

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of demand-side management plan of Florida Power & Light Company. | DOCKET NO. 100155-EG
ORDER NO. PSC-11-0346-PAA-EG
ISSUED: August 16, 2011

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER MODIFYING AND APPROVING DEMAND-SIDE MANAGEMENT PLAN

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.

Case Background

As required by the Florida Energy Efficiency and Conservation Act (FEECA), Sections 366.80 through 366.85 and 403.519, Florida Statutes (F.S.), we have adopted annual goals for seasonal peak demand and annual energy consumption for the FEECA Utilities. They are Florida Power & Light Company (FPL), Progress Energy Florida (PEF), Tampa Electric Company (TECO), Gulf Power Company (Gulf), Florida Public Utilities Company (FPUC), JEA, and Orlando Utilities Commission (OUC).

Pursuant to Rule 25-17.008, Florida Administrative Code (F.A.C.), in any conservation goal setting proceeding, we require each FEECA utility to submit cost-effectiveness information based on, at a minimum, three tests: (1) the Participants test; (2) the Rate Impact Measure (RIM) test, and (3) the Total Resource Cost (TRC) test. The Participants test measures program cost-effectiveness to the participating customer. The RIM test measures program cost-effectiveness to the utility's overall rate payers, taking into consideration the cost of incentives paid to participating customers and lost revenues due to reduced energy sales that may result in the need for a future rate case. The TRC test measures total net savings on a utility system-wide basis. In past goal setting proceedings, we established conservation goals based primarily on measures that pass both the Participants test and the RIM test.

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The 2008 Legislative Session resulted in several changes to the FEECA Statute, and our most recent goal-setting proceeding was the first implementation of these modifications. By Order No. PSC-09-0855-FOF-EG, issued December 30, 2009, in Docket No. 080407-EG, we established annual numeric goals for summer peak demand, winter peak demand, and annual energy consumption for the period 2010 through 2019, based upon an unconstrained Enhanced-Total Resource test (E-TRC) for the investor-owned utilities (IOUs). The E-TRC test differs from the conventional TRC test by taking into consideration an estimate of additional costs imposed by the potential regulation of greenhouse gas emissions. In addition, the numeric impact of certain measures with a payback period of two years or less was also included in the goals. Further, we authorized the IOUs to spend up to 10 percent of their historic expenditures through the Energy Conservation Cost Recovery (ECCR) clause as an annual cap for pilot programs to promote solar water heating (Thermal) and solar photovoltaic (PV) installations.

On January 14, 2010, FPL filed a Motion for Reconsideration of our goal setting decision in Docket No. 080407-EI; we denied Reconsideration in Order No. PSC-10-0198-FOF-EG, issued March 31, 2010. On March 30, 2010, FPL filed a petition requesting approval of its Demand-Side Management (DSM) Plan pursuant to Rule 25-17.0021, F.A.C. The Florida Industrial Users Group (FIPUG), the Southern Alliance for Clean Energy (SACE), the Florida Solar Energy Industry Association (FlaSEIA), and Wal-Mart Stores East, LP, and Sam's East, Inc. (Walmart) were all granted leave to intervene in this proceeding.

On July 14, 2010, SACE filed comments on the FEECA Utilities' DSM Plans. These comments were amended on August 3, 2010, to include comments regarding FPUC. No other interveners filed comments. On July 28, and August 12, 2010, PEF and Gulf, respectively, filed responses to SACE's comments. On December 22, 2010, SACE filed additional comments on the FEECA Utilities' DSM Plans. On April 25, 2011, SACE filed comments similar to those it submitted in December 2010 on FPL and PEF's revised plans.

On January 31, 2011, we issued Order No. PSC-11-0079-PAA-EG, declining to approve FPL's Demand-Side Management Plan for failure to satisfy the numeric conservation goals set forth in Order No. PSC-09-0855-FOF-EG. In that Order, we required FPL to re-file its Demand-Side Management Plan within 30 days from the date of the Consummating Order, and also approved FPL's seven proposed solar pilot programs for immediate implementation. FPL filed a Modified DSM Plan on March 25, 2011; along with the Modified DSM Plan, FPL also filed an Alternate Plan which has a lower rate impact but reduced projected savings compared to the Modified Plan. We have jurisdiction over this matter pursuant to Sections 366.80 through 366.85 and 403.519, F.S.

FPL's Modified Plan

As stated in the Case Background, FPL's initial DSM filing submitted March 30, 2010, was insufficient to meet several of the annual goals in multiple categories and multiple years. By Order No. PSC-09-0855-FOF-EG, we directed FPL to file specific program modifications or additions needed for the Company's DSM Plan to comply with the goals established in the Order. FPL's Modified DSM Plan, submitted on March 25, 2011, modified certain programs to comply with the goals. FPL projects the Modified Plan will meet all annual residential and

commercial/industrial goals, and the Modified Plan represents an increase of approximately 11.6 megawatts (MW) of summer peak demand, 18.1 MW of winter peak demand, and 57.6 gigawatt-hours (GWh) of annual energy, over the original DSM plan filed on March 30, 2010.

Modified Plan Programs

FPL's Modified Plan contains the same 34 energy and demand saving programs FPL proposed in its March 30, 2010, Plan, including the seven solar pilot programs we approved in Order No. PSC-11-0079-PAA-EG. In revising the March 30, 2010, DSM Plan, FPL increased participation levels in three of the energy and demand saving programs of the Modified Plan.

Modified Plan Rate Impact

The costs to implement a DSM program consist of administrative expenses, equipment costs, and incentive payments to the participants, all of which is recovered by the Company through the ECCR clause proceeding. This clause represents a monthly bill impact to customers as part of the non-fuel cost of energy on their bill. Utility incentive payments are not included in the E-TRC test but are recovered through the utility's ECCR factor and have an immediate impact on customer rates.

Much like investments in generation, transmission, and distribution, investments in energy efficiency have an immediate rate impact but produce savings over time. Table 1 shows the ECCR Expenditures and Rate Impact on a typical residential customer's bill under the Modified Plan over ten years. The monthly bill impact of FPL's ECCR factor would range from \$3.70 in 2011 (3.08 percent of the entire bill) to \$4.11 (3.41 percent of the bill) in 2014, when we are due to revisit the conservation goals as required by Section 366.82(6), F.S.

Table 1
 Estimated Rate Impact of FPL's Modified Plan
 (1,200 kWh Residential Bill)

Year	ECCR Component (\$/Mo.)	Estimated Residential Bill (\$/Mo.)	Percent of Bill (% Bill)
Current	\$2.26	\$116.33	1.94%
2011	\$3.70	\$120.03	3.08%
2012	\$3.94	\$120.27	3.28%
2013	\$4.07	\$120.40	3.38%
2014	\$4.11	\$120.44	3.41%
2015	\$3.86	\$120.19	3.21%
2016	\$3.62	\$119.95	3.02%
2017	\$3.36	\$119.69	2.81%
2018	\$3.14	\$119.47	2.63%
2019	\$2.91	\$119.24	2.44%

While not immediately applied to customer’s bills, energy saving DSM programs can also have an impact on a utility’s base rates. When revenues go down because fewer kWh were consumed, the utility may have to make up the difference by requesting an increase in rates to maintain a reasonable Return on Equity (ROE). If a company’s ROE falls below the 100 basis point range we authorize, the utility may file a petition for a rate increase. Table 2 below shows that based on FPL’s Modified Plan projections, the Company’s lost revenue from energy savings may have an impact of more than 100 basis points after 2016.

Table 2
 FPL Basis Point Impact of Goals
 Modified Plan

Year	Lost Revenue (\$000)	Basis Points
2010	5,133.8	3.9
2011	18,900.7	14.5
2012	39,964.8	30.7
2013	63,568.6	48.9
2014	91,409.8	70.3
2015	119,224.8	91.7
2016	141,685.2	109.0
2017	164,320.2	126.4
2018	188,692.1	145.1
2019	208,114.1	160.1

We believe the increase to an average residential customer’s monthly bill that would result from implementing FPL’s Modified Plan constitutes an undue rate impact on customers. Florida Statutes provide a remedy for addressing such cases of conservation plans having an undue impact on customer rates.

Modification and Approval of Demand-Side Management Plan

Section 366.82(7), Florida Statutes, states:

Following adoption of goals pursuant to subsections (2) and (3), the commission shall require each utility to develop plans and programs to meet the overall goals within its service area. The commission may require modifications or additions to a utility’s plans and programs at any time it is in the public interest consistent with this act. In approving plans and programs for cost recovery, the commission shall have the flexibility to modify or deny plans or programs that would have an undue impact on the costs passed on to customers. . . .

As we noted above, the Modified Plan filed by FPL is projected to meet the goals we previously established, but at a significant increase in the rates paid by FPL customers. We find that both Plans filed by FPL (Modified and Alternative) will have an undue impact on the costs passed on

to consumers, and that the public interest will be served by requiring modifications to FPL's DSM Plan. Therefore, we hereby determine to exercise the flexibility specifically granted us by statute to modify the Plans and Programs set forth by FPL.

Currently, FPL has an approved Plan as a result of our 2004 goal setting proceeding, and the programs contained in that Plan have yielded significant increases in conservation and decreases in the growth of energy and peak demand. FPL's Modified Plan includes many of these existing Programs, with some modifications. We therefore conclude that the Programs currently in effect, even without modification, are likely to continue to increase energy conservation and decrease seasonal peak demand. The rate impacts of the existing Plan are relatively minor. We find that the Programs currently in effect, contained in FPL's existing Plan, are cost effective and accomplish the intent of the statute. Therefore, exercising the specific authority granted us by Section 366.82(7), F.S., we hereby modify FPL's 2010 Demand-Side Management Plan, such that the DSM Plan shall consist of those programs that are currently in effect today.

We do wish to specifically note that Order No. PSC-11-0079-PAA-EG, while denying the Petition to approve the DSM Plan, did specifically approve seven solar pilot programs. Those programs have been implemented to date. Given that they are pilot programs, we believe they should be continued, and reaffirm that provision of Order No. PSC-11-0079-PAA-EG.

Financial Reward or Penalty under Section 366.82(8), Florida Statutes

Section 366.82(8), F.S., gives us the authority to financially reward or penalize a company based on whether its conservation goals are achieved, at our discretion. In Order No. PSC-09-0855-FOF-EG, we concluded that, "[w]e may establish, through a limited proceeding, a financial reward or penalty for a rate-regulated utility based upon the utility's performance in accordance with Section 366.82(8) and (9), F.S."

As a result of our decision to modify FPL's 2010 Plan, we wish to clarify that FPL shall not be eligible for any financial reward pursuant to these statutory sections unless it exceeds the goals set forth in Order No. PSC-09-0855-FOF-EG. Conversely, FPL shall not be subject to any financial penalty unless it fails to achieve the savings projections contained in the existing DSM plan, which is approved and extended today.

Closure of Docket

By our vote today, we have taken action to approve a DSM Plan and continue existing Programs for FPL. If no person whose substantial interests are affected by this proposed agency action files a protest within 21 days of the issuance of this Order, we will issue a Consummating Order, and the docket shall be closed. If a protest is filed within 21 days of the issuance of this Order, however, the docket shall remain open to resolve the protest.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's March 25, 2011, Modified DSM Plan and Alternative DSM Plan are not approved as filed. It is further

ORDERED that a newly modified DSM Plan, consisting of existing Programs currently in effect, as detailed in the body of this Order, is Approved. It is further

ORDERED that Florida Power & Light Company shall only be eligible for a financial reward or penalty pursuant to Sections 366.82(8) and (9), Florida Statutes, as set forth in the body of this Order. It is further

ORDERED that the Solar Pilot Programs approved in Order No. PSC-11-0079-PAA-EG are continued. 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, Florida Administrative Code, is received by the 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 upon the issuance of a Consummating Order, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 16th day of August, 2011.



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

LDH

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 September 6, 2011.

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.