

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Commission Review of Numeric) DOCKET NO. 130199-EI
Conservation Goals)
(Florida Power & Light Company))
)
In Re: Commission Review of Numeric) DOCKET NO. 130200-EI
Conservation Goals)
(Duke Energy Florida, Inc.))
)
In Re: Commission Review of Numeric) DOCKET NO. 130201-EI
Conservation Goals)
(Tampa Electric Company))
)
In Re: Commission Review of Numeric) DOCKET NO. 130202-EI
Conservation Goals)
(Gulf Power Company))
) FILED: SEPTEMBER 30, 2014
)

**POST-HEARING STATEMENT AND BRIEF OF WALMART STORES EAST, LP
AND SAM'S EAST, INC.**

Wal-Mart Stores East, LP and Sam's East, Inc. ("Walmart"), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-13-0386-PCO-EI, issued August 19, 2013, and Order No. PSC-14-0189-PCO-EI, issued April 22, 2014, hereby submit Walmart's Post-Hearing Brief and Statement of issues and Positions. The Florida Public Service Commission is referred to as the "Commission." Other parties and terms are abbreviated as indicated herein. Citations to the hearing transcript are in the form "TR abc," where abc indicates the page number, and citations to exhibits are in the form "EXH def at ghi," where def indicates the exhibit number and ghi indicates the page number within the exhibit.

BACKGROUND

These dockets are the Commission's quinquennial proceedings to set numeric conservation goals for Florida electric utilities subject to the Florida Energy Efficiency and Conservation Act, Sections 366.80-83 and Section 403.519, Florida Statutes (2014),¹ commonly referred to as "FEECA." Specifically, Section 366.82, Florida Statutes (F.S.), requires the Commission to do the following:

- 1) Adopt goals to increase the efficiency of energy consumption;
- 2) Increase the development of demand-side renewable energy systems;
- 3) Reduce and control the growth rates of electric consumption and weather-sensitive peak demand; and
- 4) Encourage development of demand-side renewable energy resources.

Pursuant to Section 366.82(6), F.S., the Commission must review the conservation goals of each utility subject to FEECA, no less than every five years. The seven utilities subject to FEECA are Florida Power & Light Company ("FPL"), Duke Energy Florida, Inc. ("DEF" or "Duke"), Tampa Electric Company ("TECO"), Gulf Power Company ("Gulf"), Florida Public Utilities Company ("FPUC"), Orlando Utilities Commission ("OUC"), and JEA,

¹ All references to the Florida Statutes are to the 2014 edition.

formerly known as the Jacksonville Electric Authority. Collectively, these seven utilities are referred to the "FEECA Utilities." Demand side management goals were last established for the FEECA utilities in December 2009 (Docket Nos. 080407-EG through 080413-EG). Therefore, new goals must be established by December 2014.

The Commission held hearings over July 21-23, 2014. In these proceedings, the Commission accepted proposals to set the goals for the Orlando Utilities Commission and for Florida Public Utilities Company using a "proxy methodology," i.e., based on the goals that will ultimately be established for proxy utilities approved by the Commission. For OUC, the proxy utility is Tampa Electric Company. For FPUC's Marianna Division, the proxy utility is Gulf, and for FPUC's Fernandina Beach Division, the proxy utility is JEA. Order No. PSC-13-0645-PAA-EU at 8-9 (December 4, 2013). The issues for JEA, formerly known as the Jacksonville Electric Authority, were resolved by stipulations approved by the Commission during the hearing. TR 469-72.

SUMMARY OF WALMART'S POSITIONS

The Commission should set goals for the utilities that will achieve the legislative intent of the Florida Energy Efficiency and Conservation Act (FEECA), which is to utilize the most efficient and cost-effective demand-side renewable energy

systems and conservation systems in order to protect the health, prosperity, and general welfare of the state and its citizens, while reducing and controlling the growth rates of electric consumption and of weather-sensitive peak demand, as well as to increase conservation of expensive resources, to reduce and control the growth rates of electric consumption, to reduce the growth rates of weather-sensitive peak demand, to increase the efficiency and cost-effectiveness of electricity production and use, and to encourage development of demand-side renewable energy resources. Fla. Stat. § 366.81; Fla. Stat. § 366.82(2).

Walmart believes that the goals proposed by the utilities can be improved upon to achieve the Legislature's intent of encouraging development of demand-side renewable energy resources for the benefit of the State and its citizens. The Commission should reject the utilities' proposals to scale back or discontinue their solar pilot programs; rather, the Commission should require the utilities to continue the use of their solar pilot programs so as to continue encouraging the development of demand-side renewable resources, as required by FEECA.

DISCUSSION

Walmart believes that the Commission should set goals for the FEECA Utilities that will result in meaningful development of demand-side renewable energy systems, as required by FEECA.

On a closely related point, the Commission should establish a process to fully evaluate the value of solar energy to the State as a whole; such a process could include a stakeholder workshop-type process or perhaps other processes, potentially including rulemaking at the appropriate time. These issues are covered by Issues 4, 6, 10, and 11 in the Prehearing Order, restated here for convenience.

ISSUE 4: Do the Company's proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems, pursuant to Section 366.82, F.S.?

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

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

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

I. The Commission Must Set Goals to Increase the Development of Demand-Side Renewable Energy Systems.

FEECA unequivocally requires the Commission to set numeric goals to encourage the development of demand-side renewable energy resources. Contrary to this specific statutory requirement, the utilities are attempting to persuade the Commission to set goals of zero for renewables: goals of zero are not goals at all, and - obviously - goals of zero will, in

fact, do "zero" to encourage the development of renewable energy resources in Florida. Goals of zero would violate FEECA, and the Commission must set meaningful goals, which, at a minimum, should include continuation of the utilities' solar pilot programs.

A. FEECA Requires the Commission to Adopt Goals for Increasing the Development of Demand-Side Renewable Energy Systems.

Section 366.82(2), Florida Statutes, directs the Commission to adopt specific and appropriate goals for the FEECA Utilities as follows:

(2) The commission shall adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of demand-side renewable energy systems, specifically including goals designed to increase the conservation of expensive resources, such as petroleum fuels, to reduce and control the growth rates of electric consumption, to reduce the growth rates of weather-sensitive peak demand, and to encourage development of demand-side renewable energy resources.

Thus, FEECA unequivocally requires that the Commission set goals for "increasing the development of demand-side renewable energy systems, specifically including goals designed to . . . encourage development of demand-side renewable energy resources." Fla. Stat. § 366.82(2) (emphasis supplied). In fact, promoting the development of demand-side renewables is important enough to the Legislature that it stated this mandate twice in the same subsection.

In these proceedings, the utilities have taken the position that goals should be zero because no solar programs were found to be cost-effective. The Commission addressed a nearly identical situation in the last round of Conservation Goals Dockets, in 2009. In that proceeding, the utilities presented evidence that no solar programs were cost-effective. The Commission, however, correctly recognized the Legislature's intent to require real goals for the development of demand-side renewable energy systems, articulating its conclusions as follows:

We find that the amendments to Section 366.82(2), F.S., require us to establish goals for demand-side renewable energy systems. None of these resources were found to be cost-effective in the utilities' analyses. However, we can meet the intent of the Legislature to place added emphasis on these resources, while protecting ratepayers from undue rate increases by requiring the IOUs to offer renewable programs subject to an expenditure cap. We direct the IOUs to file pilot programs focusing on encouraging solar water heating and solar PV technologies in the DSM program approval proceeding. Expenditures allowed for recovery shall be limited to 10 percent of the average annual recovery through the Energy Conservation Cost Recovery clause in the previous five years as shown in the table below.

In Re: Commission Review of Numeric Conservation Goals, Docket Nos. 080407-EG through 080413-EG, Order No. PSC-09-0855-FOF-EG at 29. In so doing, the Commission reasonably addressed its concern regarding rate impacts by imposing an expenditure cap, recognizing that this would "protect[] ratepayers from undue

rate increases." Id.

Goals of "zero" are not goals at all. As obvious and as true as this is, setting goals of zero will do exactly "zero" to encourage the development of demand-side renewable energy systems. The utilities' proposed zero goals simply fail to give effect to FEECA, and accordingly, the Commission must reject the utilities' positions.

To comply with FEECA, the Commission must at least follow its precedent from the 2014 Conservation Goals Dockets: i.e., the Commission must set real goals for the development and encouragement of demand-side renewable energy systems and resources. The obvious - albeit minimalist - way for the Commission to fulfill its mandate is to follow its precedent from the 2009 Goals Dockets and require the utilities to continue their solar pilot programs, subject to an expenditure cap. If the Commission is concerned that the incentives under existing solar pilot programs are unnecessarily high, the commission could probably, in its discretion, continue the same percentage-based expenditure cap but direct the FEECA Utilities to reduce individual incentive payments by 25-50 percent. This would continue incentives to encourage the development of demand-side solar systems, and those incentives would be available to a larger number of customers or a larger number of megawatts of solar PV installations.

B. The Utilities' Proposed Solar Programs Are Not Demand-Side Renewable Energy Systems, and Therefore Those Proposals Do Not Satisfy the Requirements of FEECA.

The Legislature defined demand-side renewable systems or resources as follows:

(b) "Demand-side renewable energy" means a system located on a customer's premises generating thermal or electric energy using Florida renewable energy resources and primarily intended to offset all or part of the customer's electricity requirements provided such system does not exceed 2 megawatts.

Fla. Stat. § 366.82(1)(b).

Notwithstanding the clear mandate of FEECA to establish goals for increasing the development of demand-side renewable energy systems, the FEECA Utilities have all taken the position that goals of zero should be set for demand-side renewable energy systems. Order No. PSC-14-0356-PHO-EU at 48-49, 51. FPL and Duke have proposed utility-owned solar generation as a substitute for the demand-side renewable goals required by FEECA. TR 531, 1297. These proposals may be worthwhile in and of themselves, but they are facially inconsistent with the Legislature's requirements set forth in FEECA: such measures are supply-side resources, not demand-side systems.

The Commission must, accordingly, not allow such supply-side measures to displace demand-side renewable goals as required by FEECA.

II. The Value of Solar Energy Must Be Fully and Fairly Evaluated Using Appropriate Methodologies Developed Through Appropriate Processes Involving All Stakeholders.

Solar energy systems - and indeed all demand-side renewable energy systems - must be carefully evaluated in terms of their costs and their benefits when the Commission sets goals for the development of demand-side renewable systems pursuant to FEECA. Although this should be obvious, the value of solar energy, including both central station and distributed solar systems, includes much more than just peak demand reductions in summer, spring, and autumn months and the fuel savings realized from serving load with solar PV power as opposed to electricity generated using fossil fuels. In addition to the standard cost-effectiveness tests prescribed in the Commission's Rules, i.e., the Rate Impact Measure ("RIM") Test, the Total Resources Cost ("TRC") Test, and the Participants Test, the Commission should work toward developing a solar valuation methodology that thoroughly values all of the benefits and costs associated with solar energy measures.

A. Solar Energy Has Additional Values That Are Not Fully Reflected in the Standard Cost-Effectiveness Tests.

The potential value benefits to Florida are particularly significant for distributed solar resources, and include the following:

1. Reduced exposure to fuel price volatility;

2. Reduced transmission and distribution costs, and particularly reduced line and transformation losses;
3. Reduced environmental regulatory risk associated with conventional generation technologies;
4. Reduced construction cost risk associated with conventional generation technologies, particularly where, as in current markets, the installed cost of solar PV continues to decline; and
5. Enhanced economic value to the Florida economy of having at least the labor costs of installing solar systems spent in Florida, and keeping customers' dollars in Florida rather than paying for fuels imported from outside Florida to generate electricity.

TR 1074-75, 1081, 1085-87; see also the list of solar power benefits and costs at TR 1093-94.

Such values must be considered in making decisions regarding goals for demand-side renewable energy systems pursuant to FEECA. Otherwise, the full public interest value of solar PV systems, and particularly demand-side solar systems in the context of Section 366.82(2), Florida Statutes, will not be fully integrated into the Commission's goal-setting decisions. Incomplete information inevitably leads to inefficient decisions because not all cost and benefit values are fully considered.

See TR 1081.

B. The Commission Should Establish a Process for Fully and Fairly Evaluating the Value of Solar Power to Florida for Use in Future Proceedings.

In addition to the cost-effectiveness tests required by the Commission's Cost-Effectiveness Manual for Demand-Side Management Programs and Self-Service Wheeling Proposals, Walmart believes that there is merit in the proposal by Witness Karl Rábago that the Commission should establish a process - e.g., workshops or other proceedings - to explore the possible development of alternate methodologies for evaluating the cost-effectiveness of solar and other renewable energy programs and measures. TR 1100, 1103

STATEMENT OF POSITIONS ON INDIVIDUAL ISSUES

ISSUE 1: Are the Company's proposed goals based on an adequate assessment of the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems, pursuant to Section 366.82(3), F.S.?

WALMART: *No position.*

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

WALMART: *Walmart asks for assurance that the utilities' evaluations of solar, and potentially other renewable measures, are based on an extensive and thorough evaluation of all system benefits of such measures.*

ISSUE 3: Do the Company's proposed goals adequately reflect the costs and benefits to the general body of rate payers as a whole, including utility incentives and participant contributions pursuant to Section 366.82(3)(b), F.S.?

WALMART: *Walmart asks for assurance that the utilities' evaluations of solar, and potentially other renewable measures, are based on an extensive and thorough evaluation of all system benefits of such measures.*

ISSUE 4: Do the Company's proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems, pursuant to Section 366.82, F.S.?

WALMART: *While Walmart does not propose specific goals or incentives for the encouragement of demand-side renewable energy systems, Walmart is concerned that the utilities' proposed goals may not result in meaningful deployment of solar and other demand-side renewable energy systems and measures.*

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

WALMART: *No position.*

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

WALMART: *In addition to the cost-effectiveness tests required by the Commission's Cost-Effectiveness Manual for Demand-Side Management Programs and Self-Service Wheeling Proposals, Walmart believes that there is merit in the proposal that the Commission should initiate proceedings - e.g., workshops or other

proceedings - to explore the possible development of alternate methodologies for evaluating the cost-effectiveness of solar and other renewable energy programs and measures.*

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

WALMART: *No position.*

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

WALMART: *No position.*

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

WALMART: *No position.*

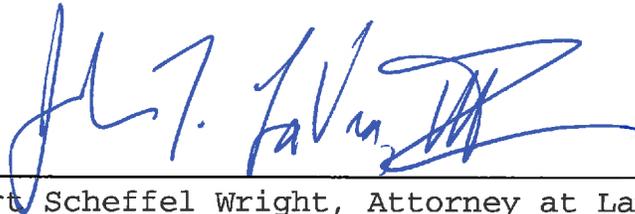
ISSUE 10: What goals, if any, should be established for increasing the development of demand-side renewable energy systems, pursuant to Section 366.82(2), F.S.?

WALMART: *The Commission should establish appropriate goals for increasing the development and deployment of demand-side renewable energy systems as required by FEECA. As stated in Walmart's position on Issue 6, Walmart believes that the Commission should initiate proceedings, e.g., workshops, to explore the development of additional cost-effectiveness evaluation methodologies that will fully evaluate all costs and benefits of solar, and other renewable measures and programs.*

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

WALMART: *Yes, the Utilities' existing Solar Pilot Programs should be extended, or replacement programs for the Solar Pilots should be developed.*

Respectfully submitted this 30th day of September, 2014.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and foregoing POSTHEARING STATEMENT OF WALMART STORES EAST, LP AND SAM'S EAST, INC. has been furnished by electronic mail on this 30th day of September, 2014.

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