

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company)

DOCKET NO. 20190015-EG

In re: Commission review of numeric conservation goals (Gulf Power Company)

DOCKET NO. 20190016-EG

In re: Commission review of numeric conservation goals (Florida Public Utilities Company).

DOCKET NO. 20190017-EG

In re: Commission review of numeric conservation goals (Duke Energy Florida, Inc.)

DOCKET NO. 20190018-EG

In re: Commission review of numeric conservation goals (Orlando Utilities Commission)

DOCKET NO. 20190019-EG

In re: Commission review of numeric conservation goals (JEA)

DOCKET NO. 20190020-EG

In re: Commission review of numeric conservation goals (Tampa Electric Company)

DOCKET NO. 20190021-EG

DATE: September 20, 2019

CITIZENS' POST-HEARING BRIEF

The Citizens of the State of Florida, through the Office of Public Counsel (“Citizens” or “OPC”), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2019-0062-PCO-EG, issued February 18, 2019, submit this Post-Hearing Brief.

STATEMENT OF BASIC POSITION

The OPC represents the ratepayers of the investor-owned utilities subject to this numeric conservation goal-setting proceeding. The ratepayers that OPC represents have differing opinions

and assign different values to energy efficiency goals and to the rate impacts for achieving those goals. Nevertheless, the companies' proposed goals should adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of the Florida Energy Efficiency and Conservation Act (FEECA), Sections 366.80-366.83 and 403.519, Florida Statutes. The Legislature found it critical to utilize the most efficient and cost-effective demand-side renewable energy systems and conservation systems, and to reduce and control the growth rates of electric consumption and weather-sensitive peak demand. Section 366.82(3), Florida Statutes (2019), provides that in establishing demand-side management (DSM) goals, the Commission shall consider the costs and benefits to participating customers and to the general body of ratepayers, the need for incentives, and regulatory costs. The statutes do not require nor imply that the Commission solely consider goals that provide no rate impact. As this Commission has previously acknowledged in both the 2014 and 2009 proceedings, "consideration of both the [Rate Impact Measure (RIM)] and [Total Resource Cost (TRC)] tests is necessary to fulfill the requirements of Section 366.82(3)(b)." Order No. PSC-14-0696-FOF-EU at 12 (quoting Order No. PSC-09-0855-FOF-EG at 15).

Costs and benefits to individual, participating customers may be difficult to establish and, while the proposed goals may appear to reflect the costs and benefits as referenced in Section 366.82(3)(a), Florida Statutes, the companies' proposed goals do not fully and adequately reflect these costs and benefits. The companies' proposed goals only consider no rate impact to the general body of ratepayers under the Rate Impact Measure (RIM) test but do not reflect other benefits that affect the general body of ratepayers as used in the Total Resource Cost (TRC) test. Thus, the goals do not achieve the full intent of FEECA by utilizing the most efficient and cost-effective demand-side renewable energy systems because they do not consider any measure that passed TRC.

The FEECA utilities' sole reliance on RIM to establish the DSM goals have significantly reduced, if not eliminated, establishing any numeric DSM goals when compared to prior years. The

Commission should require goals be set based upon the combined consideration of both TRC and RIM.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

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.?

OPC: *It appears that Nexant performed an adequate assessment of the full technical potential of all available demand-side conservation and efficiency measures for all FEECA utilities. However, the double application of naturally occurring efficiency in the technical potential stage and free-ridership screen in the economic potential stage of the analysis of FEECA inappropriately reduce the potential DSM goals to be established by the Commission.*

ARGUMENT:

The seven utilities subject to FEECA hired Nexant to produce the required Market Potential Studies. TR 319-320. Nexant Witness Jim Herndon testified that Nexant was hired to produce an independent analysis of the Technical Potential for energy efficiency, demand response, and demand-side renewable energy for the residential, commercial and industrial retail customer classes. TR 320. He stated the technical potential developed was the same for all the FEECA utilities. *Id.* The technical potential identifies the theoretical limit to reducing summer and winter peak electric demand and energy. Mr. Herndon noted that technical potential assumes every potential end-use measure is installed everywhere it is “technically” feasible to do so from an engineering standpoint regardless of cost, customer acceptance, or any other real-world constraints. TR 325.

SACE witness Jim Grevatt testified that Nexant already accounted for naturally occurring efficiency in its technical potential study. TR 947. He noted that this naturally occurring efficiency was accounted for in two ways: (1) savings due to government codes and standards; and (2) savings

due to customer implementation without utility-funded efficiency programs (i.e. baseline measure adoption). TR 949. Even though Nexant excluded this naturally occurring efficiency from the technical potential, they also applied a two-year payback screen at the economic potential stage. TR 950. This double application at two different stages of the goals development process over-adjusts for potential free riders. TR 950. Nexant witness Herndon acknowledged that the other studies he had done for Nexant did not use a two-year payback to account for free-ridership at all. TR 387-388.

As SACE witness Grevatt testified, the most efficient measure should be assumed to be purchased or installed for purposes of analyzing the technical potential. TR 958. He cited the example of pool pumps for which there are two potential upgrades—two-speed and variable speed pumps. He suggested the technical potential studies should assume adoption of the variable speed pumps, and all of the savings should be assumed to come from the most efficient measure that passes the cost-effectiveness test, which may be a lower level of efficiency than was included in the technical potential. TR 958-959. SACE witness Grevatt acknowledged that this is how all utilities estimated the technical potential but not how all the utilities estimated the economic potential. TR 959.

Thus, it appears that an adequate assessment of the full technical potential of all available demand-side conservation and efficiency measures was done by Nexant. However, the double application of naturally occurring efficiency in the technical potential stage and free-ridership screen in the economic potential stage of the analysis of FEECA inappropriately reduce the potential DSM goals to be established by the Commission.

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.?

OPC: *No. The companies' proposed goals do not fully and adequately reflect costs and benefits to participating customers since no TRC measures have been used to establish

DSM goals. The FEECA utilities' sole reliance on RIM to establish the DSM goals have significantly reduced if not eliminated establishing any numeric DSM goals over prior years. Therefore, the results of the TRC test along with the RIM test and low-income programs should be considered to establish the current DSM goals.*

ARGUMENT:

Nexant produced seven market potential studies for the seven FEECA utilities. TR 321. Two utilities, Tampa Electric Company (Tampa Electric) and Florida Power and Light Company (FPL), developed their own economic potential analysis and achievable potential analysis based on the technical potential analysis done by Nexant. TR 321. The other five utilities, Duke Energy Florida (Duke), Gulf Power Company (Gulf), Florida Public Utilities Company (FPUC), Jacksonville Electric Authority (JEA), and Orlando Utilities Commission (OUC), used Nexant for development of the economic potential and achievable potential as well as the technical potential analysis. TR 321.

For the five utilities, Nexant conducted an economic screening to determine the measures that were preliminarily cost-effective under the RIM test scenario or the TRC test scenario. TR 322. For this subset of the FEECA utilities, Nexant then incorporated the utilities' program costs and conducted an economic screening for the achievable potential analysis under both the RIM and TRC scenarios. TR 322. Nexant next applied adoption curves to produce the estimated levels of customer adoption over the 2020-2029 period to estimate the cost-effective measures for each utility's retail customers. TR 322. FPL and Tampa Electric also conducted economic screening to determine the measures that were preliminarily cost-effective under the RIM test scenario or the TRC test scenario. TR 18-19, 75, 857, 860. Despite conducting the evaluation under each of the RIM, participant, and TRC test scenarios, none of the utilities proposed that the DSM goals for the period of 2020-2029 should be based on the TRC test scenarios. TR 90, 457, 610, 897. Further, some of the utilities, FPUC, OUC, and JEA, proposed no DSM goals be established for them during the 2020-2029 period. TR 550, 716, 768.

Tampa Electric witness Roche, explained that when calculating the RIM test, only the lost revenues for the utilities were considered on the cost side of the equation. TR 857, 934. He further explained that for the TRC test, only the customer's full incremental equipment cost was considered on the cost side of the equation. TR 857. And he noted that for both the RIM and TRC tests, the benefits were comprised of avoided supply-side costs that included the generator, transmission and distribution, and fuel costs. TR 857. However, SACE witness Grevatt testified that FEECA utilities did not include all participant benefits in the TRC test—such as fuel (decreased natural gas usage with improved insulation), water savings (decreased usage from low flow showers) or other non-energy benefits. TR 965. While the FEECA utilities asserted that excluding these other participant benefits is appropriate because TRC is evaluated from a resource perspective, SACE witness Grevatt testified these resource benefits should be included for a cost effectiveness analysis. TR 965. He further testified that including all participant costs without including all participant benefits results in a bias against efficiency resources and understates what is cost-effective. TR 965, 968.

Moreover, SACE witness Grevatt noted, the RIM is a test of a measure's or program's potential to cut into a utility's profits, which would only affect rates if it caused a utility to seek regulatory approval to increase rates to remain just as profitable as without the efficiency programs. TR 934. He further testified that RIM actually only tests whether rates, and thus bills, could go up for non-participants if a utility's return falls below the lower bound on their allowed return on equity and, in turn, the utility increases base rates through a rate case because participants will see bills go down even if rates increase. TR 934. SACE witness Grevatt also testified that the RIM test only has limited value in evaluating non-participant impact because it does not tell you how much rates will be impacted, if at all, and who might be adversely affected. TR 938. In contrast, the TRC test considers on the cost side of equation the customer's full incremental equipment costs. TR 857.

The companies' proposed goals should adequately safeguard the interests of the general body of ratepayers against undue rate impacts while achieving the intent of FEECA. The Legislature found it critical to utilize the most efficient and cost-effective demand-side renewable energy systems and conservation systems, and to reduce and control the growth rates of electric consumption and weather-sensitive peak demand. However, the companies' proposed goals do not fully and adequately reflect costs and benefits to participating customers since no TRC measures have been used to establish DSM goals. The FEECA utilities' sole reliance on RIM to establish the DSM goals have significantly reduced, if not eliminated, establishing any numeric DSM goals when compared to prior years. Therefore, the results of the TRC test should be used along with the RIM test and low-income programs to establish the current DSM goals.

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.?

OPC: *No. The companies' proposed goals only consider the rate impact to the general body of ratepayers (RIM) but do not utilize other benefits (TRC) that affect the general body of ratepayers, thus they do not achieve the full intent of FEECA. The FEECA utilities' sole reliance on RIM to establish the DSM goals have significantly reduced, if not eliminated, establishing any numeric DSM goals when compared to prior years. Therefore, the Commission should consider using the results of the TRC test along with the RIM test and low-income programs to establish the current DSM goals. *

ARGUMENT:

As stated in Issue 2, Nexant produced seven market potential studies for all the utilities, and conducted the economic potential and achievable potential screening for five of these utilities. TR 321. Tampa Electric and FPL developed their own economic potential analysis and achievable potential analysis based on the technical potential analysis done by Nexant. TR 321, 321. Despite conducting the evaluations under each RIM, participant, and TRC test scenarios, none of the utilities

proposed that the DSM goals for the period of 2020-2029 should be based on the TRC test scenarios. TR 90, 457, 610, 897. Further, some of the utilities, FPUC, OUC, and JEA, proposed that no DSM goals be established for them during 2020-2029 period. TR 550, 716, 768.

The FEECA utilities argue that RIM should be the only test relied on to set the DSM goals because it not only avoids rate impacts, but also avoids cross-subsidization. TR 1057-1059. FEECA utilities' witness Deason opined that the policy of having cost causers (i.e. participants) pay their fair share of the costs they place on the system, especially when they engage in actions or choose options which, if not specifically recognized, would cause rates for the general body of customer to increase, is done to minimize cross-subsidies to the greatest extent possible. TR 1057-1059. Nevertheless, both of the DSM goal-setting tests, RIM and TRC, result in measures that require cross-subsidization of participants' costs by non-participants at some level. Moreover, as SACE witness Grevatt noted, the RIM test is a test of a measure's or program's potential to cut into a utility's profits, which would only affect rates if it caused a utility to seek regulatory approval to increase rates to remain just as profitable as without the efficiency programs. TR 934. He further testified that RIM really just tests whether rates, and thus bills, could go up for non-participants if a utility goes below the lower bound on their allowed return on equity and increases rates through a rate case because participants will see bills go down even if rates increase. TR 934. Thus, RIM also has limited potential to evaluate the bill impacts level of cross-subsidization of participants by non-participants.

In addition, the ratepayers that OPC represents have differing opinions and assign different values to energy efficiency goals and to the rate impacts for achieving those goals. Mr. Grevatt noted that efficiency program portfolios can be designed to be broad and diverse enough so that all customers have the opportunity to participate, even though not every customer will choose to take advantage of those opportunities and participate. TR 938. Since not everyone chooses to participate in an efficiency program even if it will reduce their bills, he stated that RIM only really measures the

impact on those customers who choose not to participate in an efficiency program (i.e. non-participants). TR 938. Mr. Grevatt also testified that the RIM test only has limited value in evaluating non-participant impact because it does not tell you how much rates will be impacted, if at all, and who might be adversely affected. TR 938. He noted that RIM does not tell you anything about the benefits you forgo if you allow concerns about non-participants to determine all investment decisions. TR 938-939. Mr. Grevatt further testified that all costs and benefits should be monetized if the economic analysis is to be dispositive. As an example, he cited approval of investments, such as distribution system upgrades to improve reliability, that nominally increase costs on the basis of benefits that are understood but that are not precisely valued. TR 939.

SACE witness Grevatt also cited low-income programs that may not have passed the RIM or TRC tests, but still are approved by regulators. TR 939. Essentially, he noted that some benefits like low-income programs are worth the costs and making that judgment by regulators still adheres to the principle that benefits must exceed costs. TR 939. Thus, although RIM has some value in evaluating the potential rate impact on non-participants, RIM is not particularly helpful on its own.

The TRC test takes a broader look at benefits to participants and the RIM test looks at the potential rate impacts to non-participants. These tests should be used together to set DSM goals in a manner that achieves the maximum DSM goals while minimizing undue rate impact. TR 857, 934. The companies' proposed goals only consider the rate impact to the general body of ratepayers (RIM) but do not consider other benefits (TRC) that affect the general body of ratepayers, thus they do not achieve the full intent of FEECA. The FEECA utilities' sole reliance on RIM to establish the DSM goals have significantly reduced, if not eliminated, establishing any numeric DSM goals when compared to prior years. Therefore, the Commission should consider using the results of the TRC test along with the RIM test and low-income programs to establish the current DSM goals.

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.?

OPC: *No. The proposed goals ostensibly address the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems but may not adequately reflect the full extent of that need.*

ARGUMENT:

While the ratepayers that OPC represents have differing opinions and assign different values to energy efficiency goals and to the rate impacts for achieving those goals, the goals established should continue to be at least marginally challenging. The need for incentives may be affected by community-specific characteristics and the proposed goals are presented in a more general format. The proposed goals ostensibly address the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems but may not adequately reflect the full extent of that need. Even though the FEECA utilities performed DSM goals evaluations under each RIM, participant, and TRC test scenario, none of the utilities proposed that the DSM goals for the period of 2020-2029 be based on the TRC test. TR 90, 457, 610, 897. Further, some of the utilities, FPUC, OUC, and JEA, proposed that no DSM goals be established for them during the 2020-2029 period. TR 550, 716, 768.

FPL witness Whitley testified that utility-provided incentives for traditional energy efficiency measures no longer make sense because they are not cost-effective. TR 84. Both Gulf and DEF suggest that utilizing the RIM test, even with its noted flaws, along with the nature of the current market eliminates the need for utility incentives. TR 455, 594, 595. Based on the logic put forth by Gulf and DEF and the fact that the other FEECA utilities want to place their reliance solely on RIM to establish DSM goals, it is reasonable to conclude that little to no consideration was given to utility-provided incentives. This is in spite of the fact that Gulf's witness Floyd, on rebuttal, noted that

Section 366.82(3), F.S., “requires . . . consideration of four criteria in establishing goals” including “the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems[.]” (Emphasis added.) TR 1277. Therefore, it does not appear that the utilities’ 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.

The Commission should determine whether the companies’ proposed goals, especially related to the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems, adequately safeguard all interests of the general body of ratepayers, including participating customers, against undue rate impacts while achieving the intent of FEECA.

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.?

OPC: *Currently, there are no costs imposed by state or federal regulations on the emission of greenhouse gases. It appears that the companies have not included any costs for greenhouse gases in their analyses used to establish the conservation goals.*

ARGUMENT:

Currently, there are no costs imposed by state or federal regulations on the emission of greenhouse gases. It appears that the companies have not included any costs for greenhouse gases in their analyses used to establish the conservation goals, which is appropriate. TR 545, 762, 862, 891.

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

OPC: *The FEECA utilities’ sole reliance on RIM to establish the DSM goals have significantly reduced, if not eliminated, establishing any numeric DSM goals when compared to prior years. Goals should be set based upon the required consideration of both TRC and RIM.*

ARGUMENT:

Section 366.82(3), F.S., provides that in establishing DSM goals, the Commission shall consider the costs and benefits to participating customers and to the general body of ratepayers, the need for incentives, and regulatory costs. The FEECA statutes neither require nor imply that the Commission solely consider goals that provide no rate impact.

In its statement of intent when enacting FEECA, the Florida Legislature declared that the act “is to be liberally construed in order to meet the complex problems of reducing the growth rates of electric consumption and of weather sensitive peak demand, and of increasing the overall efficiency and cost effectiveness of electricity and natural gas production and use and of conserving expensive resources, especially petroleum fuels.” Ch. 80-65, Laws of Florida, § 5 at 214. This mandate remains in the language of the act. *See*, Section 366.81, F. S. In order to fulfil this mandate, the Legislature found it critical to utilize the most efficient and cost-effective demand-side renewable energy systems and conservation systems, and to reduce and control the growth rates of electric consumption and weather-sensitive peak demand. *See*, Section 366.81, F. S.

As this Commission has previously acknowledged in both the 2014 and 2009 proceedings:

[C]onsideration of both the RIM and TRC tests is necessary to fulfill the requirements of Section 366.82(3)(b), [Fla. Stat.] Both the RIM and the TRC tests address costs and benefits beyond those associated solely with the program participant. By having RIM and TRC results, we can evaluate the most cost-effective way to balance the goals of deferring capacity and capturing energy savings while minimizing rate impacts to all customers.

Order No. PSC-14-0696-FOF-EU at 12 (quoting Order No. PSC-09-0855-FOF-EG at 15).

As defined in the Cost Effectiveness Manual, the RIM test is “an indirect measure of the impact on customer rates caused by the program.” *In Re: Amendment of Rule 25-17.008, F.A.C.*,

pertaining to Conservation and Self-Service Wheeling Cost Effectiveness Data Reporting Format, Docket No. 891324-EU, Order No 24745 at 21 (Fla. PSC July 2, 1991) (“1991 Order”). The RIM test evaluates programs from the perspective of customers’ rates due to changes to the utility’s revenue. This is not a reliable measure of program costs because, for example, FPL defines “lost revenue” as “unrecovered revenue requirement.” FPL’s revenue requirement is calculated based on usage, and the effect of DSM programs lowers that usage. In other words, FPL can overshoot its revenue requirement by overestimating usage requirements and then decline to engage in DSM programs that would reduce its usage requirement because the program does not allow FPL to recover overestimated costs.

[Marshall] Q. And lost revenue is how much customers are basically not paying the utility due to the implementation of DSM measures, is that right?

[Whitley] A. No, I don’t think that’s quite the correct way to characterize it. It’s the unrecovered revenue requirements that the utility experiences when their net electric load is lower than the forecast. And as DSM lowers that load, that’s applied to the DSM measures that we evaluate.

TR 188-89. Notwithstanding, the statute requires the Commission to take into consideration costs and benefits to the general body of ratepayers as a whole. As such, the utilities’ lost revenues should not be a primary consideration in setting DSM goals, the way it is a main focus of the RIM test. Moreover, as SACE witness Grevatt testified, RIM only tests the potential for a measure or program to cut into a utility’s profits, which would only affect rates if it caused a utility to seek regulatory approval to increase rates to remain just as profitable as without the efficiency programs. TR 934. Rates do not automatically rise when a utility believes it has lost revenue or experiences an unrecovered revenue requirement. Rates increase only by leave of this Commission through a cost recovery clause or after a properly considered rate case. *See* 1991 Order at 1 (“The use of the Rate Impact Test does not, in any way, predetermine whether lost revenues actually will be recovered.”) Additionally, as noted by the Commission, it is only “[i]f the bill reductions caused by the program

are greater than the reduction in costs to the utility, [that] rate levels must go up to make up the deficiency.” 1991 Order at 1.

As defined in the Cost Effectiveness Manual, the TRC test “measures the net costs of a demand-side management program as a resource option based on the total costs of the program, including both the participants' and the utility's costs.” 1991 Order at 15. Mr. Grevatt testified that a number of jurisdictions consider the results of the RIM test along with the results of a variety of other tests when determining which efficiency programs to support. TR 944. He was not aware of any other state in the country that relied on RIM as the sole or even primary determinant of whether or not an individual efficiency measure or program merits utility investment. TR 944. Citing the 2012 American Council for an Energy Efficient Economy report, Mr. Grevatt testified that of the 41 states that relied upon one cost-effectiveness test, only one other state utility regulator, Virginia, relied on RIM as its primary test. TR 944. He further testified that this reliance was subsequently rejected by Virginia’s legislature in 2018. TR 944. Mr. Grevatt noted that the only changes he was aware of in the states’ application of testing since the 2012 report was the following: (1) Florida shifted to relying on RIM as its primary, cost-effectiveness test; (2) Virginia now supports measures that pass three of four programs – RIM, TRC, Utility Cost Test, and Participant Cost test; and (3) Iowa partially applies RIM at the portfolio level. TR 944, 945.

As required by this Commission in its 2014 and 2009 orders, the companies evaluated potential DSM programs using both the RIM and TRC tests, and the Commission established goals in 2009 based on an unconstrained enhanced RIM and TRC. See, Order No. PSC-2009-0855-FOF-EI, issued December 30, 2009, at pp. 12, 15-16. Nevertheless, in this docket the utilities are asking for goals to be set based solely on RIM. At the hearing, each utility admitted that it is proposing its goals to be set exclusively based on the results of the RIM test. TR 90, 457, 610, 897. Moreover,

FPUC, OUC, and JEA, are proposing that no DSM goals be established for them during the 2020-2029 period. TR 550, 716, 768.

To permit only RIM-based goals would negate the requirement to consider TRC, and the Commission's requirement to consider multiple tests would be rendered meaningless. *See* 1991 Order at 2 ("Allowing the application of both the Rate Impact Test and the Total Resource Cost Test properly sets forth a neutral reporting format for the Commission to utilize flexibility in its determination."). The FEECA utilities' sole reliance on RIM to establish the DSM goals have significantly reduced, if not eliminated, establishing any numeric DSM goals when compared to prior years. Goals should be set based upon the required consideration of both TRC and RIM.

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

OPC: *No. The double application of naturally occurring efficiency in the technical potential stage and free-ridership screen in the economic potential stage of the analysis of FEECA inappropriately reduces the potential DSM goals to be established by the Commission. Low income programs should continue even though they do not pass RIM or are eliminated under the two-year payback standard. In addition, as stated in the previous issue, the utilities' over-reliance on the RIM test improperly weights the utilities' lost revenues as a cost to the general body of ratepayers as a whole and, therefore, possibly overestimates the effect of free riders.*

ARGUMENT:

As discussed in Issue 1, Nexant in its technical potential study accounted for naturally occurring efficiency. TR 947. SACE witness Jim Grevatt testified that this naturally occurring efficiency was accounted for in two way in the Nexant studies: (1) savings due to government codes and standards; and (2) savings due to customer implementation without utility-funded efficiency programs (i.e. baseline measure adoption). TR 949. Even though Nexant excluded this naturally occurring efficiency from the technical potential, the FEECA utilities also applied a two-year payback at the economic potential stage. TR 950. This double application at two different stages of

the goals development process over adjusts for potential free riders. TR 950. Nexant witness Herndon acknowledged that the other studies he had done for Nexant did not use a two-year payback to account for free-ridership at all. TR 387-388.

All of the FEECA utilities except FPUC stated that they will include low income programs as part of their conservation programs. TR 89-90, 501-502, 610-611, 716-717, 769, 897-898. The majority acknowledged that these low income programs do not pass RIM. *Id.* In addition, some of these low-income programs would be eliminated under the two-year payback standard. TR 89-90, 501-502, 610-611, 716-717, 769, 897-898. Mr. Garrett noted that, while low-income programs may not have passed RIM or TRC tests, they were still approved by regulators in other jurisdictions. TR 939. Essentially, he testified some benefits like those from low-income programs are worth the costs and, in making that judgement, regulators still adhere to the principle that benefits must exceed costs. TR 939.

In addition, as stated in the previous issue, the utilities' over-reliance on the RIM test improperly weights the utilities' lost revenues as a cost to the general body of ratepayers as a whole and, therefore, possibly overestimates the effect of free riders.

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

OPC: *The companies rely too heavily on the RIM test as the sole criteria for establishing the achievable potential for each company. The Commission should give some weight to and consider the TRC test results as well. If the Commission relies upon the companies' proposed RIM goals or approves goals that are lower than the RIM-achievable potential, OPC submits there should be no rewards for exceeding those goals. The summer and winter megawatt and annual gigawatt-hour goals for residential customers should reflect these considerations, although OPC does not propose specific numeric amounts.*

ARGUMENT:

As stated in Issue 7, the utilities' proposed goals do not reflect achievable potential based on TRC; they are based solely on RIM. OPC submits that the Commission should require goals be set based upon the required consideration of both TRC and RIM. To approve only RIM-based goals would negate the requirement to consider TRC, and the Commission's requirement to consider multiple tests is meaningless.

Section 366.82(8), F.S., permits the Commission to authorize financial rewards for those utilities over which it has rate-setting authority that exceed their goals and financial penalties for those utilities that fail to meet their goals. Despite conducting evaluations under the RIM, participant, and TRC test scenarios, none of the utilities propose that the DSM goals for the period of 2020-2029 be based on the TRC test scenarios. TR 90, 457, 610, 897. Some of the utilities, FPUC, OUC, and JEA, are proposing that DSM goals of zero be established for them during 2020-2029 period. TR 550, 716, 768. The FEECA utilities' sole reliance on RIM to establish the DSM goals have significantly reduced, if not eliminated, establishing any numeric DSM goals when compared to prior years.

OPC recommends the Commission should use the results of both the TRC test and the RIM test and include low-income programs to establish the new DSM goals. However, if the Commission relies upon the companies' proposed RIM goals or approves goals that are lower than the RIM-achievable potential, OPC submits there should be no rewards for exceeding those goals. The summer and winter megawatt and annual gigawatt-hour goals for residential customers should reflect these considerations, although OPC does not propose specific numeric amounts.

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

OPC: *The companies rely too heavily upon the RIM test as the sole criteria for establishing the achievable potential for each company. The Commission should give some weight to and consider TRC results as well. If the Commission relies upon the

companies' proposed RIM goals or approves goals that are lower than the RIM-achievable potential, OPC submits there should be no rewards for exceeding those goals. The summer and winter megawatt and annual gigawatt-hour goals for commercial/industrial customers should reflect these considerations, although OPC does not propose specific numeric amounts.*

ARGUMENT:

As stated in Issue 7, the utilities' goals do not reflect achievable potential based on TRC; they are based solely on RIM. OPC submits the Commission should require goals be set based upon the required consideration of both TRC and RIM. To approve only RIM-based goals would negate the requirement to consider TRC, and the Commission's requirement to consider multiple tests is meaningless.

Section 366.82(8), F.S., permits the Commission to authorize financial rewards for those utilities over which it has rate-setting authority that exceed their goals and financial penalties for those utilities that fail to meet their goals. Despite conducting the evaluation under the RIM, participate, and TRC test scenarios, none of the utilities propose that the DSM goals for the period of 2020-2029 be based on the TRC test scenarios. TR 90, 457, 610, 897. Some of the utilities, FPUC, OUC, and JEA, are proposing that DSM goals of zero be established for them during 2020-2029 period. TR 550, 716, 768. The FEECA utilities sole reliance on RIM to establish the DSM goals have significantly reduced, if not eliminated, establishing any numeric DSM goals when compared to prior years.

OPC recommends the Commission should use the results of both the TRC test along with the RIM test and include low-income programs to establish the new DSM goals. However, if the Commission relies upon the companies' proposed RIM goals or approves goals that are lower than the RIM-achievable potential, OPC submits there should be no rewards for exceeding those goals. The summer and winter megawatt and annual gigawatt-hour goals for commercial/industrial

customers should reflect these considerations, although OPC does not propose specific numeric amounts

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.?

OPC: *Since none of the renewables pass TRC and RIM, OPC takes no position on what, if any, goals should be established for increasing the development of demand-side renewable energy systems, pursuant to Section 366.82(2), F.S.*

ARGUMENT:

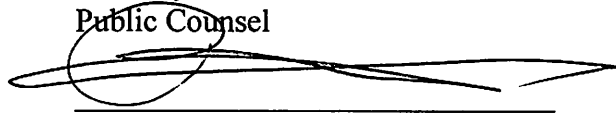
As stated in Issue 2, Nexant produced seven market potential studies for the seven FEECA utilities. TR 321. FEECA witness Herndon testified that he evaluated the technical potential for demand-side renewable energy using three separate categories: (1) rooftop photovoltaic (PV); (2) battery storage systems charged from PV systems; and (3) combined heat and power (CHP). TR 329. For the five FEECA utilities for whom Nexant conducted economic and achievable potential analyses, none of the demand-side renewable energy measures passed the cost-effectiveness screening under either the RIM or TRC scenarios. TR 339. FPL witness Whitley testified that none of the demand-side renewable system measures proved cost-effective. TR 35. TECO witness Roche also testified that residential renewables were not cost effective under any test, and commercial renewables were not cost effective under the TRC and participant tests; thus, all renewables were screened out of the goals. TR 885. Since none of the renewables passed TRC and RIM, OPC takes no position on what, if any, goals should be established for increasing the development of demand-side renewable energy systems, pursuant to Section 366.82(2), F.S.

ISSUE 11: Should these dockets be closed?

OPC: *Yes.*

ARGUMENT: Once the Commission makes the findings contained herein, it will be unnecessary to keep this docket open. Therefore, the docket should be closed.

JR Kelly
Public Counsel

A large, stylized handwritten signature in black ink, appearing to be 'JR Kelly', is written over the printed name and title.

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CERTIFICATE OF SERVICE
Docket Nos. 20190015-EG, 20190016-EG, 20190017-EG
20190018-EG, 20190019-EG, 20190020-EG, 20190021-EG

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 20th day of September 2019, to the following:

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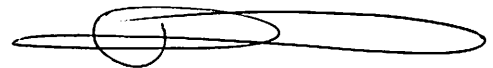
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