IN THE SUPREME COURT
STATE OF FLORIDA

Case No. SC12-94
PSC Docket Nos. 100155-EG & 100160-EG

SOUTHERN ALLIANCE FOR
CLEAN ENERGY

Appellant,

vs.

ART GRAHAM, ETC., ET AL.

Appellees.

_______________________________________/

INDEX TO APPENDIX OF INITIAL BRIEF OF APPELLANT SOUTHERN ALLIANCE FOR CLEAN ENERGY

A1

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
In re: Petition for approval of demand-side management plan of Progress Energy Florida, Inc.	DOCKET NO. 100160-EG ORDER NO. PSC-11-0590-FOF-EG ISSUED: December 22, 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

ORDER DENYING PROTESTS, CONSUMMATING PROPOSED AGENCY ACTION ORDERS, AND CLOSING DOCKETS

BY THE COMMISSION:

BACKGROUND

As required by the Florida Energy Efficiency and Conservation Act[1] (FEECA), we are required to adopt annual goals for seasonal peak demand and annual energy consumption for the FEECA Utilities, which include Florida Power & Light Company (FPL) and Progress Energy Florida (PEF). By Order No. PSC-09-0855-FOF-EG ("goal setting order"), issued December 30, 2009, we established annual numeric goals for summer peak demand, winter peak demand, and annual energy consumption for all seven FEECA utilities for the period 2010 through 2019.

On March 30, 2010, both PEF and FPL filed petitions requesting approval of their Demand-Side Management (DSM) plans pursuant to Rule 25-17.0021, Florida Administrative Code (F.A.C.). On May 7, 2010, we granted the Florida Industrial Users Group (FIPUG) leave to intervene.[2] On August 9, 2010, we granted the Southern Alliance for Clean Energy (SACE) leave to intervene.[3]

[1] Sections 366.80 through 366.85 and 403.519, Florida Statutes.
[2] See Order No. PSC-10-0287-PCO-EG, issued May 7, 2010, in Docket No. 100155-EG, In re: Petition of approval of demand-side management plan of Florida Power & Light Company. (FIPUG)
[3] See Order No. PSC-10-0494-PCO-EG, issued August 9, 2010, in Docket No. 100155-EG, In re: Petition of approval of demand-side management plan of Florida Power & Light Company. (SACE)

On October 4, 2010, by Order No. PSC-10-0605-PAA-EG, we denied PEF's DSM plan and directed the Company to modify its DSM plan to meet the annual goals set forth in the goal setting order.[4] During the discussion at the September 14, 2010, Commission Conference, we also encouraged PEF to provide an alternative DSM plan to reduce the customer rate impact in addition to the DSM plan designed to meet the goals as set. Therefore, on November 29, 2010, PEF filed two DSM plans: an Original Goal Scenario DSM Plan and a Revised Goal DSM Plan.

On January 31, 2011, by Order No. PSC-11-0079-PAA-EG, we denied FPL's DSM plan for failure to satisfy the annual goals set forth in the goal setting order, and ordered FPL to file a revised plan which would meet those goals.[5] FPL filed its Modified DSM Plan on March 25, 2011. FPL also filed an Alternate Plan which has a lower rate impact but also has reduced projected savings as compared to the Modified Plan.

On August 16, 2011, in Docket No. 100155-EG, we issued Order No. PSC-11-0346-PAA-EG, Modifying and Approving the Demand Side Management Plan of Florida Power & Light Company ("FPL Order"). Also on that date, in Docket Number 100160-EG, we issued Order No. PSC-11-0347-PAA-EG, Modifying and Approving the Demand Side Management Plan of Progress Energy Florida, Inc. ("PEF Order"). In both Proposed Agency Action ("PAA") Orders, we modified the DSM plans of FPL and PEF, such that the approved plans would consist of those existing programs in effect as of the date of the Orders.

On September 6, 2011, SACE timely protested portions of the FPL and PEF Orders. SACE's protests specifically state: "[w]hile SACE does not agree with the material facts the Commission utilized to reach its decision, SACE is not alleging any disputed issues of material fact in this protest in order to focus on the legal infirmity of the Commission's decision." As relief, SACE specifically requests that we vacate the PAA orders and order the approval of plans which meet the energy savings goals set for FPL and PEF in the goal setting order, or in the alternative, approve those portions of FPL and PEF's DSM plans which meet Commission approval and order the companies to submit modified plans which address specific deficiencies we may identify. The parties identified two legal issues for us to decide; given that our decisions were similar, the parties agreed that the two issues would be worded identically for both FPL and PEF.

On October 18, 2011, Order No. PSC-11-0469-PCO-EG was issued, consolidating Dockets 100155-EG and 100160-EG for hearing purposes, establishing hearing procedure,[6] and setting forth a total of four issues (two each for FPL and PEF) for our decision. On October 24, 2011, SACE filed its brief in support of its protest of the PAA orders[7]; on November 7, 2011, FPL, PEF, and FIPUG filed briefs in opposition. We held oral argument on December 6, 2011;

[4] We did, at that time, approve six solar pilot programs, which have been implemented and are currently in place.
[5] As with PEF, we approved seven FPL solar pilot programs for immediate implementation.
[6] As there were no disputed issues of material fact, this proceeding was conducted pursuant to Sections 120.569 and 120.57(2), Florida Statutes.
[7] Since these dockets have been consolidated for hearing, SACE filed a combined brief for both FPL and PEF. SACE's positions and arguments on Issues 3 and 4 (PEF) are identical to its arguments for Issues 1 and 2 (FPL).

at the conclusion of the oral argument, we rendered our decision on these matters. We have jurisdiction pursuant to Sections 366.80 through 366.85 and 403.519, Florida Statutes ("F.S.")

DECISION

As stated in the Background, the parties stipulated to all the facts in the record, and therefore, the only issues before us are legal. All the parties (SACE, FPL, PEF, and FIPUG) submitted written briefs, which we were able to consider. In addition, all parties participated in oral argument.

Based upon the hearing record, briefs in opposition, and oral argument, we find that the plain language of Section 366.82(7), F.S., specifically and unequivocally grants us authority to modify a company's DSM plans "at any time it is in the public interest consistent with this act" or when plans or programs "would have an undue impact on the costs passed on to customers." Further, we reiterate that we did not in any way change the DSM goals as set by the goal setting order, Order No. PSC-09-0855-FOF-EG. Finally, given that we modified the DSM plans of FPL and PEF, and did not deny them, the plain language of Section 366.82(7), F.S. does not compel us to require FPL and PEF to undertake needless administrative action by filing a plan which merely mirrors information already on file with this Commission.

After having considered the briefs filed by the parties and the arguments presented, SACE has failed to persuade us that our previous decisions, as proposed in Order Nos. PSC-11-0346-PAA-EG and PSC-11-0347-PAA-EG, were incorrect as a matter of law. SACE has similarly failed to convince us that we are required to reverse or modify those decisions. To the contrary, we find that our decision to modify the plans of FPL and PEF fully complies with the requirements of Section 366.82, F.S., and that such modification does not constitute a change of the DSM goals established by the goal setting order. We further find that that after such modification, we are not obligated to require FPL or PEF to file needlessly duplicative plans.

Therefore, we decline to reverse our previously proposed agency action orders modifying and approving the Demand Side Management plans of FPL and PEF, and hereby deny the protests filed by SACE. We further decline to require FPL or PEF to file plans which merely restate information already on file and publically available. Given our denial of SACE's protest, Order Nos. PSC-11-0346-PAA-EG and PSC-11-0347-PAA-EG are consummated and made final and effective. Finally, Docket Nos. 100155-EG and 100160-EG are concluded and shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Southern Alliance for Clean Energy's Protests of Proposed Agency Action Order Nos. PSC-11-0346-PAA-EG and PSC-11-0347-PAA-EG are DENIED. It is further

ORDERED that Order Nos. PSC-11-0346-PAA-EG and PSC-11-0347-PAA-EG are made final and effective. It is further

ORDERED that after the time for filing an appeal has run, these dockets shall be closed.

By ORDER of the Florida Public Service Commission this 22nd day of December, 2011.

Hong Wang

HONG WANG
Chief Deputy Commission Clerk
Florida Public Service Commission
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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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

A2

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.

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.[illegible]
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 Statues, 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

ANN COLE
Commission Clerk
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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.

A3

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of demand-side management plan of Progress Energy Florida, Inc.	DOCKET NO. 100160-EG ORDER NO. PSC-11-0347-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. These include Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (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.

The 2008 Legislative Session resulted in several changes to the FEECA Statutes, and our 2008 goal-setting proceeding was the first implementation of these modifications. By Order No. PSC-09-0855-FOF-EG, issued December 30, 2009, in Docket Number 080408-EG, we established annual numeric goals for summer peak demand, winter peak demand, and annual energy conservation 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 impacts of certain measures with a payback period of two years or less were also included in the goals. Further, the IOUs subject to FEECA were authorized 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 12, 2010, PEF filed a Motion for Reconsideration of our goal setting decision in Docket No. 080408-EG. Order No. PSC-10-0198-FOF-EG, issued March 31, 2010, granted, in part, PEF's reconsideration which revised PEF's numeric goals to correct a discovery response that caused a double-counting error. On March 30, 2010, PEF filed a petition requesting approval of its Demand-Side Management (DSM) Plan pursuant to Rule 25-17.0021, Florida Administrative Code (F.A.C.) (Docket No. 100160-EG). The Florida Industrial Users Group (FIPUG), White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate), 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 the 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 intervenors filed comments. On July 28, and August 12, 2010, PEF and Gulf, respectively, filed responses to SACE's comments.

On September 1, 2010, our staff filed a recommendation, noting that the DSM Plan filed by PEF on March 30, 2010, did not meet all annual goals we set for PEF in Order No. PSC-10-0198-FOF-EG. On October 4, 2010, we issued Order No. PSC-10-0605-PAA-EG approving six solar pilot programs but denying the remainder of PEF's petition and directing the Company to modify its DSM Plan to meet the annual goals we originally set. During the discussion at the September 14, 2010, Commission Conference, we also encouraged PEF to provide an alternative DSM Plan to reduce the customer rate impact in addition to the DSM Plan to meet our original goals. Therefore, on November 29, 2010, the Company filed two DSM Plans: an Original Goal Scenario DSM Plan and a Revised Goal DSM Plan. For clarity and ease of reference, the Original Goal Scenario DSM Plan, which features programs designed to meet the full demand and energy savings goals, will be referred to throughout the remainder of this Order as the "Compliance Plan" and the Revised Goal DSM Plan, which has a lower rate impact, but reduced projected savings, will be referred to as the "Rate Mitigation Plan."

On December 22, 2010, SACE filed a letter offering comments on the DSM plans submitted by PEF and several of the other IOUs. The letter references the August 3, 2010, filing by SACE relating to the PEF's initial DSM filing, and updates several issues relating to the Company's new DSM Plans. On April 25, 2011, SACE filed another letter offering similar comments and recommendations with regard to PEF's new DSM Plans filed on November 29, 2010, and FPL's modified and alternate DSM Plans filed March 25, 2011. On May 9, 2011, SACE filed a letter providing its comparison of PEF's proposed DSM plans filed on November 29, 2010, with Progress Energy Carolina's DSM/energy efficiency cost recovery rider application filed on May 2, 2011, with the South Carolina Public Service Commission. We have jurisdiction over this matter pursuant to Sections 366.80 through 366.85, F.S.

PEF's Compliance Plan

As noted above, PEF's initial filing submitted March 30, 2010, was insufficient to meet several of the annual goals in multiple categories. We directed PEF, in Order No. PSC-10-0605-PAA-EG, to file a modified DSM Plan which would comply with the goal-setting Order. However, the Compliance Plan PEF filed on November 29, 2010, still failed to fully meet the goals we established. Specifically, PEF's filing failed to achieve the annual and cumulative summer and winter demand (MW) goals for the commercial sector. Consequently, our staff sent a data request[1] to PEF requesting an explanation for PEF's failure to comply with our Order. PEF responded that it had inadvertently developed the portfolio of commercial programs in the Compliance Plan based upon an estimate of the commercial summer and winter demand (MW) goals "at-the-meter" rather than targeting the actual Commission-established demand goals which are "at-the-generator." This resulted in the assumed commercial demand savings being less than the established demand goals. PEF modified anticipated participation levels for measures within its Better Business program which were sufficient to eliminate the deficiency. With the provision of these modifications, PEF's Compliance Plan satisfies our Order and features programs designed to fully meet the established demand and energy savings goals.

Compliance Plan Programs

PEF's Compliance Plan includes seven residential programs and ten commercial/industrial programs. One of the residential programs, Technical Potential, is new. Three of the commercial/industrial programs are new: Commercial Green Building, Business Energy Saver, and Business Energy Response. Modifications, such as adding new measures, have been made to most of the programs. The status of each program relative to PEF programs currently in effect is indicated in Table 1, below.

[1] Staff's 10th Data Request to PEF, Question Number 1 (a – d), issued December 9, 2010.

Table 1 – Compliance Plan Programs

Program Name		Program Status
Residential Portfolio		
1.	Technical Potential	New
2.	Home Energy Improvement	Modified
3.	Residential New Construction	Modified
4.	Neighborhood Energy Saver	Modified
5.	Low Income Weatherization Assistance	Modified
6.	Home Energy Check	Modified
7.	Residential Energy Management	Existing
Commercial/Industrial Portfolio		
1.	Business Energy Check	Modified
2.	Commercial Green Building	New
3.	Business Energy Saver	New
4.	Commercial/Industrial New Construction	Modified
5.	Better Business	Modified
6.	Innovation Incentive	Modified
7.	Business Energy Response	New
8.	Interruptible Service	Modified
9.	Curtailable Service	Modified
10.	Standby Generation	Modified
Renewable Portfolio		
1.	Qualifying Facilities	Existing
2.	Technology Development	Modified

Rate Impact of Compliance Plan

The costs to implement a DSM program consist of administrative expenses, equipment costs, and incentive payments to the participants, all of which are recovered by the Company through its ECCR clause. This clause represents a monthly bill impact to customers as part of the non-fuel cost of energy on their bills. Utility incentive payments, not included in the E-TRC, 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 2 shows the ECCR Expenditures and Rate Impact on a typical residential customer's bill under the Compliance Plan over ten years. The monthly bill impact of PEF's ECCR factor would range from $11.28 in 2011 to $16.52 in 2014, when we are due to revisit the conservation goals as required by Section 366.82(6), F.S.

Table 2 - Estimated Rate Impact of PEF's Compliance Plan Associated with Goals (1,200 kWh Residential Bill)

Year	ECCR Component ($/mo)	Estimated Residential Bill ($/mo)	Percent of Bill (% Bill)
2010	$3.24	$154.58	2.10%
2011	$11.17	$162.51	6.88%
2012	$12.59	$163.93	7.68%
2013	$13.31	$164.65	8.08%
2014	$14.28	$165.62	8.62%
2015	$16.34	$167.68	9.74%
2016	$16.20	$167.54	9.67%
2017	$16.94	$168.28	10.06%
2018	$16.46	$167.80	9.81%
2019	$16.20	$167.54	9.67%

We believe the increase to an average residential customer's monthly bill that would result from implementing PEF's Compliance Plan is disproportionately high and clearly constitutes an undue rate impact on PEF's customers. As will be discussed below, Florida Statutes provide a remedy for addressing such cases of conservation plans having an undue impact on customer rates.

PEF's Rate Mitigation Plan

As mentioned in the case background, due to the significant rate impact associated with the initial filing, we also encouraged PEF to submit an alternative DSM Plan to lessen the rate impact over the planning period. The Company's Rate Mitigation Plan does not project achievement of our approved goals for residential customers. Residential goal achievement is forecast at less than 70 percent for each category, including 64.4 percent for summer peak demand, 69.8 percent for winter peak demand, and 48.8 percent for annual energy. However, goals for commercial/industrial customers are projected to be achieved or exceeded in each category under the Rate Mitigation Plan. Even so, combining the savings from the residential and commercial/industrial categories fails to result in the Rate Mitigation Plan meeting the goals we set.

Mitigation Plan Programs

PEF's Rate Mitigation Plan contains the same programs as the Compliance Plan, except that the Technical Potential program in the residential portfolio has been replaced with three programs. Two of these programs, Residential Lighting and Appliance Recycling, were formerly measures within the Technical Potential program and have simply been converted to stand-alone programs. The third program, Residential Behavior Modification, is a newly designed program which will provide reports to customers that allow them to compare their energy use and consumption patterns with that of neighbors in similar homes.

Rate Impact of Mitigation Plan

As discussed above, the costs to implement a DSM program consist of administrative expenses, equipment costs, and incentive payments to the participants, which are recovered by the Company through its ECCR clause. This clause represents a monthly bill impact to customers as part of the non-fuel cost of energy on their bills. Table 4 shows the ECCR Expenditures and Rate Impact on a typical residential customer's bill under the Rate Mitigation Plan over ten years. Under the Rate Mitigation Plan, the monthly bill impact would range from \$4.73 in 2011 to \$6.13 in 2014, when we are due to revisit the conservation goals as required by Section 366.82(6), F.S.

Table 4 - Estimated Rate Impact of PEF's Rate Mitigation Plan Associated with Goals (1,200 kWh Residential Bill)

Year	ECCR Component (\$/mo)	Estimated Residential Bill (\$/mo)	Percent of Bill (% Bill)
2010	\$3.24	\$154.58	2.10%
2011	\$4.73	\$156.07	3.03%
2012	\$5.20	\$156.54	3.32%
2013	\$5.67	\$157.01	3.61%
2014	\$6.13	\$157.47	3.89%
2015	\$5.98	\$157.32	3.80%
2016	\$5.66	\$157.00	3.60%
2017	\$5.25	\$156.59	3.35%
2018	\$5.05	\$156.39	3.23%
2019	\$4.92	\$156.26	3.15%

As with our finding regarding PEF's Compliance Plan, discussed above, we believe the increase to an average residential customer's monthly bill that would result from implementing PEF's Rate Mitigation Plan is also high and constitutes and undue rate impact on customers. As will be discussed below, 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 as follows:

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 Compliance Plan filed by PEF is projected to meet the goals we previously established, but at a significant increase in the rates paid by PEF customers. We further noted that PEF's Rate Mitigation Plan is not estimated to meet the goals we established, yet also has a substantial rate increase. After deliberation, we find that both Plans filed by PEF will have an undue impact on the costs passed on to consumers, and that the public interest will be served by requiring modifications to PEF'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 PEF.

Currently, PEF has an approved Plan as a result of our 2004 goal setting process, and the programs contained in that Plan have yielded significant increases in conservation and decreases in the growth of energy and peak demand. As noted above, both the Compliance Plan and Rate Mitigation Plan substantially rely on these existing Programs, with some modifications, and only a few new programs. 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. As further discussed above, the rate impacts of the existing Plan are relatively minor. We find that the Programs currently in effect, contained in PEF'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 PEF'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-10-0605-PAA-EG, while denying the Petition to approve the DSM Plan, did specifically approve six 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-10-0605-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 PEF's 2010 Plan, we wish to clarify that PEF 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, PEF 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 PEF. 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 Progress Energy Florida, Inc.'s November 29, 2010, Original Goal Scenario DSM Plan and Revised Goal DSM Plan are not approved as filed. It is further

ORDERED that a 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 Progress Energy Florida, Inc. shall only be eligible for a financial reward or penalty pursuant to Section 366.82(8) and (9), Florida Statues as set forth in the body of this Order. It is further

ORDERED that the Solar Pilot Programs approved in Order No. PSC-10-0605-FOF-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.

A4

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-11-0079-PAA-EG ISSUED: January 31, 2011

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION ORDER
DENYING DEMAND-SIDE MANAGEMENT PLAN AND
APPROVING SOLAR PILOT PROGRAMS

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.)

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 adopted annual goals for seasonal peak demand and annual energy consumption for the FEECA Utilities. These include Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (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, 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 on measures that pass both the Participants Test and the RIM Test.

The 2008 Legislative Session resulted in several changes to the FEECA Statute, and the Commission's goal-setting proceeding was the first implementation of these modifications. By Order No. PSC-09-0855-FOF-EG,[1] 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 the estimated 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 were also included in the goals. Further, the IOUs subject to FEECA were authorized to spend up to 10 percent of their historic expenditures through the Energy --water heating (Thermal) and solar photovoltaic (PV) installations.

On January 14, 2010, FPL filed a Motion for Reconsideration of our decision in Docket No. 080407-EI. Order No. PSC-10-0198-FOF-EG[2] denied FPL's Motion for Reconsideration. 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.

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.

We have jurisdiction over this matter pursuant to Sections 366.80 through 366.85 and 403.519, F.S.

DEMAND-SIDE MANAGEMENT PLAN

By Order No. PSC-09-0855-FOF-EG, we established annual goals for the FEECA Utilities for the period 2010 through 2019. FPL's approved goals are divided into residential and commercial/industrial, with each of these further subdivided into three categories: summer peak demand, winter peak demand, and annual energy consumption. FPL is responsible for meeting its required conservation goals, yet the projections provided by the Company show that they plan to fail.

Order No. PSC-09-0855-FOF-EG set annual, not aggregate or cumulative, goals for conservation in a total of six areas. As detailed below in Table 1, FPL's proposed DSM Plan fails to meet its annual residential goals in at least one category for six years. Similarly, Table 2 shows that FPL's Plan does not meet all the annual commercial/industrial goals for six years of the ten-year period.

[1] See Order No. PSC-09-0855-FOF-EG, issued December 30, 2009, in Docket No. 080407-EG, In re: Commission review of numeric conservation goals (Florida Power & Light Company).
[2] See Order No. PSC-10-0198-FOF-EG, issued March 31, 2010, in Docket No. 080407-EG, In re: Commission review of numeric conservation goals (Florida Power & Light Company).

Table 1
Comparison of Residential Goals to DSM Plan

	Summer (MW)		Winter (MW)		Annual (GWh)	
Year	Commission Approved Goal	FPL Projected Savings	Commission Approved Goal	FPL Projected Savings	Commission Approved Goal	FPL Projected Savings
2010	67.7	73.8	33.2	44.5	[illegible]	[illegible]
2011	79.7	82.1	42.4	55.1	145.8	146.8
2012	90.2	94.5	50.3	62.3	168.8	170.5
2013	[illegible]	95.7	56.3	60.4	186.7	188.6
2014	[illegible]	[illegible]	60.2	63.8	200.0	201.8
2015	100.7	101.5	55.9	61.6	193.0	192.6
2016	95.9	98.3	51.3	59.3	183.4	186.1
2017	91.4	92.1	47.0	56.6	[illegible]	[illegible]
2018	87.4	88.8	43.2	51.8	166.4	167.2
2019	83.3	82.6	39.4	44.9	[illegible]	[illegible]
Total	899.1	911.9	479.0	560.3	1,695.3	1,703.6

Table 2
Comparison of Commercial/Industrial Goals to DSM Plan

	Summer (MW)		Winter (MW)		Annual (GWh)	
Year	Commission Approved Goal	FPL Projected Savings	Commission Approved Goal	FPL Projected Savings	Commission Approved Goal	FPL Projected Savings
2010	42.7	44.2	8.1	43.7	[illegible]	[illegible]
2011	62.5	66.4	9.9	43.8	149.4	155.5
2012	[illegible]	[illegible]	11.6	51.6	191.5	202.1
2013	[illegible]	[illegible]	13.1	53.8	202.7	222.7
2014	79.3	79.3	14.4	54.1	194.1	221.9
2015	71.5	71.5	15.1	52.4	167.5	186.4
2016	60.0	61.1	15.0	42.7	134.2	120.6
2017	[illegible]	46.3	14.1	39.0	[illegible]	[illegible]
2018	[illegible]	41.0	13.2	39.7	[illegible]	[illegible]
2019	35.0	36.2	12.0	40.3	[illegible]	[illegible]
Total	598.7	599.8	126.3	461.1	1,386.7	1,403.9

FPL's proposed DSM Plan does not satisfy the Company's annual numeric goals set by this Commission. It appears that FPL will not meet the annual goals which may result in financial penalties or other appropriate action by this Commission. Therefore, consistent with Section 366.82(7), F.S., we find that FPL shall file specific program modifications or additions that are needed for the 2010 DSM Plan to be in compliance with Order No. PSC-09-0855-FOF-EG within 30 days of the issuance of the Consummating Order. In Order No. No. PSC-09-0855-FOF-EG we directed the utilities to file pilot programs focused on encouraging solar water heating and solar PV technologies. As part of its DSM filing, FPL included savings from its solar pilot programs to meet its summer and winter peak demand and energy goals. Because the solar pilot programs were mandated by this Commission, the compliance filing shall also include savings associated with FPL's solar pilot programs.

As previously stated, FPL's proposed DSM Plan does not satisfy the Company's numeric conservation goals set forth in Order No. PSC-09-0855-FOF-EG; therefore, FPL shall file a modified DSM Plan. We are not approving any additional DSM programs at this time. We will evaluate and make a final determination regarding the cost-effectiveness of any new or modified programs when we review FPL's modified DSM Plan. As part of its filing, to the extent possible, FPL shall provide information on the estimated job creation impact for each program of the modified DSM plan.

SOLAR PILOT PROGRAMS

Section 366.82(2), F.S. requires us to establish goals for demand-side renewable energy systems. In order to meet the intent of the Legislature, we directed the utilities to file pilot programs focusing on encouraging solar water hearing and solar PV technologies in Order No. PSC-09-0855-FOF-EG. This Order also directed the IOUs to file pilot programs focused on encouraging solar water heating and solar PV technologies subject to an expenditure cap of 10 percent of the average annual recovery through the ECCR clause in the previous 5 years. The Commission-approved annual expense cap for FPL is $15,536,870. The projected annual expenditures for FPL's pilot programs do not exceed the approved annual expense cap as shown in Table 3 below.

Table 3
Solar Pilot Program Costs

Program Name	First Full Year Expenditures ($)	First Full Year Percentage of Annual Expenditure Cap (%)
Residential Solar Water Heating	$4,330,175	27.9%
Residential Solar Water Heating (Low Income New Construction)	$848,437	5.5%
Business Solar Water Heating	$73,198	0.5%
Residential Photovoltaics	$2,491,855	16.0%
Business Photovoltaics	$1,885,252	12.1%
Business Photovoltaics for Schools	$1,347,755	8.7%
Solar Research and Demonstration	$0	0.0%
Administrative & Education/Marketing Costs	$3,001,407	19.3%
Total	$13,978,079	90.0%

As a pilot program, the utility shall collect information relating to customer acceptance rates, energy production, and other data to refine potential future program offerings for solar renewable technologies. FPL proposed six pilot programs and one research and development program to encourage the development of solar water heating and solar PV technologies. Each program is for a period of five years. A summary of each is provided below:

Residential Solar Water Heating Pilot – This program encourages customers to install solar water heating systems in residential homes. FPL will offer up to a maximum of $1,000 per installed solar water heating system. The Company projects participation by 4,970 customers.

Residential Solar Water Heating (Low Income New Construction) Pilot – This program will provide solar water heating systems to selected low income, new construction housing developments. The selected houses will receive an installed solar water heating system at no cost to the customer. FPL plans to install 200 systems throughout its service territory.

Business Solar Water Heating Pilot – This program encourages customers to install solar water heating systems in businesses. FPL will offer up to a maximum of $30 per 1,000 BTU/day of the maximum rated output of the installed solar water heating system. The Company expects 76 participants.

Residential Photovoltaic Pilot – This program encourages customers to install photovoltaic systems in residential homes. FPL will offer a maximum incentive of $2,000 per the rated kW ($2/watt) of the installed photovoltaic panels. Participation is projected to be 340 customers.

Business Photovoltaic Pilot – This program encourages business customers to install photovoltaic systems. FPL will offer a maximum incentive of $2,000 per the rated kW ($2/watt) of the installed photovoltaic panels. FPL projects 79 participants.

Business Photovoltaic for Schools Pilot – This program is designed to provide PV systems and educational materials for selected schools in all public school districts throughout the FPL territory. The selected schools will receive an installed PV system at no cost to the school. Installations will be performed in 21 schools.

Renewable Research and Demonstration Project – FPL is proposing to conduct a series of demonstration and renewable technology research projects to increase awareness of solar technologies and to understand and quantify the energy effectiveness of emerging renewable technologies and their applications. FPL is proposing to accomplish this through three primary activities: (1) partnering with universities and technical centers to increase the accessibility to renewable technology education for contractors, building officials, FPL personnel, and the general public; (2) installing small scale solar technologies at public non-profit and government facilities which can accommodate educational displays and materials; and, (3) partnering with universities to test new applications and new emerging renewable energy technologies to quantify benefits to customers and establish energy performance profiles.

Allocation of Funds

Because the costs of these pilot programs are shared by all customers, our staff looked at whether or not the programs offered opportunities for participation by all customer classes. FPL offers programs for residential, low-income, commercial, and public facilities. The allocation of funds to each of the programs is listed above in Table 3. Our staff also looked at the allocation of funds between solar PV and solar water heating programs. As shown in Table 4, approximately 41 percent of the funding goes towards solar PV technology and 38 percent towards solar thermal installations.

Comparison With Other Utilities

Order No. PSC-09-0855-FOF-EG provided no guidance on how the annual expense cap was to be allocated. While each utility has complied with Order No. PSC-09-0855-FOF-EG, the renewable pilot programs of each of the IOUs varies in the weight it provides to the two major types of solar renewable resources, photovoltaics (PV) and thermal water heating, as outlined in the Table 4 below. However, all IOUs generally tend to allocate a greater percentage of funding to PV applications.

Table 4
Percentage of Funds Allocated by Technology Type[3]

Company	FPL	PEF	TECO	GULF	FPUC
PV	41.0%	67.3%	86.7%	63.9%	Not Available
Thermal	37.6%	20.9%	13.3%	19.4%	
The percentages above do not sum to 100% as administrative, education, and R&D costs are excluded.					

The distribution of funds between solar installations intended for public facilities, such as schools, and privately owned facilities, including residential housing and commercial properties, is another area of variation among the utilities. Table 5 below, illustrates these differences, which overall favor private installations.

Table 5
Percentage of Funds Allocated by Ownership Type

Company	FPL	PEF	TECO	GULF	FPUC
Public	9.6%	31.7%	10.4%	15.5%	Not Available
Private	68.9%	56.5%	89.6%	67.8%	
The percentages above do not sum to 100% due to administrative and education costs being excluded.					

[3] Refer to Docket No. 100154-EG – In re: Petition of approval of demand-side management plan of Gulf Power Company. Docket No. 100155-EG – In re: Petition of approval of demand-side management plan of Florida Power & Light Company. Docket No. 100158-EG – In re: Petition of approval of demand-side management plan of Florida Public Utilities Company. Docket No. 100159-EG – In re: Petition of approval of demand-side management plan of Tampa Electric Company. Docket No. 100160-EG – In re: Petition of approval of demand-side management plan of Progress Energy Florida, Inc.

The variations between utilities represent different service territories and program designs. Because of the variations between the utilities, we direct our staff to conduct a workshop to address how the distribution of funds should be allocated and to determine the appropriate split between these technological and customer categories.

Conclusion

FPL's proposed DSM Plan includes pilot programs that encourage the development of solar water heating and solar PV technologies. The cost of the proposed pilot programs is within the annual expenditure cap specified by Order No. PSC-09-0855-FOF-EG. Accordingly, we find that the solar pilot programs included in FPL's proposed DSM Plan are hereby approved. However, the allocation of funds to: (1) solar thermal vs. solar PV, (2) private customers vs. public institutions, and (3) low-income residential varies widely among the investor-owned utilities. Therefore, we direct our staff to conduct a workshop to address how the distribution of funds should be allocated and to determine the appropriate split between these technological and customer categories.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's Proposed Demand-Side Management Plan does not satisfy the numeric conservation goals set forth in Order No. PSC-09-0855-FOF-EG. It is further

ORDERED that Florida Power & Light Company shall file specific program modifications or additions that are needed in order for the 2010 DSM Plan to be in compliance with Order No. PSC-09-0855-FOF-EG. It is further

ORDERED that as part of its filing, to the extent possible, Florida Power & Light Company shall provide information on the estimated job creation impact for each program of the modified DSM plan. It is further

ORDERED that Florida Power & Light Company's solar pilot programs contained in its Proposed Demand-Side Management Plan are hereby approved as set forth herein. It is further

ORDERED that the solar pilot programs shall be effective on the date of the Consummating Order. It is further

ORDERED that all attachments contained herein are incorporated by reference. It is further

ORDERED that if a protest is filed, the solar pilot programs shall not be implemented until after resolution of the protest. 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 in the event this Order becomes final, this docket shall remain open in order for Florida Power & Light Company to refile its Demand-Side Management Plan within 30 days from the date of the Consummating Order.

By ORDER of the Florida Public Service Commission this 31st day of January, 2011.

Ann Cole

ANN COLE
Commission Clerk

(S E A L)

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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 February 21, 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.

Florida Power & Light
2010 Demand-side Management Plan Programs

Solar Pilot Portfolio:

1. *Residential Solar Water Heating Pilot:* The Residential Solar Water Heating Pilot Program is designed to reduce energy consumption and growth of coincident peak demand by encouraging customers to install solar water heating systems in residential homes. The primary components of an eligible solar water heating system include: a solar collector, mounting hardware, an 80 gallon water retention tank and associated plumbing, controls and sensors. FPL will offer up to a maximum of $1,000 per installed solar water heating system.
2. *Residential Solar Water Heating (Low Income New Construction) Pilot:* The Residential Solar for Low Income New Construction (LINC) Pilot Program is designed to reduce energy consumption and growth of coincident peak demand, increase the efficiency of low income housing, and demonstrate the practical application of solar water heating in residential new construction by providing solar water heating systems to selected low income housing developments throughout the FPL territory. The primary components of eligible solar water heating systems include: a solar collector, mounting hardware, an 80 gallon water retention tank, and associated plumbing, controls, and sensors. The selected houses will receive an installed solar water heating system.
3. *Business Solar Water Heating Pilot:* The Business Solar Water Heating Pilot Program is designed to reduce energy consumption and growth of coincident peak demand by encouraging customers to install solar water heating systems in businesses. The primary components of eligible solar water heating systems include: solar collectors, mounting hardware, a water retention tank, and associated plumbing, controls, and sensors. FPL will offer up to a maximum of $30 per 1,000 BTUh/day of the maximum rated output of the installed solar water heating system.
4. *Residential Photovoltaic Pilot:* The Residential Photovoltaic Pilot Program is designed to reduce energy consumption and growth of coincident peak demand by encouraging customers to install photovoltaic systems in residential homes. The primary components of eligible photovoltaic systems include: various photo voltaic panels, mounting hardware, electric inverter, cabling, a disconnect device for systems greater than 10 kW direct current (dc) and optional backup battery systems. FPL will offer up to a maximum incentive of $2,000 per the rated kWdc of the installed photovoltaic panels.
5. *Business Photovoltaic Pilot:* The Business Photovoltaic Pilot Program is designed to reduce energy consumption and growth of coincident peak demand by encouraging customers to install photovoltaic systems. The primary components of eligible photovoltaic systems includes: PV modules, mounting hardware, electric inverters, optional battery systems, associated cabling, and a disconnect device for systems greater than 10 kWdc. FPL will offer up to a maximum incentive of $2,000 per the rated kW dc of the installed photovoltaic panels.

6. *Business Photovoltaic for Schools Pilot:* The Photovoltaic for Schools Pilot Program is designed to reduce energy consumption and growth of coincident peak demand and demonstrate and educate future generations on the practical application of photovoltaic by providing PV systems and educational materials for selected schools in all public school districts throughout the FPL territory. The primary components that will be offered per installed system include: photovoltaic panels, with inverter, mounting hardware, controls, and sensors; classroom educational materials; system monitoring and comparison tools; and, training for teachers and facility personnel. The selected schools will receive an installed PV system.

7. *Renewable Research and Demonstration Project:* FPL is proposing to conduct a series of demonstration and renewable technology research projects to increase awareness of solar technologies and to understand and quantify the energy effectiveness of emerging renewable technologies and their applications. FPL is proposing to accomplish this through three primary activities: partnering with universities and technical centers to increase the accessibility to renewable technology education for contractors, building officials, FPL personnel, and the general public; installing small scale solar technologies at public non-profit and government facilities which can accommodate educational displays and materials; and, partnering with universities to test new applications and new emerging renewable energy technologies in order to quantify benefits to customers and establish energy performance profiles.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of demand-side management plan of Progress Energy Florida, Inc.	DOCKET NO. 100160-EG ORDER NO. PSC-10-0605-PAA-EG ISSUED: October 4, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
ART GRAHAM
RONALD A. BRISÉ

NOTICE OF PROPOSED AGENCY ACTION ORDER DENYING DEMAND-SIDE MANAGEMENT PLAN AND APPROVING SOLAR PILOT PROGRAMS

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.).

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 adopted annual goals for seasonal peak demand and annual energy consumption for the FEECA Utilities. These include Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (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, F.A.C., in any conservation goal setting proceeding, the Commission requires 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 on measures that pass both the Participants Test and the RIM Test.

The 2008 Legislative Session resulted in several changes to the FEECA Statute, and our goal-setting proceeding was the first implementation of these modifications. By Order No. PSC-09-0855-FOF-EG,[1] we established annual numeric goals for summer peak demand, winter peak demand, and annual energy conservation 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 the estimated 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 were also included in the goals. Further, the IOUs subject to FEECA were authorized 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 12, 2010, PEF filed a Motion for Reconsideration of our decision in Docket No. 080408-EG. Order No. PSC-10-0198-FOF-EG[2] granted, in part, PEF's reconsideration which revised PEF's numeric goals to correct a discovery response that caused a double-counting error. On March 30, 2010, PEF filed a petition requesting approval of its Demand-Side Management (DSM) Plan pursuant to Rule 25-17.0021, F.A.C.

The Florida Industrial Power Users Group (FIPUG) was granted leave to intervene on May 7, 2010.[3] White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate) was granted leave to intervene on June 18, 2010.[4] The Southern Alliance for Clean Energy (SACE) was granted leave to intervene on August 9, 2010.[5] The Florida Solar Energy Industry Association (FlaSEIA) was granted leave to intervene on August 11, 2010.[6] Wal-Mart Stores East, LP, and Sam's East, Inc. (Walmart) was granted leave to intervene on August 18, 2010.[7]

On July 14, 2010, the SACE filed comments on the FEECA Utilities' DSM Plans. These comments were amended on August 3, 2010, to include comments regarding FPUC. No other intervenors filed comments. On July 28, and August 12, 2010, PEF and Gulf, respectively, filed responses to SACE's comments.

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[1] See Order No. PSC-09-0855-FOF-EG, issued December 30, 2009, in Docket No. 080408-EG, In re: Commission review of numeric conservation goals (Progress Energy Florida, Inc.).
[2] See Order No. PSC-10-0198-FOF-EG, issued March 31, 2010, in Docket No. 080408-EG, In re: Commission review of numeric conservation goals (Progress Energy Florida, Inc.).
[3] See Order No. PSC-10-0289-PCO-EG, issued May 7, 2010, in Docket No. 100160-EG, In re: Petition of approval of demand-side management plan of Progress Energy Florida, Inc. (FIPUG)
[4] See Order No. PSC-10-0399-PCO-EG, issued June 18, 2010, in Docket No. 100160-EG, In re: Petition of approval of demand-side management plan of Progress Energy Florida, Inc. (PCS Phosphate)
[5] See Order No. PSC-10-0498-PCO-EG, issued August 9, 2010, in Docket No. 100160-EG, In re: Petition of approval of demand-side management plan of Progress Energy Florida, Inc. (SACE)
[6] See Order No. PSC-10-0509-PCO-EG, issued August 11, 2010, in Docket No. 100160-EG, In re: Petition of approval of demand-side management plan of Progress Energy Florida, Inc. (FlaSEIA)
[7] See Order No. PSC-10-0529-PCO-EG, issued August 18, 2010, in Docket No. 100160-EG, In re: Petition of approval of demand-side management plan of Progress Energy Florida, Inc. (Walmart)

We have jurisdiction over this matter pursuant to Sections 366.80 through 366.85 and 403.519, F.S.

DEMAND-SIDE MANAGEMENT PLAN

By Order No. PSC-09-0855-FOF-EG, we established annual goals for the FEECA Utilities for the period 2010 through 2019. Order No. PSC-10-0198-FOF-EG granted, in part, PEF's reconsideration which revised PEF's numeric goals to correct a discovery response that caused a double-counting error. PEF's approved goals are divided into residential and commercial/industrial goals, with each of these further subdivided into three categories: summer peak demand, winter peak demand, and annual energy. PEF is responsible for meeting its required conservation goals, yet the projections provided by the Company show that they plan to fail in a number of years.

Order No. PSC-10-0198-FOF-EG set annual, not aggregate or cumulative, goals for conservation in a total of six areas. As detailed below in Table 1, PEF's proposed DSM Plan fails to meet its annual residential goals in any category for the first six years and its winter demand goals through year seven. Similarly, Table 2 shows that the Company's Plan does not meet all the annual commercial/industrial goals from 2010 through 2013.

Table 1 – Comparison of Residential Goals to DSM Plan

	Summer (MW)		Winter (MW)		Annual (GWh)	
Year	Commission Approved Goal	PEF Projected Savings	Commission Approved Goal	PEF Projected Savings	Commission Approved Goal	PEF Projected Savings
2010	79.6	47.5	81.3	64.2	261.6	97.9
2011	81.5	51.0	86.8	72.0	267.6	114.5
2012	84.5	57.2	90.8	76.2	276.7	137.2
2013	86.5	62.3	93.5	80.2	282.7	158.0
2014	88.4	66.4	96.2	84.1	288.8	173.6
2015	93.8	88.7	100.9	88.9	309.9	258.1
2016	102.3	111.2	111.7	107.7	297.8	335.3
2017	101.9	129.4	111.1	121.1	291.8	393.1
2018	96.4	147.4	103.6	133.2	279.7	478.8
2019	81.9	152.0	79.1	132.3	270.6	525.6
Total	896.6	909.9	955.1	959.9	2837.1	2672.1

Table 2 - Comparison of Commercial/Industrial Goals to DSM Plan

	Summer (MW)		Winter (MW)		Annual (GWh)	
Year	Commission Approved Goal	PEF Projected Savings	Commission Approved Goal	PEF Projected Savings	Commission Approved Goal	PEF Projected Savings
2010	13.7	14.4	5.3	8.7	31.0	24.5
2011	16.2	14.7	5.3	8.9	33.0	27.2
2012	[illegible]	24.1	11.4	11.3	35.9	37.9
2013	25.9	25.4	11.5	13.0	37.7	36.1
2014	26.4	29.0	11.5	16.2	39.6	47.0
2015	27.6	31.3	11.7	17.9	46.2	59.7
2016	27.1	33.5	11.6	18.4	42.5	69.6
2017	27.0	36.2	11.6	19.1	40.6	77.6
2018	25.7	37.6	11.4	18.0	36.8	85.1
2019	22.3	34.3	11.3	12.1	34.0	68.1
Total	237.3	280.5	102.6	143.6	377.4	532.6

PEF's proposed DSM Plan does not satisfy the Company's annual numeric goals set by this Commission. It appears that PEF will not meet its annual goals which may result in financial penalties or other appropriate action by this Commission. Therefore, consistent with Section 366.82(7), F.S., we find that PEF shall file specific program modifications or additions that are needed in order for the 2010 DSM Plan to be in compliance with Order No. PSC-10-0198-FOF-EG within 30 days of this Order. In Order No. PSC-09-0855-FOF-EG we directed the utilities to file pilot programs focusing on encouraging solar water heating and solar PV technologies. As part of its DSM filing, PEF included savings from its solar pilot program to meet its summer and winter peak demand and energy goals. Because the solar pilot programs were mandated by this Commission, the compliance filing shall also include savings associated with PEF's solar pilot programs.

As previously stated, since PEF's proposed DSM Plan does not satisfy the Company's numeric conservation goals set forth in Order No. PSC-09-0198-FOF-EG, PEF shall file a modified DSM Plan. We are not approving any additional DSM programs at this time. We will evaluate and make a final determination regarding the cost-effectiveness of any new or modified programs when we review PEF's modified DSM Plan.

SOLAR PILOT PROGRAMS

Section 366.82(2), F.S. requires us to establish goals for demand-side renewable energy systems. In order to meet the intent of the Legislature, we directed the utilities to file pilot programs focusing on encouraging solar water hearing and solar PV technologies in Order No. PSC-09-0855-FOF-EG. Order No. PSC-09-0855-FOF-EG directed the IOUs to file pilot programs focused on encouraging solar water heating and solar PV technologies subject to an expenditure cap of 10 percent of the average annual recovery through the Energy Conservation Cost Recovery clause in the previous five years. The approved annual expense cap for PEF is

$6,467,592. The projected annual expenditures for PEF's pilot programs do not exceed the approved annual expense cap as shown in Table 3 below.

Table 3 – Solar Pilot Program Costs

Program Name	First Full Year Expenditures ($)	First Full Year Percentage of Annual Expenditure Cap (%)
Solar for Schools	$2,050,000	31.7%
Commercial Solar Photovoltaics	$977,500	15.1%
Residential Solar Photovoltaics	$1,000,000	15.5%
Solar Water Heating for Low Income Residential	$114,000	1.8%
Solar Water Heating with Energy Management	$1,237,500	19.1%
Research & Demonstration	$323,380	5.0%
Administrative & Education/Marketing Costs	$635,826	9.8%
Total	**$6,338,206**	**98.0%**

As a pilot program, the utility shall collect information relating to customer acceptance rates, energy production, and other data to refine potential future program offerings for solar renewable technologies. PEF's demand-side renewable energy portfolio is comprised of the following pilot programs:

Solar Water Heating for Low Income Residential Customers – PEF will collaborate with non-profit builders to provide low-income families with a residential solar thermal water heater at no cost to the non-profit builders or the residential participants. The incentive is the total cost of the solar thermal system plus associated installation cost. Participation is expected to be about 30 homes per year.

Solar Water Heating with Energy Management – An existing program that has been enhanced by increasing the amount of the rebate to increase customer participation and collecting demographic information to support PEF's marketing efforts and correlate anticipated energy savings to PEF's residential end-use metering study. The program encourages residential customers to install new solar thermal water heating systems on their residence by combining incentives from two programs. Customers are required to participate in the residential demand response program and receive the associated monthly bill credit in addition to a one-time $550 rebate to reduce the upfront cost of purchasing the renewable energy system. PEF projects about 2,250 homes will be participating in this program each year.

Residential Solar Photovoltaic – A program to reduce the initial investment required for a residential customer to install a new solar PV system on their home by providing a rebate of up to $2.00/Watt up to a $20,000 maximum. Customer is also required to participate in at least one existing residential energy efficiency measure. PEF expects about 100 homes per year will participate in this program.

Commercial Solar Photovoltaic – A program to reduce the initial investment required for a commercial customer to install a new solar PV system on their facility by providing a tiered rebate based on the PV power rating up to: \$2.00/Watt for the first 10 KW; \$1.50/Watt for 11 - 50 kW; and, \$1.00/Watt for 51 – 100 kW. Customer is also required to participate in at least one commercial energy efficiency measure. Total incentives per participant will be limited to \$130,000 based on a maximum installation of 100 kW. PEF projects about 23 commercial customers will participate annually.

Photovoltaic for Schools – Participating schools receive a new PV system at no cost to the school. Schools enter an agreement by which PEF will install, own, operate and maintain the system for five years. Program participation is limited to an annual target of one system with a rating up to 100 kW installed on a post secondary public school and ten systems of 10 kW each with battery backup option installed on other public schools, with a preference for schools serving as emergency shelters. The program has an educational component that will be funded in part by customers participating in other PEF energy management programs that elect to contribute their monthly credit toward an energy education fund.

Research and Demonstration – A program designed to research renewable energy technologies and establish research and development initiatives to support the development of future solar and renewable energy pilot programs. Program is limited to a targeted annual expenditure cap of \$323,000. The number of projects that will be proposed for investigation within this program each year is unknown at this time.

Allocation of Funds

Because the costs of these pilot programs are shared by all customers, our staff looked at whether or not the programs offered opportunities for participation by all customer classes. PEF offers programs for residential, low-income, commercial, and public facilities. The allocation of funds to each of the programs is listed above in Table 3. Our staff also looked at the allocation of funds between solar PV and solar water heating programs. As shown in Table 4, approximately 67 percent of the funding goes towards solar PV technology and 21 percent towards solar thermal installations.

Comparison With Other Utilities

Order No. PSC-09-0855-FOF-EG provided no guidance on how the annual expense cap was to be allocated. While each utility has complied with Order No PSC-09-0855-FOF-EG, the renewable pilot programs of each of the IOUs varies in the weight it provides to the two major types of solar renewable resources, photovoltaics (PV) and thermal water heating (Thermal), as outlined in the Table 4 below. However, all IOUs generally tend to allocate a greater percentage of funding to PV applications.

Table 4 - Percentage of Funds Allocated by Technology Type[8]

Company	FPL	PEF	PEF	GULF	FPUC
PV	41.0%	67.3%	86.7%	63.9%	Not Available
Thermal	37.6%	20.9%	13.3%	19.4%	
The percentages above do not sum to 100% as administrative, education, and R&D costs are excluded.					

The distribution of funds between solar installations intended for public facilities, such as schools, and privately owned facilities, including residential housing and commercial properties, is another area of variation among the utilities. Table 5 below, illustrates these differences, which overall favor private installations.

Table 5 - Percentage of Funds Allocated by Ownership Type

Company	FPL	PEF	PEF	GULF	FPUC
Public	7.2%	31.7%	10.4%	15.5%	Not Available
Private	68.9%	56.5%	89.6%	67.8%	
The percentages above do not sum to 100% due to administrative and education costs being excluded.					

The variations between the utilities' plans represent different service territories and program designs. Because of the variations between the utilities, we direct our staff to conduct a workshop to address how the distribution of funds should be allocated.

Conclusion

PEF's proposed DSM Plan includes pilot programs to encourage the development of solar water heating and solar PV technologies. The cost of the proposed pilot programs is within the annual expenditure cap specified by Order No. PSC-09-0855-FOF-EG. Accordingly, we find that the solar pilot programs included in PEF's proposed DSM Plan are hereby approved and shall be incorporated into the compliance filing. However, the allocation of funds to: (1) solar thermal versus solar PV, (2) private customers versus public institutions, and (3) low-income residential varies widely among the investor-owned utilities. Therefore, we direct our staff to conduct a workshop to address how the distribution of funds should be allocated.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Progress Energy Florida, Inc.'s Proposed Demand-Side Management Plan does not satisfy the numeric conservation goals set forth in Order No. PSC-09-0198-FOF-EG. It is further

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[8] Refer to Docket No. 100154-EG – In re: Petition of approval of demand-side management plan of Gulf Power Company. Docket No. 100155-EG – In re: Petition of approval of demand-side management plan of Florida Power & Light Company. Docket No. 100158-EG – In re: Petition of approval of demand-side management plan of Florida Public Utilities Company. Docket No. 100159-EG – In re: Petition of approval of demand-side management plan of Tampa Electric Company. Docket No. 100160-EG – In re: Petition of approval of demand-side management plan of Progress Energy Florida, Inc.

ORDERED that Progress Energy Florida, Inc. shall file specific program modifications or additions that are needed in order for the 2010 DSM Plan to be in compliance with Order No. PSC-09-0198-FOF-EG within 30 days of this Order. It is further

ORDERED that Progress Energy Florida, Inc.'s solar pilot programs contained in its Proposed Demand-Side Management Plan are hereby approved as set forth herein. It is further

ORDERED that all attachments contained herein are incorporated by reference. It is further

ORDERED that the solar pilot programs shall be effective on the date of the Consummating Order. It is further

ORDERED that if a protest is filed, the solar pilot programs shall not be implemented until after the resolution of the protest. 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 in the event this Order becomes final, this docket shall remain open in order for Progress Energy Florida, Inc. to refile its Demand-Side Management Plan within 30 days from the date of this Order.

By ORDER of the Florida Public Service Commission this 4th day of October, 2010.

Ann Cole

ANN COLE
Commission Clerk

(S E A L)

KEF

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 October 25, 2010.

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.

Description of PEF's DSM Portfolio

RENEWABLE PORTFOLIO:

The six programs in this portfolio are designed to emphasize the benefits of solar photovoltaic technology and encourage the development of renewable programs, with a focus on low income and education pilots. The programs will be implemented over a five year period.

Solar Water Heating for Low-income Residential Customers PEF will collaborate with non-profit builders to provide low-income families with a residential solar thermal water heater while the home is under construction. The solar thermal system will be provided at no cost to the non-profit builders or the residential participants. The incentive for this program is the total cost of the solar thermal system plus the associated installation cost.

Solar Water Heating with Energy Management Encourages residential customers to install new solar thermal water heating systems. This program incorporates a long standing cost effective Demand Side Management program with the requirement for customers to participate in our residential demand response program. Participants will receive a one-time $550 rebate designed to reduce the upfront cost of the renewable energy system and will also receive a monthly bill credit for participating in the residential demand response program. This program was designed with the support and input of the solar industry. The program will record participant occupancy levels to capture the most accurate energy savings. The program will be limited to a targeted annual incentive cap of $1,237,500.

Residential Solar Photovoltaic This pilot promotes the installation of renewable energy systems by reducing the participating customer's initial investment. The program requires participants to also participate in at least one residential energy efficiency measure. Participating customers receive a rebate of up to $2.00 per Watt of the PV dc power rating up to a $20,000 maximum for installing a new PV system. The program will be limited to a targeted annual incentive cap of $1,000,000 per year.

Commercial Solar Photovoltaic Pilot program encourages customers to install new solar PV systems on their facilities by providing customers with a higher return on their investment. The program is intended to increase renewable energy generation on PEF's system and increase participation in DSM measures by requiring customers to participate in at least one existing commercial energy efficiency measure. Rebates for participating customers who install a new PV system range from $1.00 to $2.00 per Watt based upon the PV system's dc power rating. Total incentives per participant will be limited to $130,000, based on a maximum installation of 100KW. The program will be limited to a targeted annual incentive cap of $1,000,000 per year.

Photovoltaic for Schools Pilot program allows participating public schools to receive new PV systems at no cost to the school. These systems will be installed, owned, operated and maintained by PEF for a period of 5 years, after which the school assumes ownership and system benefits. The program eliminates the initial investment required to install a renewable solar PV system, increases renewable energy generation on PEF's system, and may also increase participation in existing residential DSM measures through energy education of students. The program will be limited to an annual target of one system with a rating up to 100 KW installed on a post secondary public school and ten 10 KW systems with battery backup option installed on public schools, preferably serving as emergency shelters. Post secondary school participation will be prioritized based on attendance and consumption associated with their main campus. Public schools will be selected using a competitive process that aligns with Florida's SunSmart E-Shelters Program Application with an emphasis placed on the schools commitment to energy efficiency and renewable energy education. The incentive for this program is the total equipment cost of the solar PV system plus the associated installation, operation and maintenance cost for the first five years. The solar PV system and installation will be considered a rebate that will eliminate the cost to the customer for providing new renewable energy system on their facilities. This program places an emphasis on energy education and promotes environmental stewardship. As such, customers participating in the Winter-Only Energy Management or Year Round Energy Management residential demand response programs can elect to contribute their monthly credit toward a fund design to support and promote energy education. The fund will accumulate associated participant credits for a period of two years, at which time the customer may elect to renew for an additional two years. All proceeds collected from participating customers and their associated monthly credits will be used to promote energy efficiency and renewable energy educational opportunities.

Research & Demonstration The purpose of this program is to research technology and establish R&D initiatives to support the development of renewable energy pilot programs. Demonstration projects will provide real-world field testing to assist in the development of these initiatives. The program will be limited to a targeted annual expenditure cap of 5% of the total Demand-Side Renewable Portfolio annual expenditures. Proposed projects will be designed to support the development of future solar and renewable energy pilot programs. Each proposed R&D project will be investigated, analyzed for costs and benefits, modeled and field tested.

A6

West's Florida Statutes Annotated
Title XXVII. Railroads and Other Regulated Utilities (Chapters 350-368)
Chapter 366. Public Utilities (Refs & Annos)

West's F.S.A. § 366.82

366.82. Definition; goals; plans; programs; annual reports; energy audits

Effective: July 1, 2011

Currentness

(1) For the purposes of ss. 366.80-366.85 and 403.519:

(a) "Utility" means any person or entity of whatever form which provides electricity or natural gas at retail to the public, specifically including municipalities or instrumentalities thereof and cooperatives organized under the Rural Electric Cooperative Law and specifically excluding any municipality or instrumentality thereof, any cooperative organized under the Rural Electric Cooperative Law, or any other person or entity providing natural gas at retail to the public whose annual sales volume is less than 100 million therms or any municipality or instrumentality thereof and any cooperative organized under the Rural Electric Cooperative Law providing electricity at retail to the public whose annual sales as of July 1, 1993, to end-use customers is less than 2,000 gigawatt hours.

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

(2) The commission shall adopt appropriate goals for increasing the efficiency of energy consumption and increasing the development of demand-side renewable energy systems, specifically including goals designed to increase the conservation of expensive resources, such as petroleum fuels, to reduce and control the growth rates of electric consumption, to reduce the growth rates of weather-sensitive peak demand, and to encourage development of demand-side renewable energy resources. The commission may allow efficiency investments across generation, transmission, and distribution as well as efficiencies within the user base.

(3) In developing the goals, the commission shall evaluate the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems. In establishing the goals, the commission shall take into consideration:

(a) The costs and benefits to customers participating in the measure.

(b) The costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions.

(c) The need for incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems.

(d) The costs imposed by state and federal regulations on the emission of greenhouse gases.

(4) Subject to specific appropriation, the commission may expend up to $250,000 from the Florida Public Service Regulatory Trust Fund to obtain needed technical consulting assistance.

(5) The Department of Agriculture and Consumer Services shall be a party in the proceedings to adopt goals and shall file with the commission comments on the proposed goals, including, but not limited to:

(a) An evaluation of utility load forecasts, including an assessment of alternative supply-side and demand-side resource options.

(b) An analysis of various policy options that can be implemented to achieve a least-cost strategy, including nonutility programs targeted at reducing and controlling the per capita use of electricity in the state.

(c) An analysis of the impact of state and local building codes and appliance efficiency standards on the need for utility-sponsored conservation and energy efficiency measures and programs.

(6) The commission may change the goals for reasonable cause. The time period to review the goals, however, shall not exceed 5 years. After the programs and plans to meet those goals are completed, the commission shall determine what further goals, programs, or plans are warranted and adopt them.

(7) 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. If any plan or program includes loans, collection of loans, or similar banking functions by a utility and the plan is approved by the commission, the utility shall perform such functions, notwithstanding any other provision of the law. However, no utility shall be required to loan its funds for the purpose of purchasing or otherwise acquiring conservation measures or devices, but nothing herein shall prohibit or impair the administration or implementation of a utility plan as submitted by a utility and approved by the commission under this subsection. If the commission disapproves a plan, it shall specify the reasons for disapproval, and the utility whose plan is disapproved shall resubmit its modified plan within 30 days. Prior approval by the commission shall be required to modify or discontinue a plan, or part thereof, which has been approved. If any utility has not implemented its programs and is not substantially in compliance with the provisions of its approved plan at any time, the commission shall adopt programs required for that utility to achieve the overall goals. Utility programs may include variations in rate design, load control, cogeneration, residential energy conservation subsidy, or any other measure within the jurisdiction of the commission which the commission finds likely to be effective; this provision shall not be construed to preclude these measures in any plan or program.

(8) The commission may authorize financial rewards for those utilities over which it has ratesetting authority that exceed their goals and may authorize financial penalties for those utilities that fail to meet their goals, including, but not limited to, the sharing of generation, transmission, and distribution cost savings associated with conservation, energy efficiency, and demand-side renewable energy systems additions.

(9) The commission is authorized to allow an investor-owned electric utility an additional return on equity of up to 50 basis points for exceeding 20 percent of their annual load-growth through energy efficiency and conservation measures. The

additional return on equity shall be established by the commission through a limited proceeding.

(10) The commission shall require periodic reports from each utility and shall provide the Legislature and the Governor with an annual report by March 1 of the goals it has adopted and its progress toward meeting those goals. The commission shall also consider the performance of each utility pursuant to ss. 366.80-366.85 and 403.519 when establishing rates for those utilities over which the commission has ratesetting authority.

(11) The commission shall require each utility to offer, or to contract to offer, energy audits to its residential customers. This requirement need not be uniform, but may be based on such factors as level of usage, geographic location, or any other reasonable criterion, so long as all eligible customers are notified. The commission may extend this requirement to some or all commercial customers. The commission shall set the charge for audits by rule, not to exceed the actual cost, and may describe by rule the general form and content of an audit. In the event one utility contracts with another utility to perform audits for it, the utility for which the audits are performed shall pay the contracting utility the reasonable cost of performing the audits. Each utility over which the commission has ratesetting authority shall estimate its costs and revenues for audits, conservation programs, and implementation of its plan for the immediately following 6-month period. Reasonable and prudent unreimbursed costs projected to be incurred, or any portion of such costs, may be added to the rates which would otherwise be charged by a utility upon approval by the commission, provided that the commission shall not allow the recovery of the cost of any company image-enhancing advertising or of any advertising not directly related to an approved conservation program. Following each 6-month period, each utility shall report the actual results for that period to the commission, and the difference, if any, between actual and projected results shall be taken into account in succeeding periods. The state plan as submitted for consideration under the National Energy Conservation Policy Act shall not be in conflict with any state law or regulation.

(12) Notwithstanding the provisions of s. 377.703, the commission shall be the responsible state agency for performing, coordinating, implementing, or administering the functions of the state plan submitted for consideration under the National Energy Conservation Policy Act and any acts amendatory thereof or supplemental thereto and for performing, coordinating, implementing, or administering the functions of any future federal program delegated to the state which relates to consumption, utilization, or conservation of electricity or natural gas; and the commission shall have exclusive responsibility for preparing all reports, information, analyses, recommendations, and materials related to consumption, utilization, or conservation of electrical energy which are required or authorized by s. 377.703.

(13) The commission shall establish all minimum requirements for energy auditors used by each utility. The commission is authorized to contract with any public agency or other person to provide any training, testing, evaluation, or other step necessary to fulfill the provisions of this subsection.

Credits

Added by Laws 1980, c. 80-65, § 5, eff. June 5, 1980. Amended by Laws 1981, c. 81-131, § 2, eff. June 23, 1981; Laws 1982, c. 82-25, § 5, eff. March 15, 1982; Laws 1989, c. 89-292, § 15, eff. Oct. 1, 1989; Laws 1996, c. 96-321, § 81, eff. July 1, 1996; Laws 2008, c. 2008-227, § 39, eff. July 1, 2008; Laws 2011, c. 2011-142, § 503, eff. July 1, 2011.

Notes of Decisions (5)

Current with chapters in effect from the 2012 Second Regular Session of the Twenty-Second Legislature through April 13, 2012

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