



Florida

State Guide to Utility Energy Efficiency Planning



State Guide to Utility Energy Efficiency Planning: Florida

I. Florida Utility Landscape

A. Utilities in Florida

In Florida, three types of electricity providers sell electric power to retail customers: **investor-owned utilities (IOUs)**, **electric membership corporations (cooperatives)**, and **municipally-owned utilities**. The following chart shows the number of each of these types of providers, along with the percentage of Florida’s electricity customers served by each:

Electric Utilities in Florida

Type of Provider	Quantity
Investor-Owned Utilities	5
Cooperative Utilities	18
Municipal Utilities	35

Nearly eight million Florida electricity customers are served by five IOUs—**Duke Energy Florida, Florida Power & Light Company, Tampa Electricity Company, Gulf Power Company,¹ and Florida Public Utilities Company**. Florida Public Utilities Company is significantly smaller than the state’s other IOUs, serving only .4% of the state’s IOU customers. The other four IOUs are among the largest utilities in Florida in terms of customers served, amount of electricity sold, and revenue. Further information on the five largest utilities in Florida is provided in the chart below:

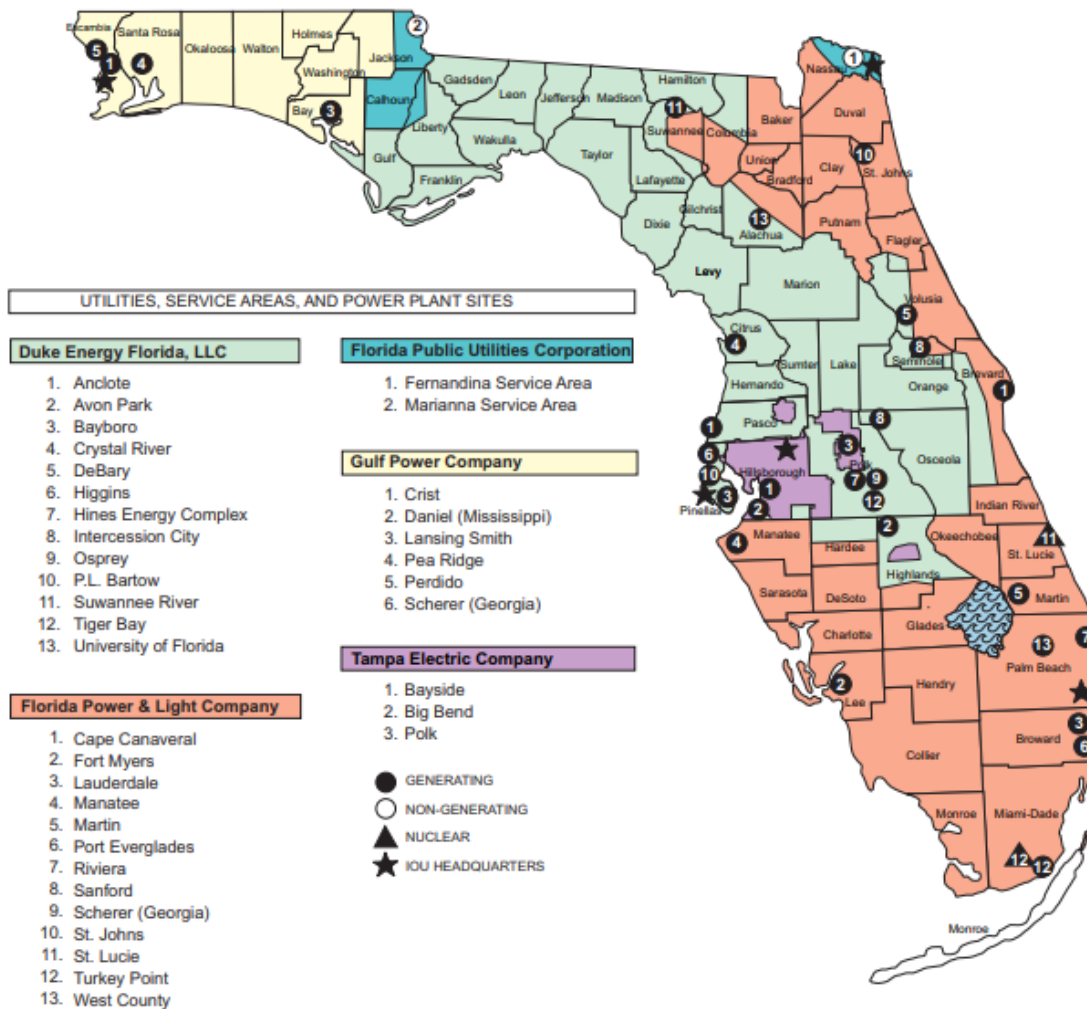
Five Largest Utilities in Florida (2016 Data)

Utility Name	Type of Provider	Revenue (Thousand USD)	Sales (MWh)	Number of Customers	Average Price (cents/kWh)
Florida Power & Light Company (FPL)	IOU	10,969,756.0	108,513,594	4,901,846	10.11
Duke Energy Florida	IOU	4,098,421.8	38,024,012	1,775,327	10.78
Tampa Electric Company (TECO)	IOU	1,932,818.5	19,186,517	744,691	10.07
JEA	Municipal	1,185,944.0	11,825,192	464,116	10.03
Gulf Power Co. (now NextEra)	IOU	1,280,559.1	10,808,617	459,049	11.85

Source: U.S. Energy Information Administration, Form EIA-861 Table 10, "[Annual Electric Power Industry Report](#)."

¹ Gulf Power Company was formally acquired by NextEra Energy, the parent company of Florida Power and Light, in [January 2019](#).

The figure below shows an approximate map of each of the IOU service territories in Florida:²



B. General Information

The Florida Public Service Commission (Commission), created by the Florida Legislature in 1887, is the primary regulatory authority over IOUs in Florida.³ The Commission’s mission is “to facilitate the efficient provision of safe and reliable utility service at fair prices.”⁴ The Commission achieves this goal by regulating in three key areas: **utility ratemaking, competitive market oversight, and monitoring of safety, reliability, and service.**

²Fla. Pub. Serv. Comm’n, *Statistics of the Florida Electric Utility Industry*, 4 (Oct. 2018), <http://www.floridapsc.com/Files/PDF/Publications/Reports/Electricgas/Statistics/2017.pdf>.

³ While the Commission does not fully regulate municipally-owned or cooperative electric utilities, it does have jurisdiction over thirty-four municipally owned electric systems and eighteen rural electric cooperatives regarding rate structure, territorial boundaries, bulk power supply operations, and planning.

⁴ Fla. Pub. Serv. Comm’n, *Statement of Agency Organization & Operations*, 1 (Sep. 2017), <http://www.psc.state.fl.us/Files/PDF/Home/SAOO.pdf>.

C. Relationship with State Legislature

In Florida, the Commission and the state legislature are closely related. For each vacancy on the Commission, a legislatively-appointed council nominates no fewer than three persons and submits the recommendations to the Governor.⁵ The Governor’s appointment of one of these nominees to the Commission is then subject to confirmation by the Senate.⁶ Additionally, under the **Florida Energy Efficiency and Conservation Act (FEECA)**, the Commission must provide an annual report to the legislature and the Governor summarizing the energy conservation goals adopted under that law and utility progress achieved toward those goals.⁷

D. Commission Structure

The Commission consists of **five members appointed by the Governor and confirmed by the Senate**.⁸ Commissioners serve **four-year terms**, with a limit of three consecutive terms that a Commissioner may serve.⁹ The Chairman **is elected by a majority vote of the Commissioners to serve as chair for a two-year term**, acting as chief administrative officer of the Commission.¹⁰ The Commission does not require bipartisan representation, but does require Commissioners to have “knowledge and experience in one or more fields substantially related to the duties and functions of the Commission. These fields include economics, accounting, engineering, finance, natural resource conservation, energy, public affairs, and law.”¹¹ The Commission maintains a support staff of approximately fifty-eight employees that work in the Office of General Counsel, Office of Inspector General, Administrative Divisions & Offices, and Technical Divisions & Offices.¹² The table below lists Florida’s current Commissioners:

Name	Appointed By	Term Start	Term End	Contact
Chair				
Art Graham (R)	Gov. Scott (R)	01/14/2011	01/01/2022	850-431-6040 Chairman.Graham@psc.state.fl.us
Commissioners				
Gary F. Clark (R)	Gov. Scott (R)	11/15/17	01/01/2023	850-413-6038 Commissioner.Clark@psc.state.fl.us
Julie I. Brown (R)	Gov. Scott (R)	01/02/2011	01/01/2023	850-413-6042 JiBrown@psc.state.fl.us
Andrew G. Fay (Nonpartisan)	Gov. Scott (R)	02/02/2018	01/01/2022	850-413-6046 Commissioner.Fay@psc.state.fl.us
Donald Polmann (R)	Gov. Scott (R)	01/02/2017	01/01/2021	850-413-6044 Commissioner.Polmann@psc.state.fl.us

⁵ Fla. Stat. §350.031(6).

⁶ Fla. Stat. §350.031(8).

⁷ Fla. Stat. §366.82(10).

⁸ Fla. Stat. §350.01(1) *citing* Fla. Stat. §350.031.

⁹ Fla. Stat. §350.01.

¹⁰ Fla. Stat. §350.01(4).

¹¹ Fla. Pub. Serv. Comm’n, *Overview and Key Facts*, <http://www.psc.state.fl.us/AboutPSC/Overview>.

¹² See Fla. Pub. Serv. Comm’n, *Statement of Agency Organization & Operations* (Sept. 2017), <http://www.psc.state.fl.us/Files/PDF/Home/SAOO.pdf>.

E. Overview of Commission Proceedings

The Commission regulates nearly all aspects of service for the five IOUs in Florida. In exercising this authority, the Commission regulates utilities individually—for example, by fixing rates or approving site plans—and collectively, by setting policy and numerical goals that apply across all regulated utilities.

The Commission typically relies on formal administrative proceedings to make its regulatory decisions. Proceedings often resemble a trial, in which parties to the proceeding, including utilities and other parties who decide to intervene, may respond, present evidence and argument on the issues, conduct cross-examination, and submit rebuttal evidence.¹³ The Chairman assigns Commissioners or hearing examiners from the Commission’s staff to oversee these proceedings, and only the Commissioners assigned to a proceeding are entitled to participate in the final decision.¹⁴ If the Commissioners assigned to the proceeding cannot agree on a decision, the Chairman casts the deciding vote.¹⁵ The Commission can decide that the full Commission should sit on any proceeding through a majority vote.¹⁶ In this case, a majority of the members assigned constitute a quorum and a majority vote is required for a final decision.¹⁷

F. Public Staff and Other Involved State Agencies

The Florida Legislature created the **Office of Public Counsel** to provide legal representation for IOU customers in utility-related matters in proceeding before the Commission.¹⁸ The Public Counsel performs independent analysis, presents testimony of expert witnesses, cross-examines utility witnesses, and files recommendations and briefs in these cases. The Public Counsel does not pursue criminal or other individual matters.

The **Florida Office of Energy**, housed in the **Florida Department of Agricultural and Consumer Service (FDACS)**, is the state energy policy and program information office.¹⁹ The office evaluates energy-related studies, analysis, and stakeholder input to recommend to the Governor and Legislature energy policies and programs that will move Florida toward a more diverse, stable, and reliable energy portfolio. One specific area the Office of Energy gathers information on is cost savings from energy efficiency and conservation measures.²⁰ With this information, the Office then uses available state and federal funds to develop and manage energy efficiency, renewable energy, and energy education programs throughout the state.²¹ FEECA requires the Commission to file information on electricity and natural gas energy conservation programs with the Florida Office of Energy.²²

¹³ Fla. Stat. §120.57(1)(b).

¹⁴ Fla. Stat. §350.01(5).

¹⁵ *Id.*

¹⁶ Fla. Stat. §350.01(6).

¹⁷ *Id.*

¹⁸ Fla. Stat. §350.061.

¹⁹ Fla. Dep’t of Agric. and Consumer Services, Office of Energy, <http://www.freshfromflorida.com/Divisions-Offices/Energy>.

²⁰ Fla. Stat. §377.805.

²¹ See Fla. Dep’t of Agric. and Consumer Services, Office of Energy, *2016 Office of Energy Annual Report*, http://www.freshfromflorida.com/content/download/75674/2205501/2016_Office_of_Energy_Annual_Report.pdf.

²² *Id.*

Florida Public Staff and Energy Office Contact Information²³

Public Staff – General Counsel	Public Staff – Division of Accounting & Finance
Keith Hedrick General Counsel Telephone: (850) 413-6199	Andrew L. Maurey Director, Division of Accounting & Finance Telephone: (850) 413-6900

Office of Public Counsel	Florida Department of Agriculture and Consumer Services- Office of Energy
J.R. Kelly Public Counsel Telephone: (850) 488-9330	Kelley Smith Burk Director Telephone (Energy Office): (850) 617-7470

II. Existing State Policies for Energy Efficiency

A. Incentives for Energy Efficiency

1. Energy Efficiency Target

Florida does not have a statewide Energy Efficiency Resource Standard in place. However, the **Florida Energy Efficiency and Conservation Act (FEECA)** sets forth a process in which the Commission sets energy savings targets for utilities with over 2,000 GWh in annual retail sales.²⁴ FEECA is the primary statute driving energy efficiency policy in the state. It attempts to reduce the growth rates of weather-sensitive peak demand, reduce and control the growth rates of electricity consumption, and reduce consumption of resources such as petroleum fuels.²⁵ At least every five years, FEECA requires the Commission to set goals toward achieving these reductions for the seven utilities subject to FEECA.²⁶ The goals are based on a ten-year period's projections.²⁷ Within 90 days of a final order establishing or modifying goals, the utilities must submit for Commission approval cost-effective demand-side-management (DSM) plans, which contain the DSM programs designed to meet these goals.²⁸ More information about the FEECA process is discussed in section III of this profile.

²³ Fla. Pub. Serv. Comm'n, *Inside the PSC 2018*, <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/InsidePSC.pdf>.

²⁴ The minimum sales threshold was most recently changed in 1996, when it was raised from 500 GWh to 2000 GWh. Fla. Pub. Serv. Comm'n, *2016 Annual Report on Activities Pursuant to the Florida Energy Efficiency and Conservation Act 5* (Dec. 2016), <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Electricgas/AnnualReport/December%202016.pdf>.

²⁵ Fla. Admin. Code. Ann. r 25-17.001.

²⁶ The seven utilities currently subject to FEECA are Florida Power & Light Company, Duke Energy Florida, Tampa Electric Company, Gulf Power Company, Florida Public Utilities Company, Orlando Utilities Commission, and JEA.

²⁷ Fla. Admin. Code. Ann. r 25-17.0021.

²⁸ Fla. Admin. Code. Ann. r 25-17.0021(4).

2. Cost Recovery and Performance Incentives

- **Direct Cost Recovery:** FEECA allows IOUs to recoup expenses for DSM programs approved by the Commission through the Energy Conservation Cost Recovery (ECCR) clause.²⁹ Before attempting to recover costs through the ECCR clause, a utility must prove its DSM programs are cost-effective and benefit the general body of ratepayers.
- **Lost Revenue Recovery:** FEECA does not expressly authorize utilities to recover lost revenues due to efficiency programs.³⁰
- **Performance Incentives:** FEECA permits the Commission to authorize financial rewards and penalties for IOU's goal achievements. Rewards and penalties may include sharing the cost savings associated with conservation, energy efficiency, and demand-side renewable energy system additions. Under FEECA, the Commission may allow a utility a **0.5% increased return on equity for exceeding 20% annual load growth through energy efficiency measures.**³¹ However, to date no utility has requested any incentives, and the Commission has neither awarded financial awards nor assessed penalties for IOUs subject to FEECA.

3. Cost-Effectiveness Testing

The Commission requires utilities to submit cost-effectiveness evaluations for all proposed DSM programs. In conducting the evaluations, utilities must perform at least three tests identified in the Cost Effectiveness Manual for each program they propose in their DSM plans: the Participant Test (PT), the Rate Impact Measure (RIM) Test, and the Total Resource Cost (TRC) Test.³² The Commission adopted the RIM test as the primary cost-effectiveness screen during its 2014 goal-setting process. The RIM test is generally considered to be the most restrictive of the five standard cost-effectiveness tests.³³

4. Program Participation

FEECA utilities currently offer DSM programs for residential, commercial, and industrial customers. FEECA states that the Commission "shall not approve any rate or rate structure which discriminates against any class of customers" because of their participation or non-participation in utility-run energy efficiency programs.³⁴

In 2016, the Commission denied the request from large commercial and industrial customers to opt-out of participating in and contributing to the costs of IOU-sponsored energy efficiency programs.³⁵ The Commission also held that it was not necessary to require the utilities to separate their ECCR expenditures into two categories to facilitate an opt-out policy or to select criteria for an opt-out policy.³⁶

²⁹ Fla. Admin. Code Ann. r 25-17.015.

³⁰ Florida has considered implementing decoupling, which reduces the financial disincentive for utilities to support energy efficiency by separating utilities' profits from their levels of sales. In 2008, the FPSC decided that the existing annual cost recovery clauses made it unnecessary to introduce decoupling.

³¹ Fla. Stat. §366.82(9).

³² Univ. of Fla.'s Pub. Util. Res. Ctr. et al., *Evaluation of Florida's Energy Efficiency and Conservation Act* (Dec. 7, 2012), https://bear.warrington.ufl.edu/centers/purc/docs/papers/1217_Galligan_Evaluation_of_Floridas.pdf.

³³ Southern Alliance for Clean Energy, *Florida Utilities' Energy Efficiency Goals Are Weak* (July.23, 2014), <http://blog.cleanenergy.org/2014/07/23/florida-utilities-energy-efficiency-goals-are-weak/>.

³⁴ Fla. Stat. §366.81.

³⁵ See Request to Opt-out of Cost Recovery for Investor-Owned Electric Utility Energy Efficiency Programs by Walmart Stores East, Sam's East, Inc., & Florida Industrial Power Users Group, Order No. PSC-16-0011-FOF-EI, Docket No. 140226-EI (FPSC Jan. 5, 2016).

³⁶ *Id.*

III. Utility Energy Efficiency Planning Process

This section will provide an overview of the process and timeline by which utilities develop, obtain regulatory approval for, and administer their energy efficiency programs. It will also discuss the requirements and opportunities for third party stakeholders to intervene or otherwise engage in each part of this planning process.

A. Formal Proceedings Before the FSPC

1. Florida Energy Efficiency and Conservation Act (FEECA) Goal-Setting Proceedings

As stated above, utility energy efficiency policy in Florida is primarily driven by **the Florida Energy Efficiency and Conservation Act (FEECA)**, which the Florida Legislature passed in 1980.³⁷ FEECA requires the Commission to “adopt goals and approve plans related to the promotion of demand-side renewable energy systems and the conservation of electric energy and natural gas usage.”³⁸ In particular, under FEECA, the Commission is required to set demand-side management goals for all investor-owned utilities (IOUs) and for non-IOU utilities with over 2,000 GWh in annual retail sales.³⁹ Seven utilities—five IOUs and two municipal utilities—are subject to FEECA’s requirements. These utilities are required to develop demand-side management (DSM) plans to meet these goals.

Under FEECA, the Commission is required to adopt goals to meet four key objectives: (1) reducing the growth rates of weather-sensitive peak demand and electricity usage; (2) increasing the efficiency of electricity and natural gas production and use; (3) encouraging demand-side renewable energy systems; and (4) conserving expensive resources, particularly petroleum fuels.⁴⁰ The Commission is statutorily required to review these goals at least every five years.

In developing the goals, the Commission is required to “evaluate the full technical potential of all available demand-side and supply-side conservation and efficiency measures,” and must consider many factors, including:⁴¹ (a) the costs and benefits to customers participating in the measure; (b) the costs and benefits to the general body of ratepayers, 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; and (d) the costs imposed by state and federal regulations on the emission of greenhouse gases. FEECA states that the Commission “shall not approve any rate or rate structure which discriminates against any class of customers” because of their participation or non-participation in utility-run EE programs.⁴²

³⁷ There are other proceedings before the Commission that tangentially relate to energy efficiency. For instance, under Fla. Stat. §403.519, any proposed steam or electrical generating facility larger than 75 MW is subject to a Commission need determination. As part of this process, Florida’s electric utilities must provide evidence that all cost-effective conservation and DSM opportunities have been exhausted. But this finding is based largely on the goals set during the FEECA process, and cost-effectiveness is still limited by the RIM test. In addition, while utilities also submit ten-year site plans in Florida, this process is very limited in scope, and energy efficiency is typically not a significant component of these planning documents.

³⁸ Fla. Stat. § 366.81.

³⁹ The minimum sales threshold was most recently changed in 1996, when it was raised from 500 GWh to 2000 GWh. Fla. Pub. Serv. Comm’n, *2016 Annual Report on Activities Pursuant to the Florida Energy Efficiency and Conservation Act 5* (Dec. 2016), <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Electricgas/AnnualReport/December%202016.pdf>.

⁴⁰ Fla. Stat. § 366.82 (1).

⁴¹ Fla. Stat. § 366.82 (3).

⁴² Fla. Stat. § 366.81.

The **goal setting process** begins by utilities conducting (or updating existing) Technical Potential Studies for their respective territories. The utilities then use these studies to propose ten-year numerical goals. These proposed goals must be based upon the utility's most recent planning process and represent the total, cost-effective, winter and summer peak demand (KW) and annual energy (KWH) savings reasonably achievable in the residential and commercial/industrial classes through demand-side management.⁴³ The Commission opens a **formal proceeding** to consider the utility proposals, and following its conclusion, sets summer peak demand, winter peak demand and annual energy reduction goals for a ten-year period, setting separate goals for residential and commercial/industrial customers.⁴⁴

Two other state agencies are involved in the FEECA process. First, **FDACS** is required to submit comments to the Commission on several issues, such as their evaluation of utility load forecasts and how state and local building codes and appliance efficiency standards impact the need for utility-sponsored conservation and efficiency programs. Second, the state's Office of Public Counsel acts as the consumer advocate for the state, intervening in all proceedings (including the FEECA goal-setting process) that could affect customer rates or service. At one point the Legislature considered requiring the Office of Public Counsel to be present during any settlement negotiations between the Commission and the utilities, but this provision was stripped from the bill before it was adopted.

The most recent FEECA goal-setting proceeding concluded in 2014. On November 25, 2014, the Commission voted to approve the staff's recommendation regarding the FEECA utilities' proposed goals for the 2015-2024 period.⁴⁵ During the proceeding, the FEECA utilities proposed goals based upon the Rate Impact Measure (RIM) test and were directed to show how all customers, including low-income customers, will be made aware of conservation opportunities. FPL proposed limiting its DSM goals to what its resource needs are in terms of megawatts or new capacity, referred to as a "constrained" RIM portfolio. After considering the evidence within the docket on December 16, 2014, the Commission established goals for the FEECA utilities for reductions in summer peak demand, winter peak demand, and annual energy for the period 2015-2024.⁴⁶

The Commission noted that the cost-effectiveness of DSM measures has declined due to several factors outside of the FEECA utilities' control since the last DSM goal-setting process in 2009. These factors include declined customer load growth, new appliance efficiency standards, newly effective state building codes, and declined price of natural gas in Florida.⁴⁷ After considering these factors, the Commission approved the proposed goals of the utilities which were lower than those previously approved in the 2009 goal setting process.

2. Approval of Utility DSM Plans

Within **90** days after the Commission issues a final order establishing or modifying DSM goals, each utility should submit for Commission approval a DSM plan designed to meet the utility's approved goals.⁴⁸ The Commission opens a separate docket for each utility's DSM plan, and each undergoes a formal hearing process before approval. Typically, this occurs in fall of the first year that the goals apply (i.e. for the 2015-2024 goal period,

⁴³ Fla. Admin. Code Ann. r. 25-17.0021.

⁴⁴ For a full listing of the 2015-2024 goals approved by the Commission for each utility, see Fla. Pub. Serv. Comm'n, *2016 Annual Report on Activities Pursuant to the Florida Energy Efficiency and Conservation Act 18* (Dec. 2016), <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Electricgas/AnnualReport/December%202016.pdf>.

⁴⁵ See Fla. Pub. Serv. Comm'n, *FEECA Annual Report on Activities Pursuant to the Florida Energy Efficiency & Conservation Act* (Feb. 2015), <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Electricgas/AnnualReport/2015.pdf>.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Fla. Admin. Code. Ann. r. 25-17.0021(4).

utilities submitted their DSM plans in August 2015). In their DSM plans, each FEECA utility must provide the following data: (1) program description, (2) program participation standards, (3) program benefits and costs, (4) cost-effectiveness methodology, and (5) program monitoring and evaluation.⁴⁹ The criteria used to review the appropriateness of DSM programs are: (1) whether the program advances the policy objectives of FEECA and its implementing rules, (2) whether the program can be directly monitored and yields measurable results, and (3) whether the program is cost effective.⁵⁰

By March 1 of each year, FEECA utilities must submit an annual report that summarizes its DSM plan and the total actual achieved results from its approved DSM plan in the preceding year.⁵¹

3. Electric Utility Rate Cases

The Commission is also responsible for fixing the rates and rate structures of electric utilities. To initiate a rate case proceeding, the interested utility must file a petition for a general rate increase and must notify the Commission at least **60** days prior to doing so. In its filing, the utility must justify its expenses and the necessity of the rate increase. Following a full rate case proceeding (discussed below), the Commission issues a decision. Under Florida law, the Commission is authorized to approve rates on an experimental or transitional basis to encourage conservation or energy efficiency.⁵²

B. Opportunities for Third-Party Engagement

1. Formal Proceedings

The primary opportunity for third-party engagement in utility energy efficiency proceedings is by **intervening** in Commission proceedings for the FEECA goal-setting process or the approval of DSM Plans. These proceedings are quasi-judicial in nature, and intervenors are expected to offer testimony, submit evidence, and cross-examine opposing parties as part of the process. Any party with a “substantial interest” in a Commission proceeding may move the presiding officer of a hearing to intervene.

In order to show a substantial interest, the party must show that: (1) it will suffer injury-in-fact which is of sufficient immediacy to entitle it to the relief requested and (2) this substantial injury is of a type that the proceeding is designed to protect.⁵³ For associations, this typically requires a showing that the associations’ members will be affected by the Commission decision, that the subject matter of the proceeding is within the associations’ general scope of interest and activity, and that the relief requested is of a type appropriate for the association to receive on behalf of its members.⁵⁴

Interested parties may petition the presiding officer for leave to intervene.⁵⁵ A motion to intervene must be filed at least five days before an evidentiary hearing.⁵⁶ The motion to intervene must include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to Commission rules, or that substantial interests of the intervenor are subject to

⁴⁹ See Implementation of Section 366.80-85, Florida Statutes, Conservation Activities of Electric and Natural Gas Utilities, Order No. 22176, Docket No. 890737-PU (FPSC Nov. 14, 1989).

⁵⁰ *Id.*

⁵¹ Fla. Admin. Code. Ann. r. 25-17.0021(5).

⁵² Fla. Stat. §366.075(a).

⁵³ *Agrico Chem. Co. v. Dep’t of Env’tl. Regulation*, 406 So. 2d 478, 482 (Fla. Dist. Ct. App. 1981).

⁵⁴ *Florida Home Builders v. Dept. of Labor and Employment Security*, 412 So. 2d 3 51 (Fla. 1982)

⁵⁵ Fla. Admin. Code. Ann. r. 28-105.0027(1).

⁵⁶ Fla. Admin. Code. Ann. r. 25-22.039.

determination or will be affected by the proceeding.⁵⁷ The presiding officer may allow for intervention of persons meeting the requirements for intervention and may impose terms and conditions on the intervenor to limit prejudice to other parties. Within seven days of service of the motion to intervene, any party may file a response in opposition.⁵⁸

2. Other Means of Engagement

Provided a person or group is not party to a proceeding before the Commission, ex parte rules do not generally prohibit third parties from directly engaging with Commissioners, Commission staff members, Public Counsel, or utilities on matters of interest to them. Commissioners are prohibited from initiating or considering ex parte communications concerning the merits, threat, or offer of reward in most docketed proceedings before the Commission.⁵⁹ The law prohibits an individual from ex parte discussions with a Commissioner on the merits of any issue that he or she knows will be filed with the Commission within 180 days.⁶⁰

Further, formal proceedings before the Commission—including rate cases—typically allow several opportunities for public input through hearings or written comments.⁶¹ The Office of Public Counsel typically represents the public during the formal hearing process.

⁵⁷ *Id.*

⁵⁸ Fla. Admin. Code. Ann. r. 28-105.0027(3).

⁵⁹ Fla. Stat. §350.042(1). The law doesn't define "ex parte communications" for purpose of this section, though it is generally understood to mean a communication between a commissioner and a party or other interested person, including an attorney or representative of that party or person, that was neither on the record nor on reasonable prior notice to all parties. Exceptions to this rule are: rulemaking proceedings, declaratory statement proceedings, workshops, and internal affairs meetings.

⁶⁰ *Id.*

⁶¹ Fla. Pub. Serv. Comm'n, *Inside the PSC 2018* at 9, <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/InsidePSC.pdf>.