Low- and moderate-income efficiency programs are in the public interest because they make meaningful improvements towards energy and health equity.⁴³ In a testimony to the Subcommittee On Energy Of The U.S. House Committee On Energy And Commerce, Ariel Drehobl with ACEEE, states, “*High energy burdens are associated with inadequate housing conditions and have been found to affect physical*

⁴² 366.82 (7) Fla. Stat.

⁴³ Florida Advisory Council on Climate and Energy (FACCE) Virtual Meeting Thursday, March 11, 2021, Available at: <https://www.fdacs.gov/ezs3download/download/96708/2648045/Media/Files/Energy-Files/Master-Presentation-for-March-11-FACCE-Meeting.pdf>

and mental health, nutrition, and local economic development.”⁴⁴ Weatherization and efficiency programs can improve indoor air quality and reduce occurrences of asthma, which disproportionately affect energy burdened homes. Additional societal benefits of low- and moderate-income energy efficiency programs are job creation and breaking the cycle of poverty.⁴⁵

The 2021 meeting of the Florida Advisory Council on Climate and Energy (“FACCE”) ended with the following recommendation:

*“If the Florida PSC can adjust its policies, and if the state’s utilities broaden their program options, EE can promote economic growth, revive a struggling industry, and deliver cost savings and health benefits to millions of Floridians.”*⁴⁶

The energy-health nexus is so clear that the U.S. EPA has quantified a dollar value of health benefits from efficiency and renewable projects. They developed a tool, called Benefits Per Kilowatt (“BPK”), to help policymakers estimate the outdoor air quality-related public health benefits of investments in energy efficiency.⁴⁷ They suggest that the screening values can be used in cost-effectiveness testing. The BPK tool identified benefits specific to Florida, which are in Table 8 below.

⁴⁴ Hearing On Generating Equity: Improving Clean Energy Access And Affordability <https://energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/documents/ACEEE-Drehobl-Testimony-10.1.20-Final.pdf>

⁴⁵ Partnership for Southern Equity, Just Energy Summit 2016: A Framing Document

⁴⁶ Florida Advisory Council on Climate and Energy (FACCE) Virtual Meeting Thursday, March 11, 2021, Available at: <https://www.fdacs.gov/ezs3download/download/96708/2648045/Media/Files/Energy-Files/Master-Presentation-for-March-11-FACCE-Meeting.pdf>

⁴⁷ *Estimating the Health Benefits per Kilowatt-hour of Energy Efficiency and Renewable Energy*. (2020). EPA’s Energy Resources for State and Local Governments Available at: <https://www.epa.gov/statelocalenergy/estimating-health-benefits-kilowatt-hour-energy-efficiency-and-renewable-energy>

Table 8. Range of Health Benefits from DSM Spending

Project Type	3% Discount Rate		7% Discount Rate	
	2019 ¢/kWh (low estimate)	2019 ¢/kWh (high estimate)	2019 ¢/kWh (low estimate)	2019 ¢/kWh (high estimate)
Uniform EE	0.79	1.79	0.70	1.58
EE at Peak	0.91	2.05	0.81	1.83
Utility Solar	0.86	1.93	0.76	1.73
Distributed Solar	0.87	1.96	0.77	1.75
Onshore Wind	0.75	1.69	0.67	1.51

D. Low- and Moderate-Income Program Funding and Allocation Policy Designs for Energy-Equity

Funding for low- and moderate-income DSM programs has seen an evolution from on-bill financing to more creative mechanisms such as state funds, green banks, carbon funds, and other private capital solutions to lower the up-front costs. Additionally, there is a wealth of federal funds becoming available to seed and accelerate ambitious goals. For example, the DOE’s Energy Efficiency Revolving Loan Fund Capitalization Grant Program has \$3,803,700 allocated to Florida. The application process is open until April 21, 2023, and could be used to start a low- and moderate-income DSM fund. Great success has come from combining multiple funding sources, and state policy design in goal setting.⁴⁸ Some notable program designs will be explored below.

A well-established approach to funding low- and moderate-income programs is through the creation of an independent account, often referred to as a public benefit fund. In the naming, the industry recognizes that low- and moderate-income efficiency has system-wide benefits including public benefits like economy and health. New Jersey, New York, Oregon, Wisconsin, and Vermont all collect ratepayer dollars in a state trust from non-bypassable charges on electricity

⁴⁸ ACEEE, Making A Difference, Strategies for Successful Low Income Energy Efficiency Programs, October 2017. <https://www.aceee.org/sites/default/files/publications/researchreports/u1713.pdf>

bills. Vermont and DC at least partially fund their low- and moderate-income efficiency with greenhouse gas taxes, available through Regional Greenhouse Gas Initiative.⁴⁹

The next stage of evolution is a hybrid model, used in Massachusetts, that combines state weatherization assistance program funds with ratepayer funds.⁵⁰ Maine also utilizes federal funds to support their Efficiency Trust program. Florida is well- positioned to adopt this design of combining ratepayer funds with state and federal funds

The most recent evolution of utility regulation is a trend toward adopting performance-based regulation, which rewards the societal and system benefits of increased resilience, decarbonization, and stakeholder collaboration. Hawaii is leading the way by first decoupling revenues and sales and establishing new Performance Incentive Mechanisms. Goals are set around cost-control and finding efficiencies in the system. To date, 14 states have implemented a lost revenue adjustment mechanism and 18 states have full decoupling, both essential steps in performance-based regulation.⁵¹ The Commission should consider this approach in long-term planning.

It is important to specify rule language requiring numeric goals, while also permitting non-numeric goals as well. At this time of early adoption of low- and moderate-income goals, the recommended numeric metric is that *“savings goals shall be proportionate to the population of Low Income customers within the utility’s service area.”*⁵² This is often measured in ways such as, spending equal to the low- and moderate-income customers’ DSM tariff, like Michigan, or spending equal to all sales revenues from low- and moderate-income customers, like Connecticut. Despite the mechanism, the average low- and moderate-income goal is allocating 11% of their overall DSM budget to low- and moderate-income programs.

⁴⁹ Subramanian, S, and Berg, W, and Cooper, E, and Waite, M, and Hoffmeister, A, and Fadie, B. (2022). *2022 State Energy Efficiency Scorecard*. ACEEE Available at: <https://www.aceee.org/sites/default/files/pdfs/u2206.pdf>

⁵⁰ Drehbol, A, and Castro-Alvarez, F. (2017). *low- and moderate-income Energy Efficiency Programs: A Baseline Assessment of Programs Serving the 51 Largest Cities*. [White Paper] ACEEE. Available at: <https://www.aceee.org/sites/default/files/low- and moderate-income-baseline-1117.pdf>

⁵¹ Subramanian, S, and Berg, W, and Cooper, E, and Waite, M, and Hoffmeister, A, and Fadie, B. (2022). *2022 State Energy Efficiency Scorecard*. ACEEE Available at: <https://www.aceee.org/sites/default/files/pdfs/u2206.pdf>

⁵² Joint Redline document submitted by SACE

Non-numerical goals can be used to build a path to equity and environmental justice. For example, California set a goal to provide low- and moderate-income energy efficiency measures to 100% of eligible, willing and feasible to participate customers. Connecticut set a goal of weatherizing 80% of low- and moderate-income homes. Maine Housing allocated a portion of its annual Low-Income Home Energy Assistance Program ("LIHEAP") weatherization budgets to pay for the installation of 1,000 heat pumps per year in LIHEAP-eligible homes. Florida would benefit from goals like these that set ambitious targets of customer reach.

VII. CONCLUSION

Improvements to the energy efficiency goal setting process are urgently needed in Florida to support meaningful DSM investment levels, goals, and cost-effective program measures consistent with the intent and purpose of FEECA. We respectfully submit our recommendations for your consideration.

Respectfully submitted December 16, 2022.

Katie Southworth
Advocacy Program Director
Southface Institute
241 Pine Street NE
Atlanta, GA 30308
ksouthworth@southface.org
404.604.3653

Alyson Laura LEED AP BD+C, WELL AP
Project Manager, Advocacy
Southface Institute
5800 Bay Shore Rd.
Sarasota, FL 34243
alaura@southface.org
941.800.3711