

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 130204-EM

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

DOCKET NO. 130205-EI  
ORDER NO. PSC-13-0645-PAA-EU  
ISSUED: December 4, 2013

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING USE OF PROXY METHODOLOGY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

**CASE BACKGROUND**

The Florida Energy Efficiency and Conservation Act (FEECA), specifically Section 366.82, Florida Statutes (F.S.), requires us to do the following: adopt goals to increase the efficiency of energy consumption; increase the development of demand-side renewable energy systems; reduce and control the growth rates of electric consumption and weather-sensitive peak demand; and encourage development of demand-side renewable energy resources.<sup>1</sup> Pursuant to Section 366.82(6), F.S., we 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), Tampa Electric Company (TECO), Gulf Power Company (Gulf), Florida Public Utilities Company (FPUC), Orlando Utilities Commission (OUC), and JEA (referred to collectively as 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.

<sup>1</sup> FEECA consists of Sections 366.80 through 366.85, F.S., and Section 403.519, F.S.

In preparation for the 2014 numeric goals proceeding, our Staff conducted a meeting with the utilities and interested parties, during which the parties agreed that the Technical Potential Study used in the 2009 goal proceeding should be updated by each utility. On July 26, 2013, we opened a docket for each FEECA Utility.<sup>2</sup> By Order No. PSC-13-0386-PCO-EU, issued August 19, 2013 (Order Establishing Procedure), these dockets were consolidated for the purposes of holding hearings, setting controlling dates, and establishing minimum testimony requirements.

On August 23, 2013, FPUC filed a petition requesting to establish its numeric goals by use of a proxy methodology and to waive the filing requirements of the Order Establishing Procedure.

On August 28, 2013, OUC filed a petition for temporary waiver of Rules 25-17.0021(2) and (3), F.A.C., and stipulation to conservation goals. On October 2, 2013, OUC withdrew its petition for rule waiver and filed a petition requesting to establish its numeric goals by use of a proxy methodology, similar to the request filed by FPUC.

We have jurisdiction over this matter pursuant to Sections 366.80 through 366.82, F.S.

### ANALYSIS

On August 19, 2013, we issued an Order Establishing Procedure, consolidating Docket Nos. 130199-EG through 130205-EG, for purposes of holding hearings, establishing controlling dates, and setting minimum requirements for testimony due April 2, 2014. As part of its testimony requirements, each FEECA Utility would outline the updates to its 2009 Technical Potential Study (study) and perform a series of analyses based on the updated study. These analyses are intended to provide us with additional information and options for determining the annual numeric conservation goals for residential and commercial seasonal demand reduction and annual energy savings.

In their petitions, OUC and FPUC request that we approve their 2014 numeric conservation goals using a proxy methodology and that they be excused from filing testimony and participating in the FEECA goal setting hearing, as required by the Order Establishing Procedure.

#### **1. Reasons for Request**

In their petitions, both OUC and FPUC state that the costs associated with updating the 2009 Technical Potential Study, performing the subsequent analyses required by the Order Establishing Procedure, and putting on testimony in support of the analysis would represent a hardship to both OUC and FPUC and their respective ratepayers. OUC and FPUC assert that they would face costs similar to those of the other FEECA Utilities to update the 2009 Technical

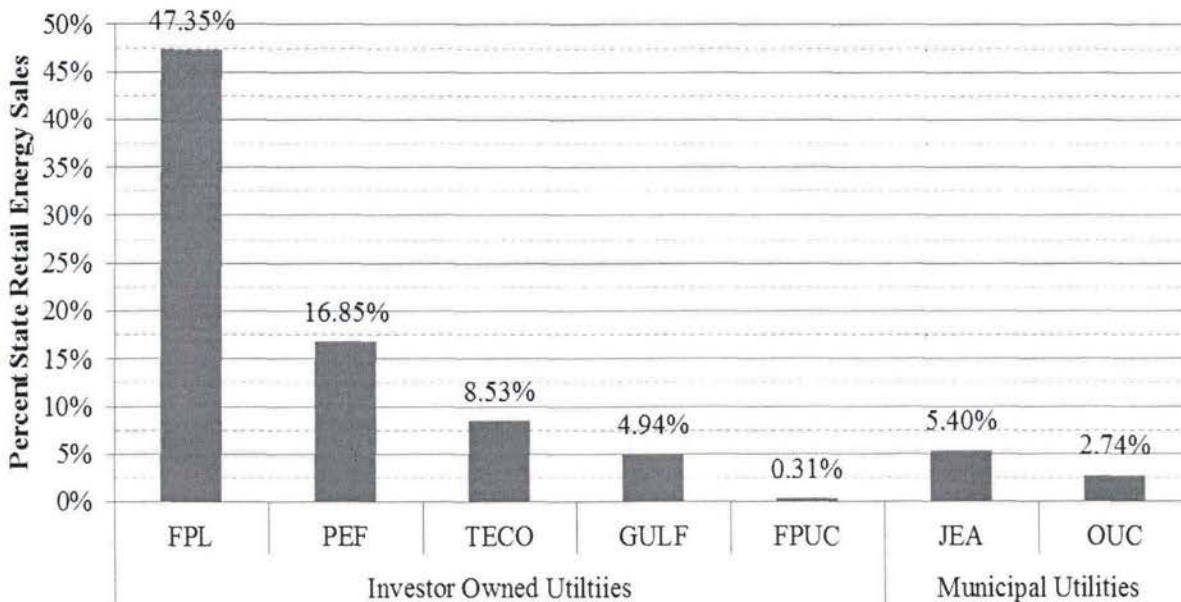
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<sup>2</sup> See Docket Nos. 130199-EI through 130205-EI.



Potential Study. OUC and FPUC assert that, due to their small size<sup>3</sup>, however, updating the Technical Potential Study would represent an unreasonable burden on their respective ratepayers. Figure 1 below illustrates the difference in size between the FEECA Utilities, as a percentage of the state's 2012 retail energy sales.

**Figure 1: Percent of 2012 Retail Sales to Ultimate Customers by FEECA Utilities**



**A. OUC**

OUC estimates that it would cost approximately \$400,000 to comply with the goal-setting process set out in the Order Establishing Procedure. As OUC is not rate-regulated by this Commission, we would not review the recovery of costs associated with the goal-setting process.

**B. FPUC**

FPUC estimates that it would cost approximately \$300,000 to \$400,000 to comply with the goal-setting process set out in the Order Establishing Procedure. This cost would ultimately be borne by FPUC's ratepayers through the Energy Conservation Cost Recovery Clause, where it would represent approximately \$0.46 to \$0.61 per 1,000 kilowatt-hour (kWh) billed to customers.

<sup>3</sup> As seen in Figure 1, FPUC is the smallest of the FEECA Utilities, and OUC is the second smallest.

**2. Proxy Methodology**

In their petitions, OUC and FPUC propose that we adopt a proxy methodology to determine their 2014 goals by using the goals we will ultimately establish in 2014 for the respective proxy utilities selected by OUC and FPUC.

**A. OUC**

OUC proposes using Tampa Electric Company (TECO) as its proxy. For the initial five year period (2015 through 2019), a percentage comparison would be made between TECO's existing 2009 goals and the goals that will be established for TECO as a result of the 2014 FEECA proceeding. The percentage difference would be multiplied by OUC's existing goals to determine OUC's annual numeric conservation goal for the years 2015 through 2019. For the remaining five year period (2020 through 2024), the values would be based on the average growth rate in annual goals for TECO, the proxy utility. OUC presented this methodology in Exhibit A of its petition, which was revised by OUC in a data response to correct a mathematical error. Using the formulas outlined above, OUC requested that it be permitted to file its numeric conservation goals within 30 days of the Final Order being issued for its proxy utility, TECO.

**B. FPUC**

FPUC proposes using two proxy utilities: Gulf Power Company (Gulf), as the proxy for FPUC's Northwest Division (Marianna), and Florida Power & Light Company (FPL), as the proxy for FPUC's Northeast Division (Fernandina Beach). For the initial five year period (2015 through 2019), a percentage comparison would be made between Gulf and FPL's existing 2009 goals and the goals that will be established for Gulf and FPL as a result of the 2014 FEECA proceeding, and then averaged. The average percentage difference would be multiplied by FPUC's existing goals to determine its annual numeric conservation goal for the years 2015 through 2019. For the remaining five year period (2020 through 2024), the values would be based on the average growth rate in annual goals for the proxy utilities, Gulf and FPL. FPUC presented this methodology in Exhibit A of its petition, which was revised by FPUC in a data response to correct a mathematical error. Using the formulas outlined above, FPUC requested it be permitted to file its numeric conservation goals within 10 days of the Final Orders being issued for both its proxy utilities, Gulf and FPL.

**3. Reasonableness of Proxy Methodology**

**A. OUC**

Unlike the investor-owned utilities, OUC's conservation goals in the 2009 proceeding were based on a continuation of existing programs. For the 2014 proceeding, OUC's requests establishing its goals using a proxy methodology. The reasonableness of OUC's proxy methodology is based on the similarities between OUC and TECO, its selected proxy utility. After reviewing the selection of TECO as a proxy for the OUC service territory, we find that,



overall, TECO is closely located to OUC geographically and can reasonably be considered to be a similar representation of OUC's service territory, in terms of climate and customer base.

OUC also states that factors that would affect the amount of conservation in its service territory (e.g., fuel costs, load growth, changes to building codes and standards, and potential new conservation measures) would also affect its designated proxy utility, TECO. We agree with this analysis, as we will consider the factors outlined above when establishing numeric conservation goals for TECO.

In its petition, OUC requested a period of thirty (30) days, from the date of the Final Order establishing goals for its proxy utility, TECO, to submit its goals calculations. However, given the ease of the calculations to be made by OUC, we believe ten (10) days, from the date of the Final Order establishing goals for its proxy utility, TECO, is adequate time for OUC to perform and submit its goals calculations. In addition, we find it prudent to give our Staff administrative authority to validate the calculations submitted by OUC.

#### **B. FPUC**

In its petition, FPUC states that the factors that would affect the amount of conservation in its service territory (e.g., fuel costs, load growth, changes to building codes and standards, and potential new conservation measures) would equally affect its chosen proxy utilities, Gulf and FPL. FPUC notes that both Gulf and FPL have a service territory within close proximity to FPUC's Northwest and Northeast divisions, respectively.

We agree that generation costs, including fuel costs, are an important factor to consider when determining a proxy utility. The effects of changes to building codes and appliance standards will vary for the FEECA Utilities based upon each utility's geography, which determines both its climate and customer base.

FPUC is not a generating utility and, as noted previously, has two service territories, which purchase power from different generating utilities. FPUC's Northwest Division (Marianna) purchases power from Gulf, while its Northeast Division (Fernandina Beach) purchases power from JEA. Although FPUC's service territory is physically separated, the FEECA goal-setting proceeding establishes a single set of goals for FPUC's entire service territory.

After reviewing the reasonableness of FPUC's selected proxies, including whether another proxy utility combination would be more appropriate, we find that the use of a single proxy utility, Gulf, would provide a more accurate representation of FPUC's service territory than using two proxies.

Gulf is geographically similarly situated to FPUC. While JEA is also a power supplier in close proximity geographically to FPUC's Northeast Division, JEA is a municipal utility whose 2009 FEECA goals were set based on a continuation of existing programs, unlike the investor-owned utilities. As a result, we do not believe JEA would be a suitable proxy for FPUC. FPUC

selection of FPL as a proxy utility for its Northeast Division (Fernandina Beach) is based on FPL providing service near FPUC's Northeast Division territory. FPL's service territory, however, is focused more heavily in South Florida. As a result, we do not believe FPL is as accurate of a representation of FPUC's service territory as Gulf alone. Moreover, we also do not believe any of the other FEECA Utilities would be a more suitable proxy for FPUC than Gulf alone.

Finding Gulf to be the most reasonable proxy utility, FPUC will have ten (10) days, from the date of the Final Order establishing goals for Gulf to perform and submit its goals calculations. In addition, we find it prudent to give our Staff administrative authority to validate the calculations submitted by FPUC.

#### **4. Non-Numeric Goals**

During the 2009 FEECA goal-setting proceeding, we found that the then-recent amendments to Section 366.82(2), F.S., required goals for demand-side renewable energy systems be established. To implement this, we directed all the investor-owned FEECA utilities to file pilot solar water heating and solar photovoltaic programs and set expenditures at 10 percent of the average annual recovery through the ECCR Clause for the previous 5 years. No non-numeric goals were set for the municipal FEECA utilities.

##### **A. OUC**

During the 2009 FEECA goal-setting proceeding, no non-numeric goals were established for OUC because it is not an investor-owned utility. Should we elect to establish non-numeric goals for the municipal FEECA utilities during the 2014 goals proceeding, however, we believe that OUC should be required to meet the same non-numeric goals established for municipal FEECA utilities.

##### **B. FPUC**

During the 2009 FEECA goal-setting proceeding, we directed FPUC and the other investor-owned FEECA utilities to file pilot solar water heating and solar photovoltaic programs and set expenditures at 10 percent of the average annual recovery through the ECCR Clause for the previous 5 years. As a result, we approved annual expenses for FPUC for its renewable pilot program in the amount of \$47,233.

In its petition, FPUC requests that it be permitted to continue its current solar program, established during the 2009 FEECA goal-setting proceeding, with no changes until the next FEECA goal-setting proceeding in 2019. If FPUC is permitted to use a proxy utility for goal setting purposes and is excused from participating in the goal-setting proceedings, the designation of a proxy should be for all purposes. As a result, any modifications or updates to non-numeric goals established during the 2014 goal-setting proceeding for Gulf, FPUC's proxy, would also apply to FPUC.



**5. Excusal from Participation**

In addition to waiving the requirements for filing testimony and submitting an updated Technical Potential Study, both OUC and FPUC have requested to be excused from the remainder of the 2014 FEECA goal-setting process. If excused, neither OUC nor FPUC would participate in, or be subject to, discovery by the parties. Since a full hearing will be held for OUC and FPUC's proxy utilities (TECO and Gulf), any policy decisions made by us would flow through to OUC and FPUC respectively. Therefore, we approve OUC and FPUC's requests to be excused from participating in the remainder of the 2014 FEECA goal-setting process. Both OUC and FPUC must submit their demand side management plans for approval, as required by Rule 25-17.0021(4), F.A.C., within 90 days of the Final Orders establishing goals for their respective proxy utility.

**DECISION**

**A. OUC**

For the reasons discussed above, we approve in part and deny in part OUC's petition to establish goals using a proxy methodology. Finding TECO to be a reasonable representation of OUC's service territory, we approve OUC's selection of TECO as its proxy utility and OUC's request to use the proxy methodology described above to establish its 2014 FEECA goals. Using the proxy methodology will result in savings for OUC's ratepayers while allowing us to establish reasonable goals. An example of this methodology is attached hereto as Attachment A.

We approve OUC's request to be excused from the filing and participation requirements of the Order Establishing Procedure. OUC will be required to file numeric conservation goals based on the proxy methodology within 10 days of a Final Order establishing goals being issued for TECO, in Docket No. 130201-EI and our Staff shall have administrative authority to validate the calculations submitted by OUC. In addition, OUC is required to file its demand side management plan within 90 days of the Final Order establishing goals for its proxy, TECO.

Finally, although no non-numeric goals were established for OUC in the 2009 goals proceeding, we find that, should we elect to establish non-numeric goals for the municipal utilities subject to FEECA in the 2014 goals proceeding, OUC shall be required to meet the same non-numeric goals established for municipal FEECA utilities.

**B. FPUC**

For the reasons discussed above, we approve in part and deny in part FPUC's petition to establish goals using a proxy methodology. Finding Gulf alone to be the most reasonable representation of FPUC's service territory, we approve FPUC's selection of Gulf as a proxy utility, and approve FPUC's request to use the proxy methodology described above to establish its 2014 FEECA goals, with Gulf serving as the only proxy utility. Using the proxy methodology will result in savings for FPUC's ratepayers while allowing us to establish reasonable goals. An example of this methodology is attached hereto as Attachment B.

We approve FPUC's request to be excused from the filing and participation requirements of the Order Establishing Procedure. FPUC will be required to file numeric conservation goals based on the proxy methodology within 10 days of a Final Order establishing goals being issued for Gulf in Docket No. 130202-EG and our Staff shall have administrative authority to validate the calculations submitted by FPUC. In addition, FPUC is required to file its demand side management plan within 90 days of the Final Order establishing goals for its proxy, Gulf.

Finally, any non-numeric goals we may elect to establish during the 2014 goal-setting proceeding for the investor-owned FEECA utilities, such as FPUC's proxy, Gulf, shall also apply to FPUC.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Orlando Utilities Commission's petition to establish numeric goals by proxy methodology is approved as set forth in the body of this Order. Orlando Utilities Commission's selection of Tampa Electric Company as its proxy utility and Orlando Utilities Commission's request to use the proxy methodology to establish its 2014 goals as outlined in the body of this order are hereby approved. It is further

ORDERED that Florida Public Utilities Company's petition to establish numeric goals by proxy methodology is approved as set forth in the body of this Order. Florida Public Utilities Company's selection of Gulf Power Company as its proxy utility is approved and its selection of Florida Power & Light as a proxy is denied. Florida Public Utilities Company's request to use the proxy methodology, using Gulf Power Company as its sole proxy, to establish its 2014 goals as outlined in the body of this order is hereby approved. It is further

ORDERED that Orlando Utilities Commission and Florida Public Utilities Company are hereby excused from the filing and participation requirements of the Order Establishing Procedure, Order No. PSC-13-0386-PCO-EU. Orlando Utilities Commission and Florida Public Utilities Company shall file their respective numeric conservation goals based on the proxy methodology within 10 days of the Final Orders establishing goals being issued for their respective proxy utilities. It is further

ORDERED that our Staff shall have administrative authority to validate the calculations of the respective numeric conservation goals submitted by Orlando Utilities Commission and Florida Public Utilities Company. It is further

ORDERED that Orlando Utilities Commission and Florida Public Utilities Company shall file their respective demand side management plans within 90 days of the Final Orders establishing goals for their respective proxies. It is further



ORDERED that any non-numeric goals we may elect to establish during the 2014 goal-setting proceeding for the investor-owned FEECA utilities, such as Florida Public Utilities Company's proxy, Gulf Power Company, shall also apply to Florida Public Utilities Company. Should we elect to establish non-numeric goals for the municipal FEECA utilities, such non-numeric goals shall also apply to Orlando Utilities Commission. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, F.A.C., is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that, a timely protest filed in one docket, however, will not prevent the action proposed herein from becoming final with regard to the remaining docket. It is further

ORDERED that the Numeric Conservation Goals dockets are ongoing and these dockets shall remain open.

By ORDER of the Florida Public Service Commission this 4th day of December, 2013.

*Carlotta S. Stauffer*

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CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 25, 2013.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.



**OUTLINE OF PROXY METHODOLOGY - OUC**

**Table 1 – TECO: Residential Energy Goals**

Year	A	B	C	D
	2009 Goals	2014 Goals	Ratio of 2009/2014 Goals	Annual Percentage Increase
	(GWh)	(GWh)	(%)	(%)
2015	23.0			
2016	21.3			
2017	19.4			
2018	18.3			
2019	17.3			
2020				
2021				
2022				
2023				
2024				

A) From Order PSC-09-0855-FOF-EG  
 B) To Be Established By the Commission’s Final Order In Docket No. 130201-EI  
 C) Column B divided by Column A  
 D) Column B divided by previous entry in Column B minus 1.

**Table 2 – OUC: Residential Energy Goals**

Year	A	B	C	D	E	F
	2009 Goals	Ratio of 2009/2014 Goals	2014 Goals	Annual Percentage Increase	2014 Goals	2014 Goals
	(GWh)	(%)	(GWh)	(%)	(GWh)	(GWh)
2015	1.8					
2016	1.8					
2017	1.8					
2018	1.8					
2019	1.8					
2020						
2021						
2022						
2023						
2024						

A) From Order PSC-09-0855-FOF-EG  
 B) Table 3 Column C  
 C) Column A multiplied by Column C  
 D) Table 3 Column D  
 E) For 2020, 2019 Column C entry multiplied by (1 + Column D).  
 For 2021 and beyond, previous entry multiplied by (1 + Column D)  
 F) Resulting values from Column C and Column E

**OUTLINE OF PROXY METHODOLOGY - FPUC**

**Table 1 – Gulf: Residential Energy Goals**

Year	A	B	C	D
	2009 Goals	2014 Goals	Ratio of 2009/2014 Goals	Annual Percentage Increase
	(GWh)	(GWh)	(%)	(%)
2015	50.2			
2016	53.6			
2017	55.4			
2018	56.2			
2019	56.7			
2020				
2021				
2022				
2023				
2024				

E) From Order PSC-09-0855-FOF-EG  
 F) To Be Established By the Commission’s Final Order In Docket No. 130202-EI  
 G) Column B divided by Column A  
 H) Column B divided by previous entry in Column B minus 1.

**Table 2 – FPUC: Residential Energy Goals**

Year	A	B	C	D	E	F
	2009 Goals	Ratio of 2009/2014 Goals	2014 Goals	Annual Percentage Increase	2014 Goals	2014 Goals
	(GWh)	(%)	(GWh)	(%)	(GWh)	(GWh)
2015	0.5					
2016	0.5					
2017	0.5					
2018	0.5					
2019	0.5					
2020						
2021						
2022						
2023						
2024						

G) From Order PSC-09-0855-FOF-EG  
 H) Table 1 Column C  
 I) Column A multiplied by Column C  
 J) Table 1 Column D  
 K) For 2020, 2019 Column C entry multiplied by (1 + Column D).  
 For 2021 and beyond, previous entry multiplied by (1 + Column D)  
 L) Resulting values from Column C and Column E