

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission Review of Numeric
Conservation Goals for Orlando Utilities
Commission

DOCKET NO. 20190019-EG

FILED: July 22, 2019

PREHEARING STATEMENT OF THE ORLANDO UTILITIES COMMISSION

The Orlando Utilities Commission (“OUC”), by and through its undersigned counsel and pursuant to the Order Establishing Procedure in the consolidated Conservation Goals Dockets for the utilities subject to the Florida Energy Efficiency and Conservation Act (“FEECA”), Order No. PSC-2019-0062-PCO-EG, issued February 18, 2019, hereby submits its Prehearing Statement.

APPEARANCES

Robert Scheffel Wright
John T. LaVia, III
Gardner, Bist, Bowden, Bush, Dee, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
Telephone (850) 385-0070
Facsimile (850) 385-5416

On behalf of the Orlando Utilities Commission.

1. OUC WITNESSES

OUC will call the following witnesses, who will address the issues indicated:

<u>Direct & Rebuttal Testimony</u>	<u>Issues</u>
Bradley E. Kushner	3, 5, 8, 9
Kevin M. Noonan	1, 2, 3, 4, 6, 7, 8, 9, 10

Jim Herndon * 1, 2, 3, 5, 7, 8, 9, 10

Rebuttal Testimony Only

J. Terry Deason * 3, 4, 6, 7

* Also testifying on behalf of other utilities in these consolidated dockets.

2. OUC KNOWN EXHIBITS - DIRECT CASE

Exhibit No. ___ [BEK-1] Resume' of Bradley E. Kushner;

Exhibit No. ___ [BEK-2] Summary of Avoided Unit Costs;

Exhibit No. ___ [BEK-3] Carbon Regulation Compliance Costs;

Exhibit No. ___ [KMN-1] Resumé of Kevin M. Noonan;

Exhibit No. ___ [KMN-2] Description of OUC's Existing DSM Programs that Contribute
Towards Meeting OUC's Current FEECA Goals; and

Exhibit No. ___ [KMN-3] Estimated Bill Impact for 1,000 kWh per Month Residential
Customer.

Exhibit No. ___ [JH-1] Biographical Information for Jim Herndon

Exhibit No. ___ [JH-7] Market Power Study for Orlando Utilities Commission

Exhibit No. ___ [JH-9] 2019 Measure Lists

Exhibit No. ___ [JH-10] Comparison of 2014 Measures List to 2019 Measures List

OUC KNOWN EXHIBITS – REBUTTAL CASE

Exhibit No. ___ [JTD-1] Biographical Information for J. Terry Deason

3. STATEMENT OF BASIC POSITION

OUC is an electric utility within the meaning of Section 366.02(2), Florida Statutes, and is subject to FEECA. OUC's electric service area includes the City of Orlando, portions of unincorporated Orange County, and portions of Osceola County. Additionally, pursuant to an Interlocal Agreement, OUC serves the entire electric service requirements of St. Cloud and treats the St. Cloud load and customers as part of OUC's retail obligations for planning and energy conservation purposes.

OUC currently serves approximately 242,000 electric customer accounts, including approximately 211,000 electric residential customers, 25,000 electric commercial customers, and 5,700 electric industrial customers. More than 50 percent of OUC's residential customers (including those in St. Cloud) live in multi-family residences, and many of these are rental units. Additionally, a significant number of single-family residences served by OUC are renter-occupied. Approximately 40 percent of OUC's residential customers have household incomes less than \$35,000, which is approximately 1.4 times the Federal Poverty Level for a family of four.

OUC currently offers a number of programs that promote energy conservation and peak demand reduction. OUC continually seeks and implements supply-side efficiency measures. OUC also has extensive solar energy initiatives, including both demand-side and supply-side solar power projects, and OUC also obtains renewable electricity generated using landfill gas.

In the best interests of all of OUC's customers, OUC believes that the PSC should use the Rate Impact Measure, or RIM, cost-effectiveness test in establishing energy conservation, demand reduction, and demand-side renewable energy goals for OUC.

For these consolidated conservation goal-setting dockets, OUC joined with the other utilities subject to FEECA – Florida Power & Light, Duke Energy Florida, Tampa Electric Company, Gulf Power Company, Florida Public Utilities Company, and JEA – to engage Nexant, Inc. to prepare studies of the Technical Potential (“TP”), Economic Potential (“EP”), and Achievable Potential (“AP”) energy conservation for the respective utilities. OUC provided extensive load and customer forecast information, as well as system cost and avoided-cost information to support Nexant's analyses, which culminated in the Market Potential Study for OUC (“MPS”). Nexant's analyses were based on OUC's information as well as data and information developed by Nexant in preparing the MPS, and included projected costs associated with potential future regulation of carbon dioxide (“CO₂”) or greenhouse gas emissions. Nexant's MPS for OUC includes analyses of the TP, EP, and AP for energy conservation by OUC, including analyses of several hundred unique measures combined in several thousand permutations of those measures.

Nexant's MPS includes the results of cost-effectiveness analyses of these measures using the RIM test, the Total Resource Cost (“TRC”) test, and the Participant Test. Nexant's analyses conclude that (a) none of the energy efficiency (“EE”) measures for residential applications passed the RIM test; (b) only one out of all of the EE measures studied (a commercial/industrial exterior lighting measure) passed the RIM test, and that measure would provide negligible energy savings (600 kilowatt-hours per year); (c) there

are no cost-effective Achievable Potential savings available to OUC from demand reduction (“DR”) measures; and (d) there are no cost-effective Achievable Potential savings for OUC from demand-side renewable energy (“DSRE”) systems, including solar PV, battery storage, and Combined Heat & Power (“CHP”) systems.

These results, along with OUC’s proven track record of energy conservation achievements, lead OUC to conclude that the PSC should not establish any mandatory energy efficiency, demand reduction, and demand-side renewable energy goals for OUC for the period 2020 through 2029. Alternately, the PSC should set OUC’s goals at zero for this goal-setting period. OUC has consistently exceeded its FEECA Goals with measures developed on OUC’s initiative. OUC will continue to develop and implement energy conservation, demand reduction, and demand-side renewable measures, as well as supply-side solar and other renewable energy initiatives, based on OUC’s unique characteristics, OUC’s knowledge of its system and customer base, and changing circumstances in the energy sector. Allowing OUC to pursue this course, as it has successfully done for years, will serve the State’s policies set forth in FEECA and meet the needs and circumstances of OUC’s customers better and more effectively than if OUC were required to comply with mandatory goals.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

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.?

OUC Position: Yes. OUC's proposed goals are based on a sound assessment of the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy resources.

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.?

OUC Position: Yes. OUC's proposed goals are based on a full consideration of Nexant's Participant Test analyses, and those analyses adequately and reasonably reflect the costs and benefits to customers who might participate in the DSM measures and programs studied. Thus, OUC's proposed goals adequately reflect the costs and benefits to participating customers.

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

OUC Position: Yes. OUC's proposed goals adequately and reasonably reflect the costs and benefits of potential customer-funded DSM measures to the general body of OUC's ratepayers considered as a whole, including consideration of utility incentives and participant contributions. The costs and benefits to OUC's general body of customers are fully reflected in Nexant's RIM test analyses, which show that no residential energy efficiency measures,

no residential demand reduction measures, no commercial or industrial energy efficiency measures, and no demand-side renewable energy measures are cost-effective to OUC's general body of ratepayers. There is one commercial/industrial energy efficiency measure, an exterior lighting controls measure, that passes the RIM test, and that measure would provide truly minimal energy savings – a total of roughly 6,000 kilowatt-hours over the entire ten-year goals period, or an average of roughly 600 kWh per year, which is less electricity than a single residential customer uses in a month. OUC's proposed goals of zero adequately and appropriately reflect the fact that, for all practical purposes, there are no measures available to OUC that would be cost-effective to OUC's general body of ratepayers.

ISSUE 4: Do the Company's proposed goals adequately reflect the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems, pursuant to Section 366.82(3)(c), F.S.?

OUC Position: Yes. OUC'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.

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.?

OUC Position: Yes. Even though there are no current or pending state or federal regulations applicable to greenhouse gas emissions, OUC's proposed goals are based on cost-effectiveness analyses, conducted by Nexant, that include the projected costs of carbon dioxide ("CO₂") emissions regulation based on the projected timing of CO₂ regulation and the projected CO₂ emissions prices, in dollars per ton, used by Florida Power & Light Company and Duke Energy Florida in their cost-effectiveness analyses for these consolidated conservation goals dockets.

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

OUC Position: The PSC should base any goals that it establishes for OUC on the RIM test, to ensure that any required measures must be cost-beneficial to OUC's general body of customers. This is particularly important because it will minimize or eliminate any cross-subsidization of participating customers by non-participating customers, and it is also important because the PSC does not have rate setting jurisdiction over OUC. Nexant's RIM analyses show that OUC's proposed goals of zero are most appropriate for the following reasons: (a) only one of the EE measures studied (a commercial/industrial exterior lighting measure) passes the RIM test, and that measure would provide negligible energy savings; (b) there are no Achievable Potential savings available to OUC from DR measures; and (c) there are no cost-effective Achievable Potential savings

for OUC from demand-side renewable energy systems, including solar photovoltaic (“PV”), battery storage, and CHP systems.

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

OUC Position: Yes. OUC’s proposed goals appropriately reflect consideration of free riders by application of the two-year payback screen that the Commission has approved for the past 25 years. The free ridership “problem” is significant because free riders, by definition, are customers who receive incentive payments, financed by OUC’s other customers, to implement DSM measures that they would otherwise implement without any such incentives. In other words, where free ridership occurs, all OUC customers are paying unnecessarily for the conservation benefits provided by the free rider. Based on the PSC’s consistent approval of the two-year payback screen over the past 25 years, OUC has come to believe that the two-year screen strikes a reasonable balance between the desire for greater energy conservation and the desire to avoid the adverse economic effects of free ridership, i.e., that free riders cause all customers to pay more than necessary to achieve the conservation benefits flowing from free riders’ participation in DSM programs.

ISSUE 8: What residential summer and winter megawatt (MW) and annual Gigawatt-hour (GWh) goals should be established for the period 2020-2029?

OUC Position: The PSC should establish goals of zero for OUC for residential summer and winter peak demand (“MW”) reductions and annual gigawatt-hour (“GWh”) savings.

ISSUE 9: What commercial/industrial summer and winter megawatt (MW) and annual Gigawatt hour (GWh) goals should be established for the period 2020-2029?

OUC Position: The PSC should establish goals of zero for OUC for commercial and industrial summer and winter peak demand reductions and annual energy savings.

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.?

OUC Position: The PSC should not set any goals, or should set goals of zero, for OUC to increase its development of demand-side renewable energy systems. None of the demand-side renewable energy measures evaluated by Nexant, including solar PV, battery storage, and Combined Heat & Power (“CHP”) measures, passed the RIM test for OUC. OUC has already implemented and operates substantial demand-side renewable energy initiatives, including both solar PV and solar thermal water heating measures, as well as substantial supply-side initiatives using solar and landfill gas renewable energy technologies.

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

OUC Position: OUC supports the use of the Staff's original language for this issue, and opposes SACE's proposed alternate language. Substantively, OUC's position would be the same as stated above on the issue as framed by the Staff.

ISSUE 11: Should these dockets be closed?

OUC Position: Yes. When the Commission's order approving OUC's goals has become final and is not subject to any appeals or reconsideration, these dockets, specifically including Docket No. 20190019-EG, should be closed.

CONTESTED ISSUES

SACE CONTESTED ISSUE

ISSUE: Should distinct goals for low income customers be established, and if so, what should those goals be?

OUC Position: OUC objects to this issue for the following reasons. First, FEECA contains no basis for including this issue, and neither do the Commission's rules set forth in Rules 25-17.001 through 25-17.015, F.A.C. Second, given that the FEECA utilities generally develop, design, and implement energy efficiency and DSM programs and measures that pass the RIM test, it is virtually certain that SACE's intent is to persuade the Commission to impose goals that will involve RIM-failing programs and measures. The proposed issue thus invites the Commission to impose a cross-subsidization burden on the significant number of utility

customers who would be forced to pay for programs to benefit only the partial class of residential customers with low incomes. If RIM-failing programs are mandated, then OUC's general body of customers, including both the non-participating customers who would be ineligible for the hypothesized low-income programs and also non-participating low-income customers, would experience bill increases greater than the benefits provided by the measures. OUC, and any other utility subjected to such mandates, would experience unnecessary costs from being forced to implement programs that are not cost-effective to its general body of customers.

5. **STIPULATED ISSUES**

None at this time.

6. **PENDING MOTIONS**

OUC has no pending motions.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY**

OUC has no pending requests or claims for confidentiality.

8. **OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT**

OUC does not expect to challenge the qualifications of any witness to testify, although OUC reserves all rights to question witnesses as to their qualifications as related to the credibility and weight to be accorded their testimony.

9. **STATEMENT REGARDING SEQUESTRATION OF WITNESSES**

OUC does not intend to invoke the rule requiring sequestration of witnesses.

10. **STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE**

There are no requirements of the Order Establishing Procedure with which the Orlando Utilities Commission cannot comply.

Respectfully submitted this 22nd day of July, 2019.

/s/ Robert Scheffel Wright

Robert Scheffel Wright
schef@gbwlegal.com
John T. LaVia, III
jlavia@gbwlegal.com
Gardner, Bist, Bowden, Bush, Dee, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
Telephone (850) 385-0070
Facsimile (850) 385-5416

Attorneys for the Florida Retail Federation

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished by electronic mail this 22nd day of July, 2019, to the following parties.

Ashley Weisenfeld Margo Duval Charles Murphy Rachel Dziechciarz Office of the General Counsel Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 awaisenf@psc.state.fl.us mduval@psc.state.fl.us cmurphy@psc.state.fl.us rdziechc@psc.state.fl.us	J.R. Kelly Patricia Christensen Thomas David A. Mireille Fall-Fry Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, Florida 32399 kelly.jr@leg.state.fl.us christensen.patty@leg.state.fl.us david.tad@leg.state.fl.us fall-fry.mireille@leg.state.fl.us
Mr. Bradley Marshall Ms. Bonnie Malloy Earthjustice 111. S. Martin Luther King Jr. Blvd. Tallahassee, FL 32301 (850) 681-0031 (tel) (850) 681-0020 (fax) bmarshall@earthjustice.org bmalley@earthjustice.org Attorneys for Southern Alliance for Clean Energy	George Cavros Southern Alliance for Clean Energy 120 E. Oakland Park Blvd., Suite 105 Fort Lauderdale, FL 33334 (954) 295-5714 george@cleanenergy.org Attorney for Southern Alliance for Clean Energy
Kelley F. Corbari, Senior Attorney Allan J. Charles, Senior Attorney Ms. Joan Towles Matthews, Senior Attorney Terryann Adkins-Reid Brenda Buchan Florida Department of Agriculture & Consumer Services Office of General Counsel 407 South Calhoun St., Suite 520 Tallahassee, FL 32399-0800 Kelley.Corbari@FreshFromFlorida.com Allan.Charles@FreshFromFlorida.com Joan.Matthews@FreshFromFlorida.com Terryann.Adkins-Reid@FreshFromFlorida.com Brenda.Buchan@FreshFromFlorida.com	Derrick Price Williamson Barry A. Naum Spilman Law Firm 1100 Bent Creek Boulevard, Suite 101 Mechanicsburg, PA 17050 bnaum@spilmanlaw.com dwilliamson@spilmanlaw.com

Robert Scheffel Wright
Attorney