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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

NOTICE OF COMMISSION WORKSHOP

TO:

FLORIDA POWER AND LIGHT COMPANY  
FLORIDA POWER CORPORATION  
GULF POWER COMPANY  
TAMPA ELECTRIC COMPANY

AND

ALL INTERESTED PERSONS

DOCKET NO. 971004-3G - ADOPTION OF NUMERIC CONSERVATION GOALS BY FLORIDA POWER & LIGHT COMPANY

DOCKET NO. 971005-EG - ADOPTION OF NUMERIC CONSERVATION GOALS BY FLORIDA POWER CORPORATION

DOCKET NO. 971006-EG - ADOPTION OF NUMERIC CONSERVATION GOALS BY GULF POWER COMPANY

DOCKET NO. 971007-EG - ADOPTION OF NUMERIC CONSERVATION GOALS BY TAMPA ELECTRIC COMPANY

DATE: OCTOBER 8, 1997

TIME: COMMENCED AT 9:30 A.M.  
CONCLUDED AT 1:00 P.M.

LOCATION: BETTY EASLEY CONFERENCE CENTER  
ROOM 171  
4075 ESPLANADE WAY  
TALLAHASSEE, FLORIDA

REPORTED BY: NANCY S. METZKE, RPR, CCR  
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**BUREAU OF REPORTING**

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FPSC-RECORDS/REPORTING

1 IN ATTENDANCE:  
2  
3 Leslie J. Paugh, Esquire, FPSC.  
4 Bob Elias, Esquire, FPSC.  
5 Mark Futrell, FPSC Staff.  
6 Tom Ballinger, FPSC Staff.  
7 Michael Haff, FPSC Staff.  
8 David Bates, Florida Power & Light.  
9 Dennis Brandt, Florida Power & Light.  
10 Charlie Guyton, Esquire, Florida Power & Light.  
11 Tom Hernandez, Tampa Electric Company.  
12 Howard Bryant, Tampa Electric Company.  
13 Mark Laux, Tampa Electric Company.  
14 Vicki Gordon Kaufman  
15 Jim McGee, Florida Power Corporation.  
16 Mike Jacob, Florida Power Corporation.  
17 Lisa Lohss, Florida Power Corporation.  
18 Jim Tait, Florida Energy Office.  
19 Margaret Neyman, Gulf Power Company.  
20 Jeff Stone, Esquire, Gulf Power Company.  
21 Ted Spangenberg, Gulf Power Company.  
22 Marcia Elder, Project for an Energy Efficient Florida.  
23 Deb Swim, LEAF.  
24 Molly Lampi, LEAF.  
25 Gail Kamaras, LEAF.

P R O C E E D I N G S

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MS. PAUGH: Good morning, everybody. Welcome to the DSM goals workshop. Pursuant to notice issued September 9th, 1997, this time and place has been set for this workshop in Docket Numbers 971004-EG, 971005-EG, 971006-EG, 971007-EG.

We have requested that this proceeding be recorded by a court reporter, and to that end I'm going to request that individuals when they address the workshop -- it will be informal as usual, but if you would identify yourself for the court reporter's benefit, that will help her. If we could identify ourselves starting down here with the FPL folks, that might help each other as well.

MR. BATES: David Bates, Florida Power and Light.

MR. BRANDT: Dennis Brandt, Florida Power and Light.

MR. GUYTON: Charlie Guyton, Steel, Hector and Davis, representing Florida Power and Light.

MR. HERNANDEZ: Tom Hernandez, Tampa Electric Company.

MR. BRYANT: Howard Bryant, Tampa Electric Company.

MR. LAUX: Mark Laux, Tampa Electric Company.

MS. KAUFMANN: Vicki Gordon Kaufmann.

1 MR. MCGEE: Jim McGee, Florida Power.

2 MR. JACOB: Mike Jacob, Florida Power  
3 Corporation.

4 MS. LOHSS: Lisa Lohss, Florida Power Corp.

5 MS. NEYMAN: Margaret Neyman with Gulf Power  
6 Company.

7 MR. STONE: Jeff Stone with Beggs & Lane on  
8 behalf of Gulf Power Company.

9 MR. SPANGENBERG: Ted Spangenberg, Gulf Power  
10 Company.

11 MS. ELDER: Marcia Elder, and it's Project for an  
12 Energy Efficient Florida.

13 MS. SWIM: Deb Swim, Legal Environmental  
14 Assistance Foundation, LEAF.

15 MS. LAMPI: My name is Molly Lampi. I'm here  
16 also with LEAF.

17 MS. KAMARAS: Gail Kamaras with LEAF.

18 MR. TAIT: Excuse me, I went ahead and sat up  
19 here between Gulf and Florida Power, my favorite -- or two  
20 of the four favorite companies I have. Jim Tait, Florida  
21 Energy Office.

22 MS. PAUGH: I'm Leslie Paugh with FPSC staff.

23 MR. FUTRELL: Mark Futrell, PSC staff.

24 MR. BALLINGER: Tom Ballinger, PSC staff.

25 MR. ELIAS: Bob Elias, PSC staff.

1 MS. PAUGH: Okay. Mark, I turn it over to you.

2 MR. FUTRELL: First of all, we've got -- we had a  
3 handout at least, and all it was -- if anybody didn't get a  
4 copy, we can make extras. It was the questions that we  
5 sent out in August and the rule and the eco statute. If  
6 anybody would like a copy of that, I'll be glad to make  
7 extras if they've run out. Anyway, they were at the front  
8 door.

9 The purpose of the workshop is we would like to  
10 get the goals docket started. We've got -- The goals are  
11 to be established by rule. They are to be established by  
12 October of '99 for the four large IOUs, and we wanted to go  
13 ahead and get started now so that depending upon how this  
14 process proceeds we'll have, hopefully, plenty of time to  
15 work its way through and meet that deadline. And we wanted  
16 to get things started, send out these questions to get  
17 people thinking and planning, and maybe we could come  
18 together and begin the process of maybe coming to some  
19 agreement on how we should proceed or how we should proceed  
20 in any way.

21 Before we get started going -- what I was  
22 planning to do is just go through the questions and have an  
23 open discussion. Before we get started, if anybody has any  
24 prepared comments or presentation or anything they would  
25 like to say before we get started, please feel free at this

1 time; otherwise, we would like to get started with the  
2 first question and just, you know, whoever would like to  
3 speak up first feel free.

4           The first idea that we thought about was looking  
5 at should we repeal the rule setting and establishing  
6 numeric goals, and I think part of our thinking was that it  
7 would be good to just take a step back and look at what we  
8 have done, what has been going on in the last four or five  
9 years and kind of evaluate, you know, is this a good  
10 process, not assuming that, you know, everything we do here  
11 is absolutely the correct thing and at least think about  
12 it. Do we want to continue this process setting numeric  
13 goals? Does anybody have any response to that?

14           MR. GUYTON: Mark, I do. This is Charlie Guyton  
15 speaking on behalf of FPL. We were very encouraged to see  
16 this issue being raised by staff. And given the history of  
17 the implementation, we are really half a decade into this  
18 rule now when you look back to the original rulemaking  
19 which I think dates back to '92, and we think there ought  
20 to be some serious thought given to whether or not there  
21 ought to be a continuation of numeric goals.

22           When the rule was adopted five years ago, there  
23 were three rationales that were really promoted for the  
24 adoption of the rule. One was that the rule was needed  
25 because there needed to be a comprehensive assessment of

1 DSM in the State of Florida. The second rationale was that  
2 this needed to encourage the development of DSM in Florida,  
3 and the third idea underlying the numeric rule was that the  
4 numeric goals would provide a benchmark of sorts by which  
5 we would measure the progress of DSM.

6 From FPL's perspective we think the results are a  
7 real mixed bag measured against the objectives of the  
8 rule. Has it -- did it allow for a comprehensive review?  
9 I think we almost certainly have to say yes. It allowed  
10 for a most comprehensive review of DSM. Is it necessary to  
11 repeat that comprehensive of a review now? We think not.  
12 That analysis provided quite a bit of baseline. There was  
13 not only the SRC study performed, but the individual  
14 utilities performed even more extensive analysis than SRC.

15 There isn't a great deal of significant  
16 development in terms of emerging technology with DSM. Such  
17 that there is is already being embraced and recognized or  
18 captured, if you will, or at least being analyzed in the  
19 R&D efforts that the Commission has approved in the plans  
20 that have resulted. I think what we have now that we  
21 didn't have three or four years ago is we are beginning to  
22 have fairly significant monitored end-use data that allows  
23 us to reassess some of the base lines that were used in the  
24 last assessment.

25 So did it serve the purpose of a comprehensive

1 assessment? Yes, it did. Do we need to do it again?  
2 Probably not. We can certainly build on it. But if we  
3 embrace the rule with the same type of vigor that was  
4 embraced last time -- that is the path on which we were  
5 headed -- we think the scope of the analysis needs to be  
6 significantly less, whether the rule stays in place or  
7 not.

8           Did it encourage DSM development? I suppose we  
9 could argue about that. From FPL's perspective we think  
10 probably not. We are largely where we were before we  
11 embraced that rule. The programs that are in place are not  
12 significantly different than programs that were in place  
13 prior to the rule. The levels are not significantly  
14 greater, perhaps in some of the out years that weren't  
15 embraced in the DSM plan that FPL filed in the early 90s,  
16 but through 1995 we were on the old plan, and so  
17 consequently we didn't have any more DSM through '95 than  
18 we would have otherwise, even though that was well within  
19 the goals period.

20           Since then I don't think we are seeing a great  
21 deal of incremental DSM that is being added. I don't know  
22 that that's necessarily a function of a rule failing. I  
23 think it's as much a change in circumstances in terms of  
24 where avoided costs have gone and the changing reliability  
25 needs within the state.



1           We had very good success in Florida before this  
2 rule. It was documented in the SRC study, in phase one of  
3 the SRC study. We were a leader around the country. That  
4 hasn't changed, but it hasn't been significantly enhanced  
5 with the rule, so our assessment of it would be, no, we  
6 don't need it to develop DSM. In fact, I think the  
7 Commission found that there were a lot of vehicles that  
8 they didn't need to adopt to encourage DSM in the last  
9 goals docket. We didn't have to go to the TRC route. We  
10 didn't have to go industry wide because the utilities had  
11 an incentive to go out and find this DSM for their own  
12 purposes given the current circumstances. That market  
13 hasn't changed any. In fact, if anything, utilities are  
14 even more encouraged now to find the cost effective DSM  
15 than they were before, so we don't think the rule is  
16 necessary for that.

17           Is it needed for a performance benchmark? Well,  
18 it hasn't been in place long enough to address that, but  
19 there are plenty of other performance benchmarks for DSM in  
20 the study. There is ECCR. There are need determination  
21 proceedings that require an assessment of whether all the  
22 conservation that was cost effective could have been done  
23 should have been done. There are your annual reporting  
24 requirements. There are lots of other benchmarks by which  
25 to measure DSM, and quite frankly, as one of the later

1 issues suggests, it may be somewhat arbitrary to meet the  
2 goals as a -- as of a firm benchmark anyway given the  
3 changes in circumstances that happen after goals are set.

4           So if you look at it in terms of the  
5 justification of the rule, we think it's probably achieved  
6 maybe one of the three primary goals and isn't necessary to  
7 continue achieving that goal. On the other hand, there are  
8 some clearly indisputable problems with the rule, and they  
9 are significant problems.

10           It is clearly too time consuming as a process.  
11 It doesn't work in terms of time. When we sat around a  
12 table in the old hearing room, more years ago than I like  
13 to remember, and talked about how are we going to implement  
14 this rule, I guess that was four years ago now, we were 33  
15 months from that workshop to getting programs rolled out  
16 into the field. That just doesn't work. And a lot of that  
17 is dictated by the way the rule is structured. Doing the  
18 assessments, then doing a plan and then the associated  
19 hearing requirements associated with both of those  
20 elements, and Dennis is going to speak a little bit later  
21 about maybe some alternatives that we might be able to look  
22 at in terms of scheduling; but the rule clearly, as it now  
23 works, is too time consuming. By the time we get around to  
24 rolling programs out, they are dated and there are all  
25 kinds of transitional issues about how you address updated

1 planning data, sometimes two and three vintages that happen  
2 before you get the programs rolled out.

3 As time consuming as it was, it was even more  
4 resource consuming, and I think we all shared that. Most  
5 of us sigh a great sigh of relief. I'm kind of  
6 surprised -- I forgot my T-shirt. I'm surprised nobody  
7 brought one in this morning. We truly did just survive the  
8 last hearing. A truer statement was never recorded.

9 There was a lot of analysis that was done last  
10 time. A lot of it -- I think the utilities had a pretty  
11 good idea of what the answer was going to be ahead of  
12 time. They had looked at these measures and nonetheless  
13 were called upon to do certain type analyses, but we had a  
14 pretty a good idea what the answer was going to be.

15 A TRC portfolio was performed and optimized; it  
16 was never used. Some of the end-use requirements within  
17 the rule really defy quantification. They could be kind of  
18 qualitatively assessed, but it requires a lot of analysis  
19 that we're not sure is entirely necessary at all.

20 Aside and apart from that, I think FPL has  
21 conservatively estimated that it probably invested about  
22 ten man years in terms of its personnel in getting through  
23 the goals docket, and I say that -- the goals docket, not  
24 the plan, the subsequent plan docket but the goals docket  
25 itself. And that doesn't count probably the two lawyer

1 years that were invested in that on behalf of my client.  
2 To get a feel for just how, you know, just how consuming  
3 this was on resources, we went back and looked, our law  
4 firm made 157 filings on behalf of FPL in the conservation  
5 goals docket. That's a very expensive process, and that's  
6 the next point, it's too costly to implement.

7 I'm reasonably confident that it's a conservative  
8 estimate. The regulatory cost of the last goals docket  
9 alone was probably -- the cost to the State of Florida --  
10 was probably in excess of five million dollars, and I'm  
11 pretty confident that is a conservative estimate. And I  
12 don't think we bought much DSM for five million dollars,  
13 not over and above what we already had in place or what the  
14 market was likely to encourage to be in place.

15 When you look at the alternative, a word goal  
16 that the staff suggested here, you know, it worked pretty  
17 dog gone good. We were recognized, utilities in the State  
18 of Florida were recognized as a DSM leader before the  
19 numeric goals. We had plans in place. We had most of the  
20 programs in place that we have in place now. There were  
21 much less time resources, costs devoted to and what we were  
22 getting essentially the same quality of DSM advancement,  
23 and we think prior experience is pretty compelling here.  
24 The word goals worked pretty well, and this numeric goal  
25 doesn't seem to bear much in the way of fruit. We for one

1 would encourage the Commission seriously considering repeal  
2 of the numeric goal and going back to the word goal that  
3 was in place in the early 90s.

4           Dennis has a handout he has prepared that kind of  
5 makes some of these points, at least as to the time, that  
6 we would like to hand out.

7           MR. BRANDT: You want to do that now?

8           MR. BALLINGER: Can I ask a question first?

9           MR. GUYTON: Sure.

10           MR. BALLINGER: You said about one of the  
11 purposes of the goals was a performance indicator, trying  
12 to measure it. I imagine there may be other ways. Do you  
13 have any ideas of what else could be used as a performance  
14 indicator?

15           MR. GUYTON: Well, first off, it's kind of hard  
16 to -- yes, I do have some ideas, but it's kind of hard to  
17 see how you are going to use the goals as a performance  
18 indicator because setting these goals, particularly the  
19 farther out you get from them as an indicator of how things  
20 ought to work, is real troubling to us, particularly with  
21 the change in reliability needs on the system and cost on  
22 the system. It may not make sense to be chasing as much,  
23 or you maybe ought to be chasing more DSM five years out;  
24 so we're not sure if it's a very good indicator of  
25 performance, very close to when these options can replace.

1 But you've got ECCR with regular review. You've got need  
2 determination proceedings where if someone wants to build  
3 capacity in this state they have to make a demonstration  
4 that they have captured the cost effective DSM that was  
5 available on their systems, and that's one of the  
6 requirements under the need statute. You have regular  
7 reporting requirements that give the Commission review, and  
8 you have not only reporting requirements under FEECA, but  
9 you also have reporting requirements on your nonfirm  
10 load -- your nonfirm rule, and that's a large part of the  
11 DSM that's conducted in the state is load control.

12 And then you have periodic plans and program  
13 reviews and modifications that come in that I think give  
14 the Commission a pretty good assessment. You have, of  
15 course, along with that opportunities for discovery in, you  
16 know, three or four of those -- one in a continuing docket  
17 and then in other dockets as an as-needed basis. I think  
18 those are all pretty good benchmarks to use, and they have  
19 been used fairly effectively prior to the goals docket.

20 MR. BRANDT: I'm not sure we have enough copies  
21 made. We made about 40. What we basically have here is we  
22 have looked at a couple of options, and I apologize for the  
23 small type, but trying to get the schedule fitted on one  
24 page was a challenge in itself.

25 The first option is basically we would go through

1 the same process that we just -- finished it, ended up  
2 setting our goals and our DSM plans, and I think, you know  
3 the most important part of this schedule, what we did is we  
4 went back and looked at the amount of elapsed time it took  
5 for each of these activities, major activities, and then  
6 just laid them over a schedule beginning with today's  
7 workshop. And basically going through this document, what  
8 we assumed was there would not necessarily be a new SRC  
9 study but potentially an update to just account for  
10 anything that might have changed over the last five or six  
11 years and, you know, then those results be available to the  
12 utilities. There is also early on a decision or a  
13 consensus of what measures everyone would look at from a  
14 technical potential standpoint. I think, you know, in us  
15 thinking about how to make this process better, getting all  
16 the measures defined up front we thought was pretty  
17 critical and would probably make the process flow fairly  
18 smooth, and that is true for all three options.

19 But the first option basically says we are going  
20 to go through the same process we went through last time.  
21 That gets us at, you know, an order on the rules in  
22 November of 1999, and based on the time that we have seen  
23 historically to get the plan approved, the program  
24 standards approved and those types of things, we would  
25 actually be implementing these programs that we, you know,

1 designed based on '98 avoided costs and '98 assumptions  
2 into the end of the year 2000. So, you know, this is kind  
3 of a mirror. If we go the same path we went last time,  
4 this is where we are going to be, at least from our  
5 perspective.

6           The second option was if we were able to modify  
7 the rule to take out some things that were more cumbersome  
8 in the analysis or things that we actually didn't end up  
9 using in the rule that actually implemented it. Things we  
10 are talking about here is, you know, we had goals by market  
11 segment and we had new, you know, CI residential and then  
12 we had new construction and existing construction. Those  
13 types of things compound the analysis in the amount of  
14 detail that needs to be done. If we agreed not to update  
15 the SRC study, to use it if someone wanted to use it but  
16 use a lot of our own planning data that we each had, if we  
17 also dropped the TRC screening which we never really used  
18 in the last -- in setting our goals, and once again, if all  
19 parties can agree on what measures we would use up front  
20 and also, you know, what benchmarks we'd use up front, we  
21 could see the schedule basically being shortened from  
22 ending in November of the year 2000 to May. So we'd pick  
23 up a little bit of time, you know, about six months with  
24 that process.

25           The third option is really the one we prefer, and



1 it's basically, you know, eliminating the rule and going to  
2 a word goal, and basically what we are talking about there  
3 is the measures that get -- the whole process is basically  
4 driven, in this case, by the needs that would be identified  
5 in an integrated resource planning process. This is  
6 typically how FPL developed their programs and set internal  
7 goals for DSM in the past, and when we had the word goal,  
8 this is basically how the process worked. And in this case  
9 we are talking about -- once again we do think to make the  
10 process smooth and make it easier for people to agree, what  
11 we are doing on a going forward basis up front, still try  
12 to get the parties agreed and, you know, that is utilities  
13 and any other interested parties, what the measures should  
14 be and what the benchmarks would be. But that would  
15 basically flow through an IRP type of process with the DSM  
16 plan being filed potentially by the end of next year and  
17 the programs being effective in August of 1999, so these  
18 are the three options. Obviously we think by going with  
19 the third option we cut over a year off the process and we  
20 are actually implementing, you know, programs that more  
21 closely meet or match the assumptions that we used when we  
22 initially developed it.

23 MR. ELIAS: Question.

24 MR. BRANDT: Sure.

25 MR. ELIAS: I don't see the word "hearing" any

1 place in the third option.

2 MR. BRANDT: It's basically, when we had the DSM  
3 plan, review and approval box is where we see all that  
4 happening.

5 MR. ELIAS: Okay.

6 MR. BRANDT: All right. When you think about  
7 when we did the DSM plan for the 90s, we basically went  
8 through this process. We brought a document that was  
9 basically our DSM plan. It had programs and what we  
10 thought we would achieve into those programs, and that is  
11 what we have reviewed and approved.

12 MR. GUYTON: And I think that was done without  
13 hearing. I think that was done PAA (phonetics).

14 MR. ELIAS: Well, and, you know, obviously that  
15 is a possibility, but subject to --

16 MR. GUYTON: I understand. We are optimistic.

17 MR. FUTRELL: Any comments from any of the  
18 parties?

19 MS. KAMARAS: Certainly. I'm Gail Kamaras from  
20 LEAF. Obviously we disagree strenuously at least with part  
21 of FPL's suggestion. First of all, I think that FPL is  
22 mixing up the process problems with substantive issues  
23 relating to the rule and what the statute requires. I  
24 think certainly we would agree that -- I don't have a  
25 T-shirt. I wasn't here. And I guess, you know, that gives

1 me somewhat of an advantage, but I have certainly heard the  
2 war stories, and I think it is safe to say that there is no  
3 one in this room that wants a repeat of the last process in  
4 terms of how it went and some of the things that happened  
5 in that process. But given that, that does not mean that  
6 the process does not have validity, at least the framework  
7 of the process.

8           We have, and the statute requires, ten-year goals  
9 with a five-year review. The last goals order was issued  
10 in October of 1999, and -- I'm sorry, 1994, and we would  
11 anticipate an order in October of 1999 and don't see from a  
12 statutory or regulatory point of view the advantage of  
13 compressing it and moving it forward in time. The goals  
14 that were adopted in 1994, for better or worse, were  
15 anticipated to run for five years.

16           In terms of the efficiency of when the programs  
17 are rolled out and when the programs are adopted, I'm  
18 hearing two things. I'm hearing that, you know, the  
19 programs are pretty much the same as they were before,  
20 there weren't that many changes, and yet it was a terrible  
21 burden to do it and it takes all this time and it's just  
22 dreadful. We have programs in place. I would anticipate  
23 that those programs would continue to be operated through  
24 the time period that the goals case would be -- go through  
25 whatever process we ultimately decide it goes through,

1 through hearing and through whenever the next DSM plans are  
2 anticipated; and I think, you know, we are going to be  
3 setting goals in 1999, at least theoretically, for the next  
4 ten years. You know, who knows what will really happen in  
5 the real world in that ten years, but I mean that's our  
6 charge and that's what the statute asks us to do.

7           In terms of whether or not the rule should be  
8 repealed, moving from sort of a process piece to the  
9 substantive piece, you know, we certainly would have some  
10 questions about the comprehensiveness of the assessment.  
11 The SRC study was sort of a, I don't know, elephant built  
12 by a committee or a horse built by a committee that winds  
13 up looking like a camel; and it was comprehensive in some  
14 respects and not comprehensive in others, and it had some  
15 flaws perhaps that we would want to improve on. Whether we  
16 would undertake something similar to what was done by SRC  
17 or something slightly different or to update it, I think  
18 that, you know, some level of assessment is still  
19 required.

20           In terms of encouraging the development of DSM,  
21 while some of the utilities have done better than others  
22 and some may or may not be considered leaders, we continue  
23 to have a problem with the type of DSM that has been  
24 developed. We are particularly concerned that the last  
25 goals case grossly overemphasized and encouraged the

1 development of demand goals to the significant detriment of  
2 energy goals, and we would certainly hope to see that  
3 corrected.

4           In terms of the benchmark, again, while there may  
5 be reporting and there may be issues that come up from time  
6 to time in need determination cases, they are very narrow,  
7 and they are not a comprehensive and they are not a generic  
8 look and they are not multiple utility cases where we are  
9 kind of taking a look at the energy picture and the energy  
10 future vis a vis the utilities. And so I think that we  
11 need to continue this process for that reason.

12           We would also argue that in order to have  
13 appropriate goals and to satisfy the statutory requirements  
14 in FEECA that numeric rather than narrative goals are  
15 required, and so we would disagree in large part with FPL.  
16 We certainly believe that -- you know, we have moved on  
17 from 1994. We have learned some things, and I think that  
18 we probably can get through the process a little better if  
19 not substantially better than we did last time. We are in  
20 different circumstances than we were then. Perhaps we  
21 worked together a little bit more and, you know, perhaps  
22 the working relationships are a little bit better than they  
23 were at that time and we can come to agree on some things  
24 and move it in a less litigious way than was done before.

25           MS. SWIM: I don't think -- I mean I guess just

1 one thing about -- I mean I think we agree with Power and  
2 Light that we would like to see the measures identified up  
3 front and perhaps some other standards and criteria too. I  
4 think there is a way for us to kind of come to the same  
5 room and talk about it and come to agreement on it. That  
6 would go a long way to making the process shorter and less  
7 litigious.

8 MR. BALLINGER: Can I ask a question, Gail? You  
9 said you wanted to -- you were troubled by the types of  
10 programs that fell out because they were demand related as  
11 opposed to energy related. How do you see that, or do you  
12 see it being resolved since the Commission voted on a RIM  
13 policy the last time? And that's just a natural fallout of  
14 that. I guess I'm curious as to what -- how else we can  
15 focus on that. Is it just a different --

16 MS. KAMARAS: No, I think maybe that we would be  
17 getting into questions two and three there.

18 MR. BALLINGER: Okay. It's just your intent is  
19 you want to maybe bring that again?

20 MS. SWIM: And you know, we see the Commission's  
21 vote last time as we are setting goals based on the full  
22 RIM potential and encouraging utilities to go beyond it.

23 MR. BALLINGER: Okay. Okay.

24 MS. SWIM: In fact, that's the text of the order.

25 MR. BALLINGER: Okay. On the identifying

1 measures, do you see any merit in maybe not going through  
2 the SRC process but jumping right to a utility type  
3 potential study, since that's what we did before? I mean  
4 reverifying that, but maybe going through that as our first  
5 step.

6 MS. KAMARAS: We have talked about that as an  
7 alternative, and I think it is possible. I don't want to  
8 give the wrong cues here. I don't want to say that we are  
9 just ready to jump in and do that, but I think that is an  
10 alternative that we would consider if there were enough  
11 safeguards around it. I think one of our biggest concerns  
12 about the last process and about many of the processes that  
13 the Commission uses is that each utility does its own sort  
14 of black box process and you know some of the things that  
15 go into it and you don't know others. They each use  
16 different assumptions. They each use different criteria.  
17 They each use different base lines, and there is absolutely  
18 no way whatsoever to compare one to the other or to compare  
19 them to some external benchmark or performance standard,  
20 and so we really don't have benchmarks or performance  
21 standards. We just have sort of a mush that I think staff  
22 and us can only look at and sort of turn it around this way  
23 and that, and the answer is, well, either, you know, it  
24 sort of looks okay to me or it sort of doesn't look okay to  
25 me. There is nothing really solid to put your hands on.

1 And so I guess our feeling at this point is that that  
2 process is possible if there could be some agreement about  
3 standard methodologies and criterias and at least a box  
4 within which the utilities would agree to work some core  
5 things that all of them would do, and then if there were  
6 different things they wanted to do, fine, let them somehow  
7 justify the reasonableness of having to do those different  
8 things outside the box, so to speak.

9 MR. FUTRELL: Gail, let me ask you a question.  
10 Given the RIM TRC debate kind of hovers over all of this  
11 and has for years, what do you see the benefits of the rule  
12 in continuing to operate under the rule as it's stated  
13 now?

14 MS. KAMARAS: I'm not sure those two things go  
15 together, or I'm not sure exactly how they go together. I  
16 don't see anywhere in the rule that it says thou shalt do  
17 only TRC based goals. I think the rule gives a substantial  
18 amount of flexibility to the Commission to approve, you  
19 know, a variety of things.

20 And certainly as we move forward in time and  
21 move, you know, somewhat closer to a competitive world but  
22 recognizing that we are still in a monopoly world and will  
23 be for the foreseeable future, I think that operating  
24 within the numeric goals gives us a tremendous benefit in  
25 terms of the certainty about what is being done, and I



1 would think that to some extent that would provide some  
2 comfort and benefit to the utilities as well as to us. I  
3 think we know better what it is the ratepayers are paying  
4 for, why they are paying for it, what benefits it brings to  
5 them and to the state as a whole. It provides a certainty  
6 to the utilities in terms of the recovery of their expenses  
7 for these programs.

8           So I think there are a number of benefits that  
9 this type of rule provides that we might not get from a  
10 narrative rule. I think a narrative rule is just too  
11 amorphous among other things, and I don't want to repeat  
12 all the stuff I just said. Then again, we don't  
13 necessarily think that the statute supports narrative only  
14 goals, and I think that was an issue that was brought up  
15 years ago, and I don't want to repeat all those arguments,  
16 but we are still there.

17           MR. FUTRELL: Are you saying that the statute  
18 supports numeric goals?

19           MS. KAMARAS: Our feeling is that narrative goals  
20 would violate the statute, and I think that has been LEAF's  
21 position for quite some time.

22           MR. FUTRELL: So you're saying we were in  
23 violation of the statute for four or five years there while  
24 we had --

25           MS. KAMARAS: Yeah, I don't think that is news to

1 anybody in this room.

2 MS. NEYMAN: I wanted to respond to a couple of  
3 things that Gail and Charles said. First of all, we agree  
4 a lot with what was said by FP&L. Coming in here today, we  
5 feel like that the existence of a numeric goal really did  
6 not cause Gulf to do any more conservation than we would  
7 have otherwise. It was, to us I don't think -- If you  
8 look at the programs we are doing, the fact that there was  
9 a numeric goal sitting out there did not really change what  
10 we would have done anyway. We did implement some changes  
11 with this plan filing, but those were changes that we would  
12 have been making anyway, programs we would have been  
13 rolling out at that time regardless of a numeric goal.

14 The process of going through the SRC study -- I  
15 was not there during that time either; I came in on the  
16 tail end -- but like was said earlier, I don't know that we  
17 necessarily have to go through all that nitty-gritty detail  
18 again. I think the utilities have a pretty good feel for  
19 what is out there. We have all been doing research and  
20 development. We are involved with FCG's group. I think we  
21 can sit down and kind of look at the technical potential  
22 without going back and rehashing over some ground; that is  
23 just not productive.

24 But the numeric goals, one thing that Gail had  
25 commented on -- What I think we are trying to say is that

1 for the effort you put out to set a target like that, we  
2 just don't really see the benefit. You know, there is a  
3 lot of effort versus the benefits of conservation, which we  
4 would do with, you know, word goal, so that's really the  
5 trade off there. There's a lot of time and a lot of energy  
6 when the same thing could be accomplished, we think, with a  
7 lot less effort.

8           Also, numeric goals are a very static kind of  
9 thing. You know, you are taking a snapshot and you are  
10 doing all this evaluation, and it's like 1998 dollars in  
11 this case when, in fact, DSM is very, very, dynamic. You  
12 know, immediately it's outdated, and I think the word goal  
13 process may allow more flexibility in that and it's not  
14 quite such a, you know, static thing, and allow more review  
15 and more timely enhancements to the process.

16           We aren't really sitting over there in Pensacola  
17 saying, you know, oh, there is this number out there. We  
18 really don't pay that much attention to it. We really sit  
19 down and look at what we need to be doing in terms of our  
20 plans and our programs and what the market wants and what  
21 technology is out there. I doubt you could ask any of the  
22 marketing guys in Pensacola what the goal is. They  
23 probably don't even know what it is. That's not what they  
24 are motivated by. They are more motivated by what they can  
25 do in the marketplace and what the customers want and, you

1 know, what is going to work. So we could do it again, I  
2 just don't see that it's that beneficial for all the effort  
3 you have to go through to do it.

4 I think that's generally it. I can't really  
5 add -- The time line is great. It's kind of depressing  
6 when you look at it, but we would be open to looking at  
7 some changes in the rule, and we feel like that we  
8 disagree. We feel like we can go to word goals by looking  
9 at the, what we can see from the statute. This is more the  
10 legal arena and not mine, but we think we could probably go  
11 back to word goals and still be in compliance with the  
12 statute.

13 MS. LAMPI: Is it Gulf's position that you are in  
14 compliance with the statute now? Are you in compliance  
15 with the numeric goals?

16 MS. NEYMAN: Are we in compliance with the  
17 numeric goals? Well, we don't think the statute requires  
18 numeric goals.

19 MS. LAMPI: I guess that wasn't my question.

20 MS. NEYMAN: Okay.

21 MS. LAMPI: Is it Gulf's position that you are in  
22 compliance with the numeric goals?

23 MS. NEYMAN: Yes, I would think -- Numeric  
24 goals, actually, is more than the statute requires; so,  
25 yes, we are in compliance.

1 MS. SWIM: I still don't think you answered the  
2 question.

3 MS. NEYMAN: I probably don't understand the  
4 question, but --

5 MS. SWIM: Is Gulf meeting the goals that have  
6 been set?

7 MS. NEYMAN: We did not meet them as of last year  
8 when we reported the goals, the numeric goals. We did not  
9 meet them last year, no.

10 MR. SPANGENBERG: We are on course to meet the  
11 goals in the time frame that is required to meet those  
12 goals. I guess it's, you know, when we meet -- when we  
13 have a goal that is set out there for us for the year 2003.

14 MS. NEYMAN: Yeah, I think we show we will meet  
15 the goals by the end of the time period, but we do not meet  
16 them year to year, no.

17 MR. SPANGENBERG: We are starting to run into,  
18 however, into great difficulty. You know, the statute also  
19 requires cost effectiveness, and we take this snapshot of  
20 goals five years out, try to put plans in place to meet all  
21 of those, all of the sudden system costs change, technology  
22 costs change, everything changes, and all of a sudden the  
23 best plans you might have in place to try to meet those  
24 goals now all of the sudden are not cost effective. From  
25 that we get nice letters from the Commission staff that

1 says your stuff is not cost effective, you know, you may  
2 not get cost recovery. I mean we are getting into a real  
3 dilemma now because of the statute requiring cost  
4 effectiveness, numeric goals requiring programs and there  
5 not being any cost effective programs that will allow you  
6 to meet numeric goals. I mean that's a real dilemma we are  
7 about to get into because of the change of system costs.

8 MR. GUYTON: If I might follow that up. I mean I  
9 really think that is one of the major weaknesses of the  
10 goal. It's one that I didn't comment on. I skipped my  
11 note in that regard.

12 It really is a static snapshot picture of the  
13 DSM, which is left in place for ten years. Okay, I  
14 acknowledge, you've got to revisit it in five, but I mean  
15 the fact of the matter is system reliability changes, those  
16 needs change every year. Costs drop dramatically in the  
17 years after we just set the last goals. Now I would like  
18 to think that is probably not going to happen in the next  
19 three years, but it is extremely hard to take that snapshot  
20 as an aspirational goal much less a must achieve or you  
21 face a penalty goal and deal with it. I mean you can  
22 say -- and the company has set up its planning system, yes,  
23 we are going to achieve those goals and it's made that  
24 assumption, not necessarily an optimization of its system  
25 at this point, but what is the alternative? Well, the

1 alternative is either to come in and modify programs, which  
2 the company has done, once again, on a pretty long  
3 regulatory time line or to reinstitute another goals  
4 proceeding which is not practical with that kind of  
5 regulatory. But that is one of the process problems  
6 incident to this rule, and it's a significant one, and it  
7 stems from the fact, what Margaret said, planning is a  
8 dynamic process, and we've put this static assumption in  
9 there, and there is a real disincentive to revisit it.

10 MS. KAMARAS: One thing you said, Charlie, that  
11 we would agree with, and I don't think it stems from the  
12 rule. I think it stems from how Commission staff is  
13 implementing the rule, and that is, the issue of putting  
14 programs in place and having some certainty associated with  
15 them and not having them change on an adhoc basis every  
16 time somebody thinks that, you know, costs have dropped and  
17 they may no longer be cost effective.

18 We would certainly agree that if a DSM plan is  
19 approved with certain programs in place that the utility  
20 should be allowed to operate those programs for some  
21 certain period of time and not be incurring undue  
22 administrative and other types of costs to constantly be  
23 tweaking and changing that program to maintain it cost  
24 effectively. I don't think the utilities are asked to do  
25 that on the supply side. We don't see why they should be

1 asked to do it on the demand side, and I think I have heard  
2 at least Commissioner Clark say something very similar in  
3 one of the agendas over the last year, perhaps in regard to  
4 one of the changes that FP&L proposed, there needs to be  
5 some certainty.

6 I think the setting of cost effectiveness and the  
7 numbers that are used and the projections that are made is  
8 not an exact science, and I think we all recognize that  
9 there are a number of uncertainties, particularly in using  
10 the RIM test, that don't work over, you know, sort of a  
11 reasonably short to medium period of time, but I don't  
12 think that's a failure of the rule. I think that has to do  
13 with how the rule is being implemented, and I think that  
14 might be something that we would ask the commissioners to  
15 resolve in whatever order they make as to allow the  
16 utilities to run these programs for a certain period of  
17 years or until it drops to some, you know, significantly  
18 different level of cost effectiveness.

19 MR. BRYANT: From Tampa Electric's perspective --  
20 My name is Howard Bryant. Gail, even if you had a T-shirt  
21 and had been there, mine has shrunk, and it is either a  
22 function of the material or a function of my growth, but it  
23 doesn't really fit any more, so you are not really missing  
24 anything.

25 We have been encouraged by the opportunity to



1 discuss the rule revisions possibilities here, and I think  
2 in general what we are hearing is a desire to take a look  
3 at the process, absolutely for sure, because whether it be  
4 33 months or 24 months or longer than that, you know, we  
5 would want to spend less time, certainly less resources in  
6 doing that.

7           The comprehensive review that Charlie talked  
8 about did occur, and it was a good review. Has that list  
9 of measures from a technical perspective increased? I  
10 doubt seriously that it has, but again, reiteration is  
11 here, the fact that we are doing our R&D efforts with  
12 various technologies. We believe we are looking at those  
13 things that could be turned into possible programs and, in  
14 fact, meet perhaps what the marketplace is wanting. And  
15 when we look at what our plan is right now and relative to  
16 what it had been when we had the, quote, word goals, I  
17 think the plan does do justice to what the marketplace has  
18 wanted.

19           A case in point being our heating and cooling  
20 program as an example. We took the rebate away for about a  
21 two-year time period in the late 80's, early 90s, and no  
22 more heat pumps were going in, yet we recognized that to be  
23 a valuable resource toward DSM in an overall integrated  
24 resource process. So in order to curb the installation or  
25 the retention of strip heat, we had to put the rebate back

1 in; and, in fact, we are now seeing the heat pumps  
2 continuing to be put in, not to the extent that they used  
3 to be, the market is dwindling, you can only get so much;  
4 nor can we plan when these units will break, nevertheless,  
5 they do continue to go in.

6 We look at it more from a marketplace driven  
7 perspective. We think that is a good way to approach  
8 things. We believe that the narrative process from a goals  
9 perspective is a good thing to do. I'm a layman. There is  
10 an attorney here with us someplace. He can argue whether  
11 it meets the statute requirement or not. He is here. He  
12 didn't leave, did he? Maybe he did. I'm on my own. Can I  
13 get a retainer?

14 MS. KAUFMANN: Maybe.

15 MR. BRYANT: But, you know, we would support an  
16 effort to take a look at what measures ought to work into  
17 an evaluation process. We would support continuing the RIM  
18 evaluation methodology as well, and I think we can sit in  
19 the room, and I think we can come up with some measures  
20 that are reasonable to be evaluated and that can serve a  
21 purpose, both for the utility and for the marketplace, and  
22 so we look for the opportunity to do it. And if option  
23 three down here is the one that will work for us, then we  
24 would support it.

25 MR. BALLINGER: Howard, do you -- Do you all

1 think or does TECO believe that maybe a rule modification  
2 is necessary to get rid of the numeric goals?

3 MR. BRYANT: I think the rule itself, if I'm  
4 reading it correctly, requires currently numeric goals.

5 MR. BALLINGER: Right.

6 MR. BRYANT: Yes. And so if we were to have the  
7 word goals, I would expect there to be a need for some  
8 change.

9 MR. BALLINGER: Okay. So the answer to my  
10 question, does TECO think that might be a reasonable effort  
11 to obtain?

12 MR. BRYANT: Oh, to get there you mean?

13 MR. BALLINGER: Uh-huh.

14 MR. BRYANT: I'm not sure. I would be willing to  
15 start down that road.

16 MR. BALLINGER: Okay. Go ahead, Vicki, I'm  
17 sorry.

18 MS. KAUFMANN: That's okay. I'm not sure where  
19 we are in terms of the numeric versus the word goals yet,  
20 but one thing I need to respond to is we would be very  
21 concerned with conservation programs remaining in place and  
22 being paid for by ratepayers that are not cost effective.  
23 I think that we can argue over whether or not numeric goals  
24 are or are not required by the statute. I don't have a  
25 position on that right now, but I don't think we can argue

1 about the fact that the statute requires any conservation  
2 programs to be cost effective, and so we do have a problem  
3 seeing programs continuing to remain in place that the  
4 utilities themselves are acknowledging are not cost  
5 effective; and as we go through this process, I think we  
6 should take a look at that. Whether it's a function of the  
7 time line or the way goals are set, I'm not sure about, but  
8 I think that one responsibility of the Commission is to be  
9 sure that any programs that the ratepayers are paying for  
10 are cost effective.

11 MR. McGEE: My name is Jim McGee with Florida  
12 Power, and I concur with what Vicki was saying and in  
13 particular with Charlie's comments earlier. I thought that  
14 was a pretty comprehensive view of how we've gotten to  
15 where we are with some of the problems. We concur with  
16 that.

17 I just wanted to kind of focus on the thing that  
18 particularly is troublesome to us. It's kind of a  
19 flexibility notion, and Charlie made the point that having  
20 the numeric goals is not really helping the overall  
21 conservation efforts by the utilities. I think he could  
22 make the argument even going beyond that, that might  
23 actually be counterproductive. We've got a situation where  
24 the actual program managers have to monitor the day by day  
25 or certainly year by year changes in both costs and the

1 benefits that these programs provide, and we also have  
2 gotten one of the infamous Ballinger letters, and it kind  
3 of highlights the problem that utilities find themselves in  
4 because you set a static goal at sometime in the past that  
5 progressively, as we go out through the five-year period,  
6 becomes more and more out of date. It certainly has the  
7 potential to do that, and I think it's a fact that the  
8 whole -- of course, right now that is exactly where we are.

9           And we need to monitor our programs and keep them  
10 continually cost effective, and that we think ought to be  
11 the overriding objective, but because we have this goal and  
12 the potential threat of penalties for not achieving that  
13 goal, we are sort of faced with mixed signals; and it  
14 diverts the energy and the efforts that I think our folks  
15 ought to be applying towards making sure that the programs  
16 are providing the most in the way of cost effective  
17 benefits. And I just think that is an underlying problem  
18 that is inherent in numeric goals. It might be possible to  
19 modify the rule in a way that minimizes some of the  
20 problems, but I think that is a defect that is always going  
21 to be there no matter what is going on, as long as we have  
22 numeric goals of some form.

23           Mike, do you have anything you want to add?

24           MR. JACOB: Just a lot of -- Mike Jacob,  
25 Florida Power Corporation. A lot of the words thrown out

1 today are some of the words in my notes: The existing rule  
2 has been very time-consuming, cumbersome, inflexible, for a  
3 host of reasons.

4 Jim pointed out the problem, just, you know,  
5 programs change the cost effectiveness over time. Well,  
6 the implication is goals change cost effectiveness over  
7 time also. And the process, I think the process is almost  
8 somewhat backwards. We go through an IRP process to look  
9 at measures and determine a goal. We then go through  
10 almost the IRP process over again to do cost effectiveness  
11 on a set of programs, and if there is any modification, I  
12 think FPL's number 3 is somewhat trying to bring that  
13 together in saying, if we are going to set forth and the  
14 utility is going to do an IRP process, maybe we should go  
15 all the way and get the programs out of it and let those  
16 programs become a basis for any type of goals.

17 But certainly, I think we are in favor of trying  
18 to repeal the rule. Possibly word goals would be fine. I  
19 look at the 1989 to '93 period, and I don't see where DSM  
20 stagnated during that time. I still see all of the  
21 utilities are doing quite a bit of effort in implementing  
22 programs.

23 MS. ELDER: Marsha Elder, Project for an Energy  
24 Efficient Florida, and for those who do not have the  
25 infamous T-shirt, our project works on a range of energy

1 issues and particularly focused on efficiency and renewable  
2 energy resources, and we also coordinate a statewide  
3 coalition of groups that are environmental, consumer  
4 organizations and other organizations that are concerned  
5 about energy issues. And we, the conservation goals, we  
6 were active participants in the prior dockets, and this is  
7 an issue of great concern to our various organizations. As  
8 was pointed out to me when I came in the room, I also am a  
9 member of the club of three that has the original T-shirt  
10 from the original docket on conservation goals and have  
11 the, I don't know if it's the happy distinction, of having  
12 worked on the statute in 1980 and prior to that that  
13 actually became the law setting the goals. So this is --  
14 from a personal standpoint, this is an area that I have  
15 special interest and longstanding involvement.

16           We were confused initially when we saw the  
17 question of should the rule be repealed given that the law  
18 requires the goals, and the broader statement of the  
19 question seemed to suggest that should the goals be  
20 abandoned which, of course, would conflict with the  
21 statute, and we wondered if this was part of the rules  
22 reduction effort that agencies have been asked to do in the  
23 last couple of years and now understand from the comments  
24 that this is actually focused on should there be numeric  
25 versus narrative goals. And on that question we are

1 strongly in favor of the numeric goals and would strongly  
2 object to returning to narrative goals.

3           Several comments in that regard, and I guess we  
4 are concerned by comments that have been offered by several  
5 of the representatives of the utility companies in saying  
6 basically that we are doing the same thing that we would  
7 have done had there not been these goals and that not much  
8 new is happening in the way of achievements under this  
9 which takes us back to, I guess, our original point in the  
10 last set of dockets that we need more aggressive compelling  
11 goals because we certainly need to be doing more in the  
12 area of energy efficiency and renewable technologies than  
13 less.

14           From a planning standpoint -- and I would say  
15 that our program is part of the American Planning  
16 Association, so we are very geared towards what makes good  
17 sense for planning for our state -- we regarded it to be  
18 peculiar at best to have narrative goals, and we believe  
19 that numeric goals are a very basic component of any kind  
20 of undertaking like this to be able to measure what you are  
21 doing and that properly implementing the statute as it was  
22 intended hinges upon having the numeric goals.

23           As for the process, we were there. We  
24 understand. It was a very difficult process, and it  
25 certainly is in need of improvement, and we believe that



1 workable changes and greater efficiency and making it  
2 easier for everyone and so forth is very possible and that  
3 the front-end investment has been made. Everybody has been  
4 through this, and a lot has been put towards -- you know, a  
5 lot of the work that has been undertaken paves the way for  
6 what could occur in the process ahead.

7           In terms of the costs, as was mentioned, an  
8 estimate of some five million dollars for the cost of the  
9 last round, we would suggest that not doing meaningful  
10 conservation goals costs way in excess of five million  
11 dollars as far as the impacts on our state. And I would  
12 reference that the energy advisory committee of the  
13 Governor's Commission for Sustainable South Florida  
14 completed its final report to the Commission in August and  
15 in it concluded after over a year of very intensive reviews  
16 and deliberations on a broad range of energy issues,  
17 including these kinds of issues, they concluded that  
18 Florida is not energy sustainable, and they set forth a  
19 number of facts and figures and bases for that. But one of  
20 the things that was referenced as an example that I think  
21 is interesting and so I'll mention is that even the  
22 country's oil and gas giant, the State of Texas, has  
23 undertaken a broad based initiative to become sustainable  
24 by incorporating renewable energy and energy efficiency  
25 into its strategies for energy development, production and

1 use; and I quote from the report that, "If Texas is worried  
2 about its sustainable energy future, it is all the more  
3 certain that Florida's needs are critical." And I think  
4 that we have fallen short of the mark of addressing our  
5 energy needs in this state, and the conservation goals is a  
6 very critical component of what needs to happen.

7           On the issue of cost effectiveness, in some  
8 respects cost effectiveness is in the eye of the beholders,  
9 and as the Commission is aware, we very much disagree with  
10 the current definition of what that constitutes with regard  
11 to utility issues. We believe that environmental and  
12 societal costs, they -- it's not a matter of we believe,  
13 they do exist. We believe they are extremely important.  
14 We believe that from the standpoint of the big picture on  
15 sustainability and where we need to be as a state to really  
16 look out for the public interest, that those things need to  
17 be attended to and that some of them should be accounted  
18 for in the cost effectiveness test. So it means little to  
19 us to say that certainly the measures are not cost  
20 effective when many of the things that are real costs and  
21 benefits are disregarded, so those are a few preliminary  
22 comments.

23           I know we are still on question one, and we have  
24 comments on some of the other questions as you go along,  
25 but I guess as far as question one is concerned, we would

1 hope that the focus would be on looking at how to make the  
2 process work well, learn from the past, move forward with  
3 it, not should we do the goals or not should we do  
4 narrative -- or I mean numeric goals, so those are a few  
5 initial thoughts.

6 MR. FUTRELL: Any other comments on question 1?  
7 Jim?

8 MR. TAIT: I guess I feel compelled to make some  
9 comments. I have to though preface my comments to say that  
10 I have not discussed this issue at all with either the  
11 Governor or the Governor's office, my secretary or anybody  
12 else, so these comments are directly from me and my  
13 personal experience and some of my suggestions and do not  
14 represent any official position of anybody beyond myself.

15 I'll be frank, I never was supportive of the  
16 numeric goal rule at the Public Service Commission the way  
17 it was adopted and implemented. I think Charlie and Gail,  
18 and everybody here at the table has adequately described  
19 what happened the last time around, and I don't think any  
20 of us want to see a repeat of that. I guess I liken this  
21 kind of to a Keplerian in view of the universe, you know,  
22 back in the 15th century where the earth was the center of  
23 the universe and they had to make all sorts of adjustments  
24 to the rotations of all other heavenly bodies, including  
25 retrograde motions in order to show that the earth was the

1 center of the universe, and the same thing is happening  
2 here with the utilities as the center of the universe in  
3 that case and your having to make adjustments to all sorts  
4 of natural and simplistic phenomena to try to do that  
5 through the regulatory system.

6 I would rather prefer some more Copernican kind  
7 of solution to say, well, maybe the sun is at least the  
8 center of our system and it solves a lot of problems in  
9 trying to compute and calculate orbits of various kinds of  
10 activities. And I think the Public Service Commission  
11 itself has to, as a commission, recognize that its  
12 responsibilities are not solely fixed and focused on an  
13 individual utility regulatory structure, that it has under  
14 some newer laws that have been established, certainly in  
15 the 1980 FEECA law but then amended recently, it has under  
16 (6)(a) in the law that you have here, 366.82(6)(a),  
17 notwithstanding the provisions of 377.703, which happens to  
18 be one of the guiding statutes to my office, the full  
19 responsibility and the exclusive responsibility in  
20 preparing all reports, information, analyses,  
21 recommendations, materials related to consumption,  
22 utilization or conservation of electrical energy which are  
23 required or authorized by 377.703. It has responsibilities  
24 beyond purely rate regulation or regulating an individual  
25 utility. There may be a problem in the statute where the

1 conservation goals docket got focused on subsection 3 where  
2 it says you've got the big hammer and you can hammer your  
3 individual utilities and individual programs, so in order  
4 for the Public Service Commission and its staff to create  
5 that kind of a hammer, you've got to go through what I  
6 think is a perversion of a process. And I think what we  
7 attempted to do back in '92 and '93 with the SRC study is  
8 not modeled that differently than option 2 presented by  
9 Florida Power and Light, which was to give windows of  
10 opportunity for discussion to set forth a statewide kind of  
11 technical study and information that everybody then could  
12 work off of and all of the other myriad of opportunities  
13 that Charlie adequately outlined that you have to hammer  
14 individual utilities on individual programs and use the job  
15 owning effect, which I think is very appropriate; but to  
16 try to then back all that stuff up and try to create this  
17 kind of goals -- kind of individual utility goals docket  
18 has really not helped.

19 I don't want to get too far on the soap box, but  
20 I really think that as you go about looking at this, I  
21 think the example of this workshop and meeting itself, we  
22 are not meeting on the goals rule or a way to create some  
23 sort of either aspirational or specific goals for energy  
24 conservation, electricity conservation or gas conservation  
25 in the State of Florida as specifically outlined in Chapter

1 366, the FEECA Act. We are meeting on four individual  
2 dockets with four individual utilities. We don't have two  
3 other FEECA utilities here that would certainly be affected  
4 by this discussion here. We don't have any of the gas  
5 utilities here that would be affected by the discussion,  
6 and frankly, we don't have the other 47 utilities that  
7 ought to be affected by the Public Service Commission goals  
8 and activities in the area of conserving electric and gas  
9 and energy resources in Florida.

10           Although you don't have necessarily a direct  
11 regulatory hammer in that sense on those utilities, you  
12 certainly ought to be providing, according to the law, some  
13 sort of guidance and information certification to the  
14 citizens of Florida and the utilities and the organizations  
15 that attempt to deliver energy services in Florida. And I  
16 think as the discussion over restructuring and reregulation  
17 and all this sort of stuff comes up, more and more the  
18 focus and the function of the Commission and its staff are  
19 going to be focusing on providing adequate information,  
20 certifying appropriate information, dealing with broad  
21 policy bases and not individual regulatory market  
22 decisions. Now that's not to say that you won't play a  
23 role in some of those individual market decisions, but I  
24 think you need to look at the broader policy and focus on  
25 the broader policy. And I certainly would be more than

1 supportive to help assist the Commission and its staff and  
2 anybody else to take it up through our executive structure  
3 to amend either your rule or go beyond and amend the  
4 statute itself, the base law that you're trying to operate  
5 off of to try and make sense out of all this.

6 I don't think a repeat of the experience of the  
7 '94 effort is necessarily going to be helpful. I don't  
8 think a repeat of the experiences of the '92 and '93 SRC  
9 study would not be helpful. I think it is helpful every  
10 five years, as ordered by the statute, at least every five  
11 years -- by the way, it could be done more often. It  
12 doesn't hurt to get some common information and to provide  
13 windows of opportunity for discussion among and between  
14 various groups as to where the state policy ought to be  
15 going in the area of energy conservation. I think though  
16 the changing structure of federal regulation on a fine  
17 standards, changing energy code and energy rating system  
18 structures for building codes and all of that, which we  
19 have actively pursued jointly with the Public Service  
20 Commission staff and utilities with a lot of support are  
21 very viable alternatives to specific utility programs, and  
22 they recognize those viable alternatives in the program  
23 adjusting. You know, you no longer give a credit for a  
24 CR-10 air conditioner or any rebate for it because you  
25 don't have to. I mean it's the law of the land now. So,

1 you know, those kind of things evolve and develop, and I  
2 think you need to provide a system that that could be done  
3 within.

4 MR. FUTRELL: Any other comments?

5 MR. FLOYD: I'm Roland Floyd. Do you plan to do  
6 another SRC study, or do you have any suggestions on what  
7 to do about SRC studies?

8 MR. TAIT: Well, as I look at option 2 offered by  
9 Power and Light, that is not too dissimilar from kind of  
10 the experience we went through with the SRC study. If you  
11 didn't do it at an individual utility level but rather have  
12 the Commission try to do it at a -- like we did SRC, of  
13 everybody sitting at the table and periodically saying,  
14 okay, this is a window of opportunity to discuss and solve  
15 and settle this particular issue and walk it through; and  
16 we found out every six weeks to two months, and it kind of  
17 gets outlined here interestingly enough, Charlie, by your  
18 work here at Power and Light, that there are some nice  
19 decisions that are discreet that can be made to move  
20 everybody forward to the next level of the process and to  
21 do it in a consensual manner. I mean I don't think it has  
22 to be necessarily deeply adversarial. There are debates  
23 and differences in discussion, but generally we found  
24 through the SRC study that we got pretty broad consensus  
25 among most of the approaches and leading up the details and



1 the regulatory adversarial fight for where it should be,  
2 which is in a program design structure and activity, not  
3 necessarily in developing baseline information that  
4 everybody is trying to work off of.

5 MR. FLOYD: I'm just wondering for your own  
6 purposes, was your office planning or had any thoughts  
7 about doing another potential study?

8 MR. TAIT: Not to my knowledge, but we certainly  
9 would be not -- we certainly would not be adverse to  
10 working with the Commission if the Commission felt that a  
11 study was needed and necessary and would help forward their  
12 goals under the statute and help forward their activities.  
13 Our office is really now focused much more, and we even  
14 were back then in '92 when we started all of this, working  
15 with the relevant state agencies, Department of Management  
16 Services on state facilities, the Commission on electric  
17 and gas policy, and that to help support any kind of  
18 activities along that level. We are not out there, you  
19 know, doing our own thing independently. We are really  
20 trying to work hard with what we see as our partners and  
21 support what our partners want to do recognizing that  
22 clearly under this statute you guys have got the exclusive  
23 responsibilities.

24 MR. FUTRELL: Any other comments?

25 (NO RESPONSE)

1           MR. FUTRELL: Okay. I've got a question. One of  
2 the concerns that staff has, you know, we think that the  
3 program on an ongoing basis should be cost effective, and  
4 the concerns you all have expressed is the flexibility  
5 problem and that while we have cost effective programs  
6 attempting to meet this goal we are not sure if the goal on  
7 an ongoing basis is cost effective.

8           MS. SWIM: When you say cost effective, you are  
9 saying purely RIM, right?

10          MR. FUTRELL: That's the current standard.

11          MS. SWIM: Well, okay.

12          MS. KAMARAS: We would argue that it is not the  
13 current standard based on the wording in the Commission's  
14 order.

15          MS. SWIM: Yeah, the Commission's order didn't  
16 say that.

17          MR. TAIT: It is a standard.

18          MS. SWIM: The Commission's order said we are  
19 setting RIM based goals and we expect them to be met  
20 pass/fail, and the utilities are free to pursue and, in  
21 fact, encouraged to pursue TRC passing programs, so we  
22 disagree.

23          MR. FUTRELL: Right. With having something like  
24 Jim alluded to as far as aspirational goals, would that  
25 allow more flexibility given the changing circumstances of

1 program costs and measurement issues?

2 MS. NEYMAN: You have to probably explain it a  
3 little more.

4 MR. FUTRELL: As far as having a firm number that  
5 is plugged into the planning process, having a number that  
6 is generated by the programs and moves as the program  
7 performance and program costs and benefits move.

8 MR. JACOB: You said firm number, and I think  
9 that is the connotation that --

10 MS. NEYMAN: You said aspirational too in there.

11 MR. FUTRELL: Right.

12 MS. NEYMAN: But you didn't mean necessarily a  
13 number, you're saying it's more driven by -- or it's driven  
14 by program numbers.

15 MR. FUTRELL: Driven by the program savings,  
16 projected savings.

17 MS. NEYMAN: Okay.

18 MS. SWIM: Can you repeat what you just said?

19 MS. NEYMAN: We sort of like that, I think, what  
20 you're saying, but you might want to clarify it.

21 MR. FUTRELL: I'm just trying to throw out an  
22 idea of given the concerns about the current goal numbers  
23 or fixed numbers, and Jim alluded to like an aspirational  
24 goal -- I'm not sure what all his thinking about getting to  
25 there is -- but just an idea of having goals driven by

1 projected program savings; and as opposed to having those  
2 necessarily fixed numbers that have to be met, that those  
3 numbers would be targets but they could potentially move  
4 depending upon program performance, program costs and  
5 benefits and that new programs need to be brought in.

6 MS. KAMARAS: That's not a goal. That's playing  
7 football where the players decide how many yards there are  
8 in a down and they move the goal post up or back depending  
9 on how they are doing. That's not a goal.

10 MR. FUTRELL: Okay.

11 MR. GUYTON: Well, it's not a numeric goal.

12 MR. FUTRELL: I think our court reporter needs a  
13 break, so we'll take about 10 minutes and give everybody  
14 else a break too.

15 (BRIEF RECESS TAKEN)

16 MR. FUTRELL: Okay. Let's get started. If  
17 anybody doesn't have anything else to add on to number 1,  
18 we'll move on to question 2; and if anyone has any comments  
19 or responses on that question, we can get things started.

20 MR. BRANDT: I guess -- Mark?

21 MR. FUTRELL: Yes, sir.

22 MR. BRANDT: We are not -- you know, you have to  
23 understand the methodologies being suggested, and without  
24 being able to understand it, it's kind of hard to comment  
25 on whether we agree or disagree.

1 MR. FUTRELL: All right. Part of the concern  
2 that stemmed from this is about the measurement to verify  
3 kW savings assumptions and that part of what has to go into  
4 that is end-use metering, and particularly as you all, you  
5 know, discussed that for CI programs it can be a pretty  
6 expensive process. And you have to consider costs in that,  
7 and that for determining energy savings that appears to be  
8 at least a little more of a less resource intensive process  
9 than demand savings, at least it appears to us. And this  
10 would get around the need to do as intensive of  
11 verificational demand savings, and that's part of where  
12 this came from.

13 MR. JACOB: But, Mark, I think --

14 MS. KAMARAS: That doesn't --

15 MR. JACOB: The verification sometimes, we  
16 usually think of comment after the fact when programs are  
17 in place, and this is -- this seems to be getting more  
18 towards setting goals or the kilowatt hour goals would be  
19 determined and maybe -- I almost read it being determined  
20 in a rigorous fashion, and then we use a load factor  
21 calculation to get kW. I mean if we look at the last time  
22 around it was more of a rigorous, probably more engineering  
23 modeling based method of coming up with kilowatt hours and  
24 kilowatts, and I think from Florida Power's standpoint,  
25 looking at it from that goals perspective, our statement

1 was we felt the goals should be based upon RIM cost  
2 effectiveness, a lot like we did last time, and that both  
3 kW and kWh are real important parts of that. kW being very  
4 important, as much or if not more important than kWh, and  
5 so both of those should be determined fairly rigorously  
6 instead of just one left to a simple load factor  
7 calculation.

8 MR. BALLINGER: Maybe part of it is we, and maybe  
9 wrongly, we felt more comfortable with estimating kWh  
10 savings because that can be more attributed in billing  
11 analysis and this type thing than predicting kW savings  
12 even though I understand kW drives your RIM cost  
13 effectiveness. So from that we had more of a comfort  
14 level, if you will, looking at projections of kWh savings.  
15 Now that may or may not be the case, I'm not sure.

16 MR. BRYANT: I would think maybe not. I think  
17 our confidence in knowing or getting as close an estimate  
18 to reality as possible comes from understanding, or  
19 determining the demand component, certainly from a low  
20 management perspective as an example, you know, the load  
21 that you get. I'm not sure if billing analysis is  
22 necessarily the thing to hang your hat on to develop energy  
23 and then back into, if you will, a demand component based  
24 on load factor.

25 MR. JACOB: Also I think the load factor is

1 usually -- I think of a system load factor, especially if  
2 you've got one number here, and the relationship between  
3 kilowatt and kilowatt hours can be greatly different for  
4 different type of programs and measures. I'm sure that the  
5 load factor associated with kilowatt hour and kilowatt  
6 savings for load management is greatly different than it  
7 would be for, let's say, insulation programs, a wide range  
8 of estimates.

9 MR. SPANGENBERG: In fact, we hope they are  
10 different. We hope that most of our programs have an  
11 inverse look of load shape, compared to our system load  
12 shape, rather than the same load shape. I don't know if  
13 that makes sense, but you want the demand reduction  
14 hopefully to be much greater than standard kilowatt or load  
15 shape would give you. You want a program that gives you a  
16 greater leverage of that demand reduction to avoid the  
17 additional capacity savings when there is capacity  
18 additions.

19 MR. GUYTON: And of course that's where your  
20 benefits are regardless of the tests that you're using,  
21 other than participants, I mean demand savings. Whether  
22 you are looking at RIM or TRC are still developed --

23 MR. SPANGENBERG: Tom, I appreciate your comments  
24 with regard to trying to answer the competence in savings.  
25 I think maybe some thermal envelope types of programs there

1 may be a greater competence in kilowatt hours. On all of  
2 your other programs, particularly some load management type  
3 programs, we would have much greater confidence in the kW  
4 response than we would on a kilowatt hour type response.

5 MR. BALLINGER: Well, I think two and three kind  
6 of go to together. And that's -- and I understand what  
7 you're saying because you do have the confidence in the  
8 load management demand numbers. We are trying to find  
9 another way to simplify the process basically. Instead of  
10 looking at measures and stuff, let's combine them and let's  
11 get a kilowatt hour number that we're pretty certain we  
12 want to obtain, and then from there back out the kilowatt  
13 number and go at it.

14 MR. BRANDT: I guess our feeling is, you know,  
15 there is not a problem with that, but I guess the way you  
16 would back up the kilowatt number would be whatever falls  
17 out of the RIM test as opposed to using a load factor.

18 MR. KAMARAS: Yeah, one of our questions was how  
19 would you use, or how is the utility system load factor,  
20 how would that work? How is it relevant to what you were  
21 proposing to do here? This question was not clear to us.

22 MR. BALLINGER: We're, at least why we are here,  
23 we are still learning about it, if that helps. Really  
24 where this is going I think it's an idea to try to have  
25 like a conservation load factor, if you will, more matching



1 the utility system to do as Ted said, to inversely look at  
2 your utilities load system, you want to be a conservation  
3 that is inverse to that to try to get the biggest bang out  
4 of it; and it's also a way to hopefully simplify this long  
5 arduous process going through measure by measure. We can  
6 just, you know --

7 MS. KAMARAS: How does the load, system load  
8 factor and the load shape, how do you see those  
9 interrelated?

10 MR. BALLINGER: Nothing, in that it just gives an  
11 indication of individual utility shapes, that they have  
12 different load factors on their systems based on the types  
13 of customers they have so that their kilowatt demand goal  
14 would reflect that.

15 MR. SPANGENBERG: I don't know if -- The  
16 question from Gail was basic, but the system load factor is  
17 a simple arithmetic calculation from the load shape, so  
18 once you know one you know the other.

19 MR. KAMARAS: Great. Why would you use the one  
20 instead of the other, or how would you use them together to  
21 more effectively do what this question sort of suggests?

22 MR. SPANGENBERG: And I don't think you can,  
23 frankly.

24 MR. BALLINGER: I think what we were trying to do  
25 is focus on getting a kilowatt hour number of savings we

1 want to get using just the system load factor of a utility  
2 to recognize the individuality of utilities to come up with  
3 a kilowatt number. It's a simple calculation. It may not  
4 produce the most ideal results, but we are just throwing it  
5 out as a way to help maybe get through the process, it's to  
6 get us as close as to where we would be if we went through  
7 the whole arduous process of identifying measures, that's  
8 what we're trying to find out.

9 MR. GUYTON: And I think we probably have a lot  
10 better data now than we had four years ago in terms of  
11 trying to identify that type of data. There is more  
12 end-use monitored data. There is less reliance on  
13 engineering, pure engineering assessments, than there would  
14 have been three or four years ago.

15 MR. JACOB: I think even the engineering  
16 assessments should give you a better kW number than  
17 applying a load factor calculation which is in a real  
18 simple engineering sense.

19 MS. NEYMAN: The programs are just so different  
20 that that would be -- you know, there is a lot of  
21 difference in the individual program's load shapes, so you  
22 could end up with, you know, a goal that would be maybe  
23 easy to achieve versus one that might be difficult to  
24 achieve just depending on the programs and how they  
25 actually fall out.

1           MR. BRYANT: I would think the stability of the  
2 measures over time that have been around for a while  
3 indicates what Mike is saying, as well as the R&D that you  
4 do is to be done to find out what is some potential demand  
5 reductions achievable through that measure, and so it keeps  
6 pointing toward knowing your demand, knowing it confidently  
7 up front and then identifying what the energy would be from  
8 that, either historical confidence or the R&D, new  
9 measures.

10           MR. FUTRELL: Let's move on to question 3, which  
11 is should demand and energy goals be adopted that exclude  
12 load management, real time pricing, and any other  
13 dispatchable program.

14           MS. LAMPI: Can I ask you a question first? I  
15 apologize, I'm from New York, and sometimes the phrases are  
16 not cross state line appropriate, but by load management,  
17 do you mean programs that are dispatched by the utility or  
18 that the consumer uses pricing signals to change their own  
19 load?

20           MR. FUTRELL: It would be both. Load management  
21 would be where the utility controls flow of electrons.

22           MR. HAFF: Through a device.

23           MR. FUTRELL: And the real time pricing would be  
24 the information that's provided to the customer, and they  
25 can see --

1 MS. LAMPI: So by load management, you mean  
2 simply controlled by the utility?

3 MR. FUTRELL: Correct.

4 MS. LAMPI: It doesn't incorporate the --

5 MS. NEYMAN: But real time pricing is one where  
6 you use a pricing signal to do the same thing.

7 MR. BALLINGER: Right, the customer controls it.

8 MS. NEYMAN: Customer controlled.

9 MS. LAMPI: So I mean technically speaking real  
10 time pricing isn't dispatchable, at least from a utility  
11 perspective.

12 MS. NEYMAN: That's right.

13 MS. LAMPI: There is no utility control at the  
14 point at which the choice is made; the utility's choice is  
15 ahead of time.

16 MR. FUTRELL: That's correct.

17 MS. KAMARAS: And other dispatchable programs,  
18 are you also including in there the curtailable  
19 interruptable that some of the utilities have but others do  
20 not?

21 (MR. HAFF NODDED HEAD AFFIRMATIVELY)

22 MR. JACOB: I still have the question is why  
23 exclude them?

24 MS. KAMARAS: Sorry, Mike, didn't hear your  
25 question.

1           MR. JACOB: I just had the question of why  
2 exclude them. If you are going to set goals, why are we  
3 setting goals on pieces of conservation programs?

4           MR. BALLINGER: Again, this one goes along with  
5 two, and this is really back to an old problem of the  
6 belief that a lot of these are used for competitive  
7 purposes more than conservation.

8           MS. ELDER: For what purposes?

9           MR. BALLINGER: For competitive purposes, and we  
10 are all aware that's been a feeling that's been around here  
11 for several years, so what we are wondering is you all have  
12 got incentive to do these, you've got control over them,  
13 you know, and you feel comfortable with them as far as  
14 using them. Do we need a goal for you to go out there and  
15 achieve them anyway? You know, so maybe that side of it  
16 where the utility truly has the control and has the comfort  
17 level of the kW that they are going to get out of it, do we  
18 need a goal to go do that? I mean you all should be doing  
19 that anyway kind of a thing, and that may be a reason to  
20 segregate these out of setting goals above and beyond.

21           MR. JACOB: When you say we have a comfort level,  
22 I mean we have a comfort level with doing duct repair. We  
23 have been doing that for years and years and years.

24           MR. BALLINGER: Well, at least with this you've  
25 got a comfort level that you control it. You don't really

1 have to worry so much about market factors and things of  
2 that nature of the program going on.

3 MR. HERNANDEZ: What do you mean by that, Tom?  
4 Because, I mean we don't have any control whether a  
5 participant or a customer wants to be on a program. They  
6 could easily get off the program.

7 MR. BALLINGER: I know, but once --

8 MR. HERNANDEZ: I mean we only have control from  
9 an operations point of view. Is that what you mean?

10 MR. BALLINGER: That's more what I mean, is  
11 you've got the day-to-day operations, and you can control  
12 it; and even for probably two- or three-year projections  
13 you know what your dropoff rate is going to be and this  
14 kind of thing, you know, with your customers, and it's  
15 tailored with other programs as well.

16 MR. BRANDT: I guess I have two questions, one is  
17 are you proposing that we could not continue to offer these  
18 programs and receive ECCR recovery?

19 MR. BALLINGER: I think that might be the tone  
20 of it, that the cost of these would be rolled into base  
21 rate.

22 MR. BRYANT: I think you would find us all having  
23 difficulty with that, significant difficulty.

24 MR. BALLINGER: I don't doubt that.

25 MR. BRANDT: I guess my second question is, you

1 know, competitive, alleged competitive advantage that we  
2 have with these programs, I'm not sure I -- and I've heard  
3 the argument on the commercial side numerous times, but I  
4 haven't heard the argument being made on the residential  
5 side. You know, in FPL's situation we probably have more  
6 load management on the residential side than we do on the  
7 commercial.

8 MR. BALLINGER: I understand.

9 MR. BRYANT: I guess from a competitive  
10 perspective, the comments that Gail and her organization  
11 offered when we had written comments on the allocation  
12 docket I think probably fits here; and her comment went  
13 something like this: that if, in fact, these utilities out  
14 there are using load management as a competitive tool, they  
15 are darn sure not doing a very good job of it. And I just  
16 think it fits, and so it's -- you know, we do smile a  
17 little bit when we hear the discussion come up again, but  
18 that's a pretty fair estimate on what is going on.

19 MS. KAMARAS: That is unfair, Howard.

20 MR. BRYANT: We agree sometime on this stuff now.

21 MR. GUYTON: I guess I have a reaction too. I'm  
22 not sure that dispatchability, that is the umbrella that  
23 you are using to characterize these programs, and I suggest  
24 that perhaps that's not entirely accurate. It really is a  
25 defining characteristics that has much in the way of

1 meaning. I would think that if you are going to have  
2 numeric goals, and which we suggest are not needed or  
3 required, it would be hard to exclude them under FEECA  
4 because FEECA specifically refers to both rate programs and  
5 load control programs. So I think it would be hard to do  
6 it under the statute as it's written.

7 MS. NEYMAN: Yeah, I was going to say that, you  
8 know, FEECA encourages the weather sensitive demand  
9 reductions, and these programs are great in that regard;  
10 but also, they are flexible, that you can make changes to  
11 them, and there is not a lot of equipment investments  
12 necessarily that the customer has to make. They are easy  
13 for the customers to understand and, you know, there are a  
14 lot of nice features about these types of programs.

15 I agree the term "dispatchable" may be a little  
16 bit confusing. Just when we had our residential program,  
17 our advanced energy management program, when we were  
18 putting it in, there was some debate as to whether -- for  
19 cost recovery, and there was some debate -- I think, Tom,  
20 you participated with, I forget who else was involved with  
21 it -- about was that dispatchable or not, and it was a  
22 little unclear as to what the definition is of  
23 dispatchable. I don't know exactly what that is, but I  
24 think generally these programs are times where they are  
25 oriented to reducing demand, you know, weather sensitive



1 demand. So, you know, we have real time pricing, and then  
2 our advanced energy management program in the residential  
3 sector would also I think fall in this same category, and I  
4 just think they are really -- we get a lot of good feedback  
5 from customers about those programs.

6           And another point, too, talking about competitive  
7 pressures, you could really take all conservation and say  
8 it reduces the customers' energy outlay so, therefore, that  
9 makes us more competitive. You know, now granted, these  
10 are maybe a little more direct; but, you know, they  
11 actually -- If a customer goes out and makes -- Let's say  
12 we had some new technology that involved them to make a  
13 significant capital investment and it saved them energy, in  
14 some ways that ties them to us more so -- and that we've  
15 given a rebate or doing something with them, that some of  
16 those kinds of programs could tie them to us versus going  
17 with another competitor at some point in the future. So  
18 you get into the broad issue of conservation, all  
19 conservation really reduces the customers' power bills; so,  
20 therefore, you could say we could use it as a competitive  
21 tool. I don't think that you can single out these types of  
22 programs and target them with that kind of concern.

23           MR. BALLINGER: And maybe we are not -- I agree  
24 with you, and I think a lot of discussion here is that  
25 every conservation program, even attic insulation may be

1 competitive versus a gas alternative because you are  
2 lowering the bill and retaining that customer, whatever.  
3 Whether that is good or bad, that is a debate we'll have on  
4 until we all leave this life.

5 I think with these, what we are trying to do is  
6 just what you said, is that they are very demand intensive,  
7 typically, load management. They are the big ships in your  
8 portfolios, and you have the control over them on the  
9 operating day to day much less than you do with installing  
10 heat pumps and this kind of thing; and I think we are  
11 trying to move towards goals that should be getting you to  
12 pursue things you normally wouldn't do or that -- because  
13 they are beyond your control, and you have a little  
14 guesstimate and we'll give you cost recovery; but if it's  
15 something in your control, maybe it should be part of your  
16 rate base. You are going to be doing it anyway to get  
17 those savings to manage your whole system and optimize your  
18 system as you go through time. So maybe that piece needs  
19 to be pulled out, you know, from ECCR recovery and all that  
20 rolled into base rates and rolled out of the goals process  
21 as well.

22 MR. JACOB: Can't that be said about any other  
23 program?

24 MR. BALLINGER: I think the distinguishing factor  
25 is the control over the operation day to day of it. Yeah,

1 you control the marketing of your heat pump program or  
2 something like that, but you don't control that customer's  
3 lifestyle, and you've estimated what lifestyles would be at  
4 the savings you are going to get. Load management, you hit  
5 the bottom and you know what you are going to get and that  
6 kind of thing; and you use that more, I think, and can rely  
7 on it more in your planning in your day-to-day operating  
8 and optimizing your system, and it's going to be used --  
9 it's used today in broker quotes. You know, you can use  
10 load management to make a broker quote and this kind of  
11 thing, so it's used even on day-to-day competitive things  
12 to save money here and there.

13           That may be a distinguishing feature to now pull  
14 these aside, you know, roll them into your base rates and  
15 then set goals with these other nondispatchable, if you  
16 will, more market driven types of things.

17           MR. LAUX: Tom, a couple of questions, I guess.  
18 One, I'm not exactly sure of what you mean by the idea of  
19 things that -- distinguishing programs between what we do  
20 and what we would currently use or something like that.  
21 I'm not exactly sure what your thinking is there and what I  
22 heard. And then given that, drawing the philosophical  
23 equation between that and the process of trying to -- the  
24 ability of being able to set a fixed goal that's in a five-  
25 or ten-year time frame, it doesn't seem like those two

1 things stand together. It's something that -- I'm trying  
2 to build the analogy in my own head about something that I  
3 probably should do but I'm not doing now and I need a  
4 little, you know, a push. I need somebody to set a goal  
5 for that, but it's going to be set out there to attain in  
6 five to ten years, and I'm not exactly sure if that's what  
7 you're trying to get at. I thought that the programs there  
8 would be much closer, the one-year type time frames or  
9 something like that if you are trying to incent somebody to  
10 move someplace. But it's based off the idea, though I'm  
11 not exactly sure what you meant by the beginning comment of  
12 things that we're not doing right now, and that's what I'm  
13 not exactly sure of.

14 MR. BALLINGER: Well --

15 MR. LAUX: I may have misinterpreted what you  
16 were trying to get at.

17 MR. BALLINGER: Maybe things you wouldn't be  
18 doing now but for goals, if you will, and cost recovery of  
19 a program. And I guess maybe the belief is that a load  
20 management program you would be doing irrespective of cost  
21 recovery. I mean obviously some of your expenses would be  
22 in your base rates, but it's a program that you are very  
23 comfortable with, has a big impact, you know, you know the  
24 results of it. That may be something now that we've got  
25 enough experience with it to roll it in.

1 MR. LAUX: I guess then if -- This may be the  
2 cynical part of me coming out, but it sounds like anything  
3 that is not cost effective is what we should put a goal on  
4 and anything that is cost effective we should be doing it  
5 anyway. Is that what I'm hearing?

6 MR. BALLINGER: No.

7 MR. LAUX: Bob is saying no. He is shaking his  
8 head no, so I'm trying to --

9 MR. BALLINGER: I don't think so. I think it's a  
10 matter of cost recovery of it, the automatic cost  
11 recovery. The things of load management, you know, yeah,  
12 they change a little bit. They are not as dynamic as, say,  
13 an air-conditioning program or things of this where you've  
14 got market functions driving it as well and your  
15 contractors and what they are doing, and you are constantly  
16 revising those types of things. Load management, you are  
17 pretty certain of what you are getting, yes. You have to  
18 target market, but you can stop and start it, you know,  
19 relatively quick. You don't have to deal through  
20 contractors and this type of thing as much as you do, say,  
21 with another program.

22 I'll be honest with you, this is not, you know,  
23 my idea.

24 MR. LAUX: No, I understand.

25 MR. BALLINGER: Okay. I want to make that clear.

1 MR. LAUX: I have been hesitating in directing  
2 these questions to you. I tried to throw a couple at Bob.

3 MR. BALLINGER: And I think the two -- and I said  
4 earlier, questions two and three go together.

5 MR. LAUX: Right.

6 MR. BALLINGER: And that we would focus our  
7 attention on a kilowatt hour goal, you know, determine it  
8 back into a kilowatt goal but recognizing that load  
9 management and things, those have a different load factor  
10 for the system and all that. They need to be excluded from  
11 that goal if you use that type of a process and pulled out  
12 of the goal. That's why I say they go together recognizing  
13 that those types of programs have a totally different load  
14 factor than, say, an attic insulation program and things of  
15 that nature.

16 MS. LAMPI: If I could jump in and actually --

17 MR. BALLINGER: Sure. Help me? That would be --

18 MS. LAMPI: Give you some support for perhaps not  
19 looking at dispatchable, and I would refer to strictly  
20 dispatchable programs, programs where the use of them is  
21 under the utility's control as not falling within  
22 necessarily the intent of FEECA or needing automatic cost  
23 recovery, and it's because of the functions they serve the  
24 utility from an operations perspective in the same way that  
25 you have supply that you call on when you are approaching

1 peak. You have demand that you call on when you are  
2 approaching peak, and those serve operational  
3 perspectives. In fact, when I look at your system reserve  
4 margins, you're using interruptable load to meet the last  
5 several percentages of your required 15% reserve margins  
6 for these years and the next several; so in that  
7 perspective, I would imagine and I would agree with staff  
8 in expecting that the companies would be looking for  
9 interruptable load as the most cost effective way to meet  
10 their reserve margin requirements and, in fact, if you  
11 didn't, I would hope that staff would come to you and want  
12 to know why if, in fact, interruptable load is less  
13 expensive than adding new supply tomorrow. So I don't  
14 think that FEECA was intending to give you automatic cost  
15 recovery for programs that are necessary from an operations  
16 perspective simply because they are demand related. I  
17 think when demand related is the most cost effective way to  
18 pursue a safe and reliable system that it's reasonable to  
19 expect that you would do that.

20 MR. JACOB: All of our programs are somewhat  
21 demand related. I mean we put in an insulation program and  
22 a duct repair program in order to avoid future power  
23 plants.

24 MR. HAFF: But can you dispatch when it saves  
25 energy and when it does not?

1 MR. SPANGENBERG: Yes, we can because an  
2 insulation program is meeting much more of our reserve  
3 needs right now than interruptable loads, and an insulation  
4 program is constantly dispatched; it's always there.

5 MR. HAFF: But you can't turn it off and make it  
6 not save energy.

7 MR. SPANGENBERG: I would not need to, nor would  
8 I want to.

9 MR. HAFF: I think that's all we're getting at.

10 MS. NEYMAN: But why would that make a  
11 difference, if you could turn it off? I mean I guess  
12 that's hard to --

13 MR. HAFF: Well, what we are all saying is you  
14 have control over when you push the button for load  
15 management, each of you that have actual, dispatchable load  
16 management. I mean if it's cheaper than building a peaker  
17 and it acts like a peaker, you would do it anyway, would  
18 you not? I mean --

19 MR. JACOB: Well, we are doing insulation because  
20 it's cheaper than doing a peaker.

21 MR. HAFF: But you can't turn it on for two hours  
22 to save energy and then turn it off.

23 MR. JACOB: And that's why I'm kind of lost as to  
24 why the control element is such an important part of it. I  
25 see all these programs in a very similar fashion. I'm lost



1 on the control problem.

2 MS. KAMARAS: I think the argument, Mike, is that  
3 they cease to be conservation programs and that there  
4 really is another primary incentive on the part of the  
5 utility for doing them and that -- you know, especially in  
6 the case of the reliability in the reserve margin that  
7 there is clearly a different incentive for putting those in  
8 place.

9 I guess from our perspective, one of the concerns  
10 that I think I hear in the staff questions is the concern  
11 probably focused on the fuel switching aspects of these  
12 programs and concerns about incentives for load management,  
13 load control or curtailable interruptible programs where  
14 customers really are not experiencing any degree whatsoever  
15 of inconvenience for which they are being paid or incented;  
16 so that also goes to the question of what is the incentive  
17 and what is the function of the program.

18 MS. SWIM: Well, there was some discussion  
19 earlier about, you know, FEECA giving some directives to  
20 control demand, and that's true, but there is also clearly  
21 a directive to reduce consumption, generally to reduce  
22 energy. And some of these load management programs involve  
23 valley building as well as a reduction in peak, and if the  
24 valley building exceeds the reduction, then you clearly  
25 don't have conservation within the meaning of FEECA.

1           MR. JACOB: Well, that's if that's an and, energy  
2 and demand. It could be energy or demand.

3           MR. BALLINGER: And I would say, Deb, it doesn't  
4 matter if it passes a RIM test. I mean if it does that and  
5 it passes a RIM, from staff's perspective it wouldn't  
6 matter, and I know we disagree on that.

7           MS. KAMARAS: I guess our question is why should  
8 the utilities be incented to conduct load building  
9 programs? That's the basis --

10          MR. HAFF: They are not building load; they are  
11 shifting.

12          MR. BALLINGER: I agree, and we have looked at  
13 that.

14          MS. KAMARAS: What we are saying is if in  
15 shifting load they are also building load, if they are  
16 clipping the peak at 10 megawatts and they are filling the  
17 valley at 15 megawatts, that increment of 5 megawatts is  
18 load building, and it's not conservation, and why should we  
19 be paying for it?

20          MR. ELIAS: Can you give me an example of a  
21 program where that happens?

22          MR. BALLINGER: Energy storage (phonetics).

23          MR. BRANDT: But that's not dispatchable.

24          MR. BALLINGER: No, but a real time pricing  
25 program could do that.

1 MR. LAUX: But that's not generally dispatchable.

2 MR. BALLINGER: Well, I know, but Gail and a lot  
3 of us have that same feeling, that if it's not a  
4 conservation program maybe it shouldn't get cost recovery  
5 and, you know, Joe has had that argument for years.

6 MS. KAMARAS: And we would agree with that.

7 MR. BALLINGER: We've tried to look at it to see  
8 if that, in fact, happened. I think we came up  
9 inconclusive on that when --

10 MS. KAMARAS: Well, I think if you'll look at --  
11 pardon me, I don't want to start pointing fingers, but the  
12 1996 Conservation Compliance Report that was filed by Gulf  
13 shows them in the negative on gigawatt hour savings; and I  
14 would assume that some of that to a large part results from  
15 demand reduction that resulted in load building.

16 MR. BALLINGER: Well, they had a zero goal, I  
17 think, too for energy.

18 MS. NEYMAN: Actually, we have a dash.

19 MS. KAMARAS: They had a zero goal; they did not  
20 have a minus goal.

21 MR. BALLINGER: All right. Well, that's the  
22 thing.

23 MS. KAMARAS: But we did --

24 MS. NEYMAN: But we said -- in the goal setting  
25 process, we were up front saying that it did, in fact, not

1 have energy conservation.

2 MR. BALLINGER: I know, and we tried to look at  
3 that. I guess it's been a couple of years now that our  
4 management studies did an audit of DSM and the competitive  
5 nature, and we specifically looked at that: Is there any  
6 definitive load growth or increase in kilowatt hours or  
7 kilowatts before and after a customer went on a DSM  
8 program, like load management or something like that? We  
9 couldn't find it with any great certainty to say, yes, this  
10 program went in, and after this program, the customers load  
11 increased, so this program was used for load building. We  
12 couldn't come to that conclusion.

13 MR. GUYTON: In fact, I think you did them a  
14 disservice by saying it was inconclusive. Their conclusion  
15 was that it didn't happen.

16 MR. BALLINGER: It didn't happen.

17 MR. SPANGENBERG: That's right, did not happen.

18 MR. BALLINGER: Now that's not to say that it  
19 does. I mean there are still some cynics that still think  
20 it's there.

21 MR. LAUX: Well, there are still people who  
22 believe the world is square.

23 MS. NEYMAN: Or the center of the universe is the  
24 earth.

25 MR. BALLINGER: Yes.

1 you've got demand going on -- reductions going on with your  
2 programs, so is that bad?

3 MS. LAMPI: But let's not let the cost effective  
4 test drive the statute. The statute is supposed to drive  
5 the cost effectiveness test.

6 MS. NEYMAN: Yeah, but given -- if you forget for  
7 a minute the argument about cost effectiveness and if you  
8 were just going to say the RIM passing programs that the  
9 Commission used to set our goals last time, demand is  
10 integral to all of those, so it's almost saying to us,  
11 demand reductions are maybe not valued as much.

12 MR. HAFF: No.

13 MR. BALLINGER: No.

14 MS. NEYMAN: Because there is not a real good  
15 solid reason for excluding these, really. They -- you know  
16 we have some disagreement, but they are reducing weather  
17 sensitive demand and aborting generation. Now rolling them  
18 into the rate base versus putting them in the recovery  
19 clause, I don't know -- you know, to me it's almost from  
20 the standpoint of putting them in base rates something that  
21 we can start or stop. It almost to me makes it sounds like  
22 it ought to be in the recovery clause because it can be  
23 started up and shut down so easily by the utilities,  
24 compared to, say, some of our other conservation programs  
25 which are almost like an ongoing, by your definition, you

1 considered incentives.

2 MR. BALLINGER: I don't know that they are  
3 incentives, but they are reasons maybe that it needs to be  
4 pulled out.

5 MR. JACOB: If controllability is an issue, why  
6 did you include real time pricing?

7 MR. BALLINGER: I don't know. I will be honest  
8 with you, I have a different opinion of real time pricing,  
9 whether it's truly dispatchable or not, or is it a  
10 conservation program or not? That's still up in the air,  
11 so I think it was thrown out there to be conservative. I  
12 mean I wouldn't get too hung up on the specific programs  
13 mentioned, but I think the general feeling is that the  
14 program that is a large kW saver may not need to be part of  
15 the goals process any more. It's something you are going  
16 to do in this competitive environment to reduce, to meet  
17 your reserve margin criteria and these kind of things,  
18 let's roll them in base rates and be done with it.

19 MR. SPANGENBERG: I find that a very odd  
20 statement in light of the statute.

21 MS. NEYMAN: And also, to pass RIM, you've got  
22 demand savings almost, you know, to --

23 MR. BALLINGER: I understand.

24 MS. NEYMAN: So if you -- I understand there is  
25 a difference of opinion about RIM, okay, but given RIM,

1           MR. LAUX: I think I may have led us down this  
2 trail maybe the wrong way because I used the word  
3 "incentive," and I guess now we need to get back to the  
4 question of what is the incentive to a utility in a doing a  
5 demand -- What is the additional incentive to a utility  
6 in doing some type of a demand, DSM type program? The last  
7 time I looked for conservation cost recovery, all you do is  
8 you recover your costs. I don't believe there was extra  
9 dollars in there.

10           MR. BALLINGER: Well, on load management  
11 equipment you do get a return, I believe, on the equipment,  
12 it's minimal. I think the biggest incentive --

13           MR. LAUX: And the financing cost of it.

14           MR. BALLINGER: Right.

15           MR. LAUX: Yeah.

16           MR. BALLINGER: I think your biggest incentive is  
17 the fact that you can meet your reserve margin  
18 requirements, reliability requirements with something that  
19 is passed through dollar for dollar and not have a --

20           MR. LAUX: So is the incentive that you're able  
21 to recover your costs as compared to sticking it in a rate  
22 based item where you may or may not be able to recover?  
23 That's the incentive?

24           MR. BALLINGER: I believe so.

25           MR. LAUX: Okay. I didn't know that those were

1 know, type thing. To me it almost seems reverse to put  
2 this in base rates and not have an ECCR.

3           And we've got the -- The competitive issue has  
4 come up now in a variety of other dockets and, you know, I  
5 just don't personally think that this is the way to deal  
6 with a problem, a supposed problem that so far no one has  
7 really said was really a problem. We have had the audit  
8 and had other things that have been looked at and, you  
9 know, so that's --

10           MR. BALLINGER: I think these questions did the  
11 purpose they did, they got some responses back.

12           MS. ELDER: I have a further comment on this one  
13 too.

14           MR. BALLINGER: Sure.

15           MS. ELDER: And it goes back to the purpose of  
16 the statute, which was to reduce consumption, and that  
17 is -- from a consumer standpoint, that is our purpose, and  
18 we want to know, while load management is very important  
19 and should be included and acknowledged and so forth, we  
20 want to know what is happening from a true conservation  
21 standpoint. Several years back the House did a study that  
22 showed -- the House of Representatives did a study that  
23 showed most of what was happening that was being counted as  
24 conservation was, in fact, load management. And so it's  
25 important to us to make that distinction and for people to



1 understand what things are happening that wouldn't happen  
2 otherwise and that are what you would label, I guess, as  
3 true conservation efforts.

4 MR. BALLINGER: And I think it goes back, again,  
5 to the cost recovery issue. Typically your load management  
6 has very few lost revenues associated with it, very little  
7 energy. In fact, you may see an increase in energy and  
8 sales, and it has significant demand reductions, and that's  
9 something that you are probably going to pursue anyway.  
10 You don't need the benefit of cost recovery to pursue  
11 that. I mean cost recovery was really brought about  
12 because a lot of the conservation programs have lost  
13 revenues in them. I mean you lower the customer's bill,  
14 you are going to have lost revenues, so you need some type  
15 of a mechanism to offset that impact a bit, and maybe these  
16 types of programs don't require that extra treatment.

17 MR. JACOB: It's just not us pushing the button.  
18 I mean it's a partnership with the customer and the  
19 customer really has no incentive to be a part of a load  
20 control program without some type of incentive on the  
21 company also, and I think that makes these programs a  
22 little bit different also.

23 MR. BALLINGER: I agree. I'm the messenger on  
24 this one.

25 MR. GUYTON: May I add a couple of things?

1 MR. BALLINGER: Sure.

2 MR. GUYTON: I think in terms of -- I want to  
3 raise a practical issue on something that hasn't been  
4 focused here very much in the discussion. You used the  
5 phrase roll this into rate base several times. That in and  
6 of itself could be an issue that could be litigated that  
7 might have the magnitude of gold stock in itself. How and  
8 the extent to which you are going to try to incorporate  
9 that into rate base could be a very hotly contested issue.  
10 In fact, I would imagine it would be a very hotly contested  
11 issue and one of practical implementation that I think  
12 anybody ought to look long and hard at before they were to  
13 advocate such an approach.

14 I would really ask staff -- I mean I understand  
15 one of the drivers of this is a so-called competitive  
16 misuse of DSM. That's the way I'll characterize what I  
17 think is the argument that I've heard over time. I would  
18 really like staff -- I really urge you to go back and take  
19 a look at FEECA and your conclusion that the legislature  
20 and FEECA doesn't intend that DSM be used as a competitive  
21 tool. I think if you go back and look at the statute, the  
22 only fair reading of that statute is that it is completely  
23 neutral and indifferent to competition. It makes no  
24 mention of it. The attempts to amend it to make it refer  
25 to competition have been rejected by the legislature. The

1 legislative history of that statute would say all it's  
2 involved with, all it's concerned about is conservation,  
3 and it is totally indifferent to competition. That's a  
4 premise of the argument that we keep hearing that has never  
5 been critically examined. I don't think your legal staff  
6 has ever taken a look at it. But when you go back and take  
7 a look at it, that statute doesn't really support the  
8 premise that underlies the argument.

9           And I think the other observation that I would  
10 like to share is that there is a suggestion that this load  
11 control would have happened otherwise. I think the history  
12 may suggest just the opposite. Load control arose as an  
13 implementation of FEECA. Other than curtailable, which was  
14 in existence prior to FEECA, which generally hasn't been  
15 recognized as a DSM program, the load management programs  
16 that I'm aware of have arisen after FEECA and as part of  
17 the implementation of FEECA. I mean I think -- It's kind  
18 of hard to suggest that it's really not conservation. It's  
19 probably some of the best fruits of FEECA.

20           MR. BALLINGER: What I guess I'm suggesting is  
21 maybe FEECA has done it's job with that, that it's brought  
22 it to light, brought to market, you all are comfortable  
23 with it now, usually the customers are comfortable with it,  
24 and we know the real benefits of it I guess.

25           MR. GUYTON: And I don't really disagree with

1 that, but FEECA is still there, and it's hard to take  
2 something that has been recognized as a fruit of FEECA for  
3 15 years and say, oh, well, we were just kidding; that  
4 really is not conservation anymore.

5 MR. BALLINGER: Okay.

6 MR. BRYANT: Tom, I would think that if, in fact,  
7 we were to look at questions two and three together and we  
8 could, in fact, come up with some kind of a solution on  
9 question two, then if you go to question three and we move  
10 load management, we all might struggle just a tad bit to  
11 reach the demand component that comes out of number 2  
12 because if, in fact, we were to have some kind of demand  
13 established on number 2 based on the energy just to try to  
14 come up with a demand number, I think we would all want our  
15 load management to help contribute toward that demand. So  
16 I guess we could come up short on an annual basis then if  
17 we can't have load management.

18 MR. STONE: It also strikes me as odd that when  
19 the statute says that you are supposed to encourage load  
20 control systems, by the very nature of you saying we are  
21 going to roll those into base rates, you are no longer  
22 focusing on them. You are sending a signal to us that we  
23 shouldn't be doing it, and if that's not your intent, then  
24 your mechanism of sending that message sure is at odds with  
25 the statute.

1           MR. BALLINGER: No, I think it comes down to a  
2 matter of cost recovery. It's not whether it's bad, it's  
3 is it the level that requires that extra benefit, if you  
4 will, of cost recovery, of immediate cost recovery; and I  
5 think it goes back to the lost revenues involved. There  
6 may not be a significant amount there that justifies having  
7 a cost recovery.

8           I agree with you, Jeff. It says that in FEECA,  
9 you know, to encourage load control systems, and it also  
10 says the Commission may, you know, grant cost recovery; and  
11 we're still giving you cost recovery, it's just in a  
12 different place. So I mean that's really what we are  
13 arguing about here.

14           MR. STONE: Well, I can remember a time when  
15 certain programs because of the adoption of the model entry  
16 code became borderline cost effective, and they were  
17 removed from ECCR and put into base rates; and the goal at  
18 the time of the Commission seemed to be to reduce the  
19 emphasis on those types of programs. And so the signal  
20 being sent by the removal from cost recovery to base rates  
21 was these programs should not be emphasized, and so the  
22 signal that you are sending by what is being suggested  
23 today is sending a signal that these programs perhaps are  
24 not what we -- the direction we want you to be taking.

25           MR. BALLINGER: I don't think they -- They

1 don't warrant cost recovery. If the company chooses to  
2 continue to spend the money on it, that's their --

3 MR. GUYTON: You meant ECCR cost recovery?

4 MR. BALLINGER: Yes.

5 MR. GUYTON: Okay. You just said cost recovery,  
6 that struck fear in my heart.

7 MR. BALLINGER: No, and I don't think that has  
8 ever been the intention is to totally deny cost of these  
9 program.

10 MS. ELDER: I think it's important, again, since  
11 the number of people were not involved way back when to  
12 just acknowledge that the purpose of FEECA was to reduce  
13 consumption. It was a good number of years later, I  
14 believe in 1989, that the utilities -- certainly the  
15 utilities offered an amendment to add the control. So that  
16 came in as a small but very powerful change to that  
17 statute, which was focused on consumption; and I think  
18 that -- I don't interpret that you would be sending a  
19 signal that load control is not important; and, in fact,  
20 the rule could articulate that it is important and is part  
21 of this overall effort, but rather that the cost recovery  
22 and that the segregation, you know, in order to achieve the  
23 kind of thing we are talking about as far as really  
24 identifying what is the true conservation is the approach  
25 that you've chosen.

1           MR. FUTRELL:  If we don't have anything more on  
2 those two, let's try to get through four if that's okay  
3 with everybody, at least try to get through that one and  
4 maybe take a lunch break.  And this one has been alluded to  
5 a couple of times.  Should we do -- as we go down the road  
6 of establishing goals as pursuant to the rule, is an SRC  
7 study required?  What are the thoughts of the parties on  
8 performing another SRC study?

9           MR. JACOB:  I read the question sort of  
10 literally, should an SRC technical potential study be  
11 performed?  And as I went back to the SRC study, it defined  
12 technical potential as the maximum reduction in energy use  
13 of all of the potential market for which it is technically  
14 feasible to install the option or to adopt the DSM option  
15 immediately without regard for costs, esthetic, practical  
16 or institutional considerations.  I felt that this  
17 technical market potential study probably isn't worth doing  
18 and doesn't have a lot of meaning.  I know the last time  
19 around we focused on RIM cost effectiveness estimates, not  
20 on technical market potential estimates, and I'm not sure  
21 if that played any useful role in the process.

22           MR. BRANDT:  I think from our perspective we  
23 thought it served its purpose.  I guess, if anything, going  
24 through it one time made everybody aware what was out there  
25 and kind of helped set the initial baseline but, you know,

1 it's not worth going back spending time and money again to  
2 update that process.

3 MR. BRYANT: Yes.

4 MR. FUTRELL: Correct me if I'm wrong, was one of  
5 the major, one of the big pieces of it was identifying a  
6 population of measures and trying to establish the baseline  
7 savings of those measures?

8 MR. BRYANT: Yes.

9 MR. FUTRELL: Do we, if we went forward on this,  
10 do we need to -- How would we go about identifying that  
11 there's more -- if there are any other measures that have  
12 come to light since then that could be added to a  
13 population? Does anybody have any comments on that?

14 MS. NEYMAN: I mean can't we just, the people  
15 involved, parties involved just add, make suggestions as to  
16 what needs to be added? And I think the -- and it's  
17 attractive in some cases because some things have been  
18 deemed to be not really productive, and just sort of amend  
19 last time, what we did last time? I mean we are involved  
20 in research. We've got results of -- everybody has got a  
21 pretty good knowledge of what's going on out there, just  
22 anybody that had anything it would be reviewed.

23 MR. BRANDT: And I guess in our plan, you know,  
24 the schedules we've basically had, thought critical up  
25 front to have maybe a group, an effort with interested



1 parties to let's decide what these measures are going to be  
2 up front and, you know, decide before the board. So from  
3 our perspective, you know, we have all those measures that  
4 we looked at last time. There are other things we are  
5 doing R&D on right now. It's a matter of getting all those  
6 things put together and coming to an agreement that, yeah,  
7 this makes sense, this doesn't and why. I don't think we  
8 need to do the study.

9 MR. BRYANT: Mark, I think that would work no  
10 matter what you do to the answer to number one as well.

11 MR. FUTRELL: Right.

12 MS. KAMARAS: Yeah, for LEAF I think we sort of  
13 tend to agree with folks that we don't need a completely  
14 theoretical process and we don't need to reinvent the wheel  
15 from the first step. We would like to see something that  
16 does a similar type of process, and we agree that some of  
17 the measures that were identified probably should be tossed  
18 out. We may be able to identify some others that should be  
19 added in, but again, I suspect that those are things that  
20 we may be able to come to some agreement on and, again, as  
21 I said earlier, we would like to bring to that process some  
22 core of consistency that the utilities would agree to work  
23 from, some box, some parameters that we can all agree to so  
24 that there can be a consistency and a comparison. I think  
25 that's, for us, one of the most important things in that --

1 you know, in reviewing what went on last time was certainly  
2 a great frustration, was that everybody did so many things  
3 so differently that it was very, very difficult to look  
4 from one to the other; and that's the piece that we would  
5 like to bring together and not go off in the ozone  
6 someplace about what could be done without regard to any  
7 real world considerations.

8 MR. GUYTON: And FPL is willing to explore just  
9 that type of a dialogue. At some point it wants to  
10 preserve what the rule recognizes as its planning process,  
11 but the more that we can come to some consensus about what  
12 we do have, what base lines are, what ought to be analyzed  
13 and maybe some method of analysis, then I think we are all  
14 better served by that, and we are not resistant to that.  
15 The only thing I want to say is that the company feels  
16 pretty strongly that at some point this is the company's  
17 planning process.

18 MS. NEYMAN: And there's going to be some  
19 difference at certain points. I mean we all agree, I  
20 think, that it's going to be less time consuming if we can  
21 get together and agree on as much as possible, especially  
22 format, administrative details, even if we can cut some  
23 time out. But there are some differences between us, like  
24 our load shapes and, you know, summer peaking versus winter  
25 peaking; so there is going to be some differences, and our

1 costs are different, obviously. But, you know, we are  
2 all -- everybody, I think, is in favor of trying to reduce  
3 the effort and make it as simple and straightforward as  
4 possible.

5 MR. FUTRELL: I guess this gets into five as  
6 well. Does everybody feel like there -- like Gail is  
7 saying, there could be a box that at least to an extent  
8 everyone can kind of agree how we should go down the road  
9 to make it easier, hopefully make it easier for the  
10 utilities and easier for the staff and the Commission and  
11 intervenors to review what has been done?

12 MR. BRANDT: I think, yeah, from our perspective.  
13 When you look at the questions actually, I mean we are  
14 really talking about question six, you know? And I think  
15 what we are really saying is we all ought to get together  
16 and agree on what the measures are in question six. Once  
17 we do that, question five is kind of a no-brainer because  
18 once we agree on the measures, we'll see where they fit in  
19 these end-use categories; and, you know, from a realistic  
20 standpoint there potentially could be some categories on  
21 that list that we all agree don't -- you know, aren't worth  
22 evaluating. So, you know, simply based on deciding the  
23 measures, we think question five itself will be answered.

24 MR. FUTRELL: You're saying we got through four,  
25 five and six.

1           MR. BRYANT: I think in essence you did, and it  
2 is maybe a reverse order type approach because we are  
3 saying we can agree. I think we are saying we can sit down  
4 to a certain extent and agree on number 6. The fallout is  
5 there may or may not end up being measures that fit in the  
6 end-use categories that are currently listed.

7           MR. BRANDT: In number five.

8           MR. BRYANT: No matter which process we are  
9 following there -- I shouldn't say that. The way we are  
10 planning this thing at this point in time, talking about it  
11 at least, number 4 is still not a necessity.

12           MR. BALLINGER: But the only disagreement might  
13 be that Gail is looking for a consensus of the evaluation  
14 process of these measures between the four of them, and  
15 that's where we may diverge a bit, and I understand you  
16 want to maintain your autonomy on that in the evaluation  
17 process of each utility. Maybe we can work that out, but  
18 I --

19           MR. GUYTON: There may be ground for some  
20 uniformity.

21           MS. SWIM: Some minimum with changes for  
22 different --

23           MR. BRANDT: It makes sense that the process  
24 should be uniform. We don't have a problem in doing  
25 uniform. If we have different system requirements that

1 makes things, you know, not be able to be done the same  
2 way, then obviously it doesn't make sense to have everybody  
3 doing them exactly the same way.

4 MR. GUYTON: Or we may not embrace analytically  
5 in methodology at that point. We want to --

6 MR. BALLINGER: Right. But I think the biggest  
7 things and what these questions were trying to get to was  
8 cutting down the process time of identifying measures and  
9 agree -- and I think what I hear is we don't need to do an  
10 SRC, have an outside person do a study per se if --  
11 Because it looks like we can all get together, and we know  
12 that there is attic insulation, you know, there's this and  
13 that. Things haven't changed a whole lot. We can probably  
14 winnow that list down to measures that need to be looked  
15 at. Now how they are looked at, there might be some  
16 discrepancies, may or may not be able to work out, but I  
17 think we can at least avoid the front-end part of having an  
18 outside technical potential study and focus more on what  
19 the utilities see as their own potential.

20 MS. SWIM: Well, I think what we are saying is if  
21 we can come to an agreement on the measures, then there is  
22 no need for an outside --

23 MS. NEYMAN: Yeah.

24 MS. SWIM: -- and how they would be analyzed, and  
25 there is not a need for an outside SRC sort of baseline

1 and, of course, I would hope that, you know, as we try and  
2 decide what measures to include we would look, you know, at  
3 the SRC and what happened historically.

4 MR. FUTRELL: Mike, you may have referred to this  
5 earlier about, is there any -- you referred to it as  
6 looking at this not necessarily from a measures standpoint  
7 but from a program level.

8 MR. JACOB: Well, initially I think I brought up  
9 the point that in the last process we went through an IRP  
10 type process on measures and then we did cost effective  
11 analysis, which is part of that IRP process on programs.  
12 And, in fact, one of the issues raised later here, free  
13 riders, that is as much of something that can be handled at  
14 the program level than it is at the measure level. So  
15 part of what FP&L -- that I saw in number 3 there, I think  
16 one thought I had was if we are going to do cost  
17 effectiveness analysis, let's take it through to the  
18 programs such that when you are done with the process, you  
19 don't start over and develop programs, you have programs  
20 that you can go implement.

21 MR. FUTRELL: But you still see at this level  
22 looking at a measure by measure basis or, and then --

23 MR. JACOB: Yeah, I guess I'm not --

24 MR. FUTRELL: And letting that analysis drive the  
25 goal?

1 MR. JACOB: Drive ultimately programs and goals.

2 MR. FUTRELL: And that would ultimately lead into  
3 programs, but you see that we need to at least get down to  
4 the measure level?

5 MR. JACOB: I guess you do have to get down to  
6 the measure level. I think about programs, the type of  
7 programs we have now are kind of umbrella programs with  
8 measures under it, and at some point in time we do start at  
9 the measure level.

10 MS. LAMPI: I think from our perspective we  
11 support -- and I think this is what you are saying, but  
12 correct me if I'm wrong, that cost effectiveness tests  
13 should be done at a program level and not at a measure by  
14 measure level, to go back to what the utility will be  
15 looking at, the measures that need to be looked at or the  
16 programs that need to be looked at before you look at the  
17 measures. We are though intending to ask the group and the  
18 Commission to look again at the RIM cost effectiveness test  
19 and that we don't want the measures that get explored in  
20 this preliminary analysis of what is it that we need to  
21 review, we don't want those measures to be limited by RIM  
22 cost effectiveness tests. We think that the situation that  
23 the Florida utilities are in today being so close to their  
24 reliability maximum that it changes the extent to which  
25 lost revenues have an impact on rates, to the extent that

1 utilities are approaching their own rate of return or  
2 exceeding it in some cases, that even if you would argue  
3 there are lost revenues, I don't know that you could in the  
4 same breath argue that those lost revenues would have an  
5 impact on rates. When you need to find your supply, the  
6 next kilowatt hour is going to cost you something, and if  
7 it's cheaper to find it in energy conservation, then there  
8 are no adverse impacts on rates. So yes, we agree, let's  
9 come back together. Let's look at measures. Let's try and  
10 agree on consistent methodologies, but we think we also  
11 need to take another look at RIM.

12 MR. GUYTON: Mark, can we encourage you to try to  
13 work through one?

14 MR. FUTRELL: Sure.

15 MR. GUYTON: It's just an idea, if it's not  
16 convenient for everybody.

17 MR. FUTRELL: If we don't have any other comments  
18 on those, that group, four, five and six, have you given  
19 any thought to seven? I guess this gets more into the --  
20 this is a question that, you know, it ended up something  
21 that we didn't really address last time that we probably  
22 should have. It's not super critical, but it's just  
23 something I thought we could hopefully get agreed to on the  
24 front-end here.

25 MR. BRYANT: Mark, I think there are three things



1 that are probably significant in number 7. When you look  
2 back at the process that we have gone through from '94 to  
3 '95 to finally '96 when we began programs, and those three  
4 pieces would be establish the goals, create an approved DSM  
5 plant, and then number 3 would be the participation of  
6 standards with the programs. And so until those three  
7 things have been finally approved, again, regardless of  
8 numeric or word goals or whatever, there should not be any  
9 accountability, or they shouldn't start until those three  
10 things have been taken care of.

11 MR. BRANDT: We agree with that, and I guess we  
12 also, you know, we are not sure the benefit of having  
13 ten-year goals.

14 MR. FUTRELL: Other than that's what's in the  
15 rule, right?

16 MS. KAMARAS: It's in the statute.

17 MR. STONE: It's in the rule, but it's not in the  
18 statute.

19 MR. FUTRELL: Right.

20 MR. BRYANT: And so there is an opportunity to  
21 revisit that part of the rule as well when we come back to  
22 question number 1.

23 MR. FUTRELL: Right.

24 MR. BRYANT: But we are trying to get out of here  
25 for lunch.

1 MR. GUYTON: Actually it doesn't make a great  
2 deal of sense to set ten-year goals when you've got to  
3 revisit them in five years. I mean what's the purpose of  
4 the last five years?

5 MR. LAUX: To piggyback on that, depending on  
6 what programs you are in, if you are going to exclude  
7 certain types of programs from being in conservation goals,  
8 then that will tell you how -- will have an impact as to  
9 the length of time that goals should be put in place. You  
10 don't need long-term goals for short-term programs; you  
11 don't need short-term goals for long-term programs.

12 MR. FUTRELL: Has anybody given any thought  
13 to, you know, assuming -- obviously these questions assume  
14 we go forward on the current rule or some form of it. Has  
15 anybody given any thought to -- I mean obviously Dennis has  
16 got a schedule here that he has given some dates to.  
17 Anybody else have some dates that, you know, feel like when  
18 the year that the goals should start?

19 MS. KAMARAS: Well, a couple of things, we  
20 weren't sure what was asked by this question, and we were  
21 wondering whether or not you were even intending to push  
22 off the date for the next goals order because one of the  
23 issues really is in undertaking a five-year review of the  
24 goals, starting in 1997. We could argue that we are not  
25 really undertaking a five-year review. The goals order

1 wasn't issued until October of '94. The program filings  
2 weren't made until sometime in 1995, and they weren't  
3 really approved until sometime later in '95, and many of  
4 the new programs or modified programs were not rolled out  
5 until sometime in 1996. So as we sit here in October of  
6 1997, for some of these programs we have less than two  
7 years experience. Some of them, obviously, were existing  
8 pro -- preexisting programs that were modified. Some were  
9 new, some were perhaps preexisting programs that were not  
10 changed at all. I'm not sure about that.

11 But if part of the function that we are  
12 performing here is a five-year review, you know, to what  
13 extent are we exceeding -- succeeding by, you know, sort of  
14 starting now and planning to finish in 1999? And I don't  
15 raise that with any agenda to either delay or, you know,  
16 move this. It's just a question of, you know, how do we do  
17 a five-year review when we are starting in year two of the  
18 five years? And I'm not sure how to answer that question,  
19 and it seems like that was not necessarily, you know, what  
20 you were raising here.

21 In terms of starting years and ending years for  
22 the goals, I guess we do have a frustration that, you know,  
23 if we are saying now that we are looking back to 1994, you  
24 know, that it is kind of frustrating because the programs  
25 that were being implemented during the year 1994 and even

1 during part of 1995 were not programs that were set  
2 pursuant to the numeric goals or the numeric goals order.

3 I don't have a satisfactory answer. I guess I  
4 would say if we are shooting for a 1999 order, that  
5 certainly the years for looking at what the utilities are  
6 doing should probably not start until at least sometime in  
7 the year 2000 and, you know, I don't really have an  
8 objection to even Howard's suggestion about putting it off  
9 until either the programs are approved or maybe even the  
10 program standards are approved. I think that is something  
11 that we can maybe look at further down the line and not  
12 have to decide today.

13 MR. FUTRELL: I think just -- the intent at  
14 least, obviously not well stated, was to get an idea or an  
15 agreement on the study period, the ten-year study period,  
16 what should be the first year of the study period? And  
17 obviously then the ten years after that. And again, this  
18 was an attempt to try to get consistency on the part of the  
19 utility analysis to the extent possible.

20 MR. HAFF: And also because each -- I think TECO  
21 or Gulf, somebody's goal starts a year later than the other  
22 utilities, trying to get consistency across the board.

23 MR. GUYTON: I agree, that that is something that  
24 we ought to strive for, but I think this reflects a larger  
25 issue. I think this reflects how this rule doesn't work.

1           You have goals. You look at the schedule here  
2 that Dennis has laid out. You have goals in place at the  
3 earliest at the end of '99 which staff is saying is driven  
4 by five years from the last time the goals were set, and  
5 that's one reason for interpretation of the statute and the  
6 rule. You don't have programs rolled out optimistically  
7 for another ten months, but you are rolling programs out,  
8 you know, 36 months after we start the process. I think  
9 this is a compelling demonstration as to why this, you  
10 know, why this is just full of problems in terms of time  
11 lapse and dated information and goal setting. Analytically  
12 it doesn't make sense -- I mean practically it doesn't make  
13 sense to start your goals until you roll your programs  
14 out.

15           But back here in 1997 and doing an IRP in '98, it  
16 doesn't make sense for purpose of planning process to treat  
17 the time between '98 and 2000 as a hiatus. I mean you  
18 really ought to -- from a planning perspective, you ought  
19 to be taking a look at it and trying to optimize your  
20 system for the intervening years, but this rule doesn't  
21 allow you to do that.

22           MR. FUTRELL: Okay. If we don't have any other  
23 questions on that one, we'll move on to eight which is part  
24 of the rule which talks about treatment of these different  
25 effects and factors; and again, the idea is in the process

1 part. You know, could we get to some agreement on  
2 treatment of these five items?

3 MS. KAMARAS: Well, I think the key to this  
4 question is the phrase "in the same manner" and, again, the  
5 consistency part. I think that was, again, part of the  
6 frustration in the last case, particularly I remember the  
7 free rider issue was very, very confusing; so to have some  
8 consistency, again, I think makes the process be more  
9 efficient and go quicker.

10 MS. SWIM: Let me just kind of highlight the free  
11 rider issue too just a little bit. I mean when the  
12 estimates were filed, some of the utilities reported net  
13 and some reported gross. When the goals were set, although  
14 the aim was to set them all, including free riders, in  
15 fact, some of them were set net and some of them were set  
16 gross, and you have the same inconsistencies in the  
17 reporting process. So it really does make the definition  
18 improbable if we don't take a single approach throughout  
19 the process.

20 MR. FUTRELL: Do the utilities think -- I mean  
21 can there be some agreement on these items, or is it  
22 something that is it -- are these things that are  
23 particular to each utility system?

24 MS. NEYMAN: It will be, you can -- To a  
25 certain degree you can work for some commonality, but there

1 are going to be some differences, for example in, you know,  
2 depending on your market and your customer makeup.

3 MR. BRANDT: And your mix of programs.

4 MS. NEYMAN: Your mix of programs, your other  
5 programs, you know, that --

6 MR. BRYANT: Your building code as well may have  
7 a small impact depending on your climate zone.

8 MS. NEYMAN: Now the D and E -- A, B and C are  
9 sort of, we consider monitoring and evaluation issues and  
10 really should be dealt with more at that stage, you know,  
11 as you monitor and evaluate your programs.

12 D and E are minimums that you establish, and you  
13 should only count benefits above those. You know, if  
14 you've got like ten SEER that was mentioned earlier,  
15 obviously that's your minimum and you would only evaluate  
16 above a ten SEER. D and E are probably pretty easy to get,  
17 I think. Consistency in program design is what they are,  
18 they are sort of known things.

19 MR. BRANDT: I think when we talk about base  
20 lines it's part of the, you know, navigational measures to  
21 be evaluated. D and E have to be addressed there right off  
22 the bat or, you know, we'll all start off on the wrong  
23 foot. And I agree with her, A, B and C is much more of a  
24 monitoring evaluation type of exercise to the extent that,  
25 you know, people have monitoring evaluation results to

1 address those things, you know, they'll come into play.  
2 I'm not sure everybody will have the same methodologies to  
3 do that, but I think, you know, it's -- at least, you know,  
4 we would offer an explanation of how we did it to make sure  
5 people understand how we did it.

6 MS. SWIM: I mean free riders, for example, is  
7 totally a monitoring evaluation issue, but I think it also  
8 falls in, as you said, with establishing what the baseline  
9 potential is and what goals are set and how goals  
10 achievement is evaluated. There are factors in all of  
11 those processes.

12 MR. LAUX: Gail, are you saying that a goal has  
13 an impact on the marketplace?

14 MS. SWIM: A goal has an impact on the  
15 marketplace?

16 MR. LAUX: On the opportunities in a market.

17 MS. SWIM: What I'm saying is the goal is set in  
18 view of the potential, and the potential is influenced by  
19 who are free riders.

20 MS. LAMPI: The ten SEER illustration is a  
21 perfect example of a goal having an impact on the market.  
22 We don't need to incent air conditioners that have a ten  
23 SEER rating any longer because that is what is the norm.  
24 It didn't use to be the norm and it may well be that the  
25 utility sponsored DSM programs help us get to a more



1 efficient norm in the marketplace and that's our intent.  
2 Compact fluorescents are now more available in the market  
3 than they were before utility management programs began. I  
4 think that there are reasonably expected market  
5 transformation impacts of utilities.

6 MS. KAMARAS: But we don't think that is a  
7 controversial issue here.

8 MR. LAUX: But you think that is addressing the  
9 question of free riders?

10 MS. LAMPI: You know, if the Commission needs to  
11 have some assurance that its goal are set either net or  
12 gross of free riders, then you do have to answer that  
13 question while you are answering the goals question. It's  
14 not just an evaluation question.

15 MR. LAUX: Okay.

16 MR. JACOB: And that's some areas where we can  
17 get some consistency, letting you all know where its free  
18 riders fall, where our estimates fall. Are they net of  
19 free riders, or do they include free riders? In terms of  
20 the actual numbers that come out from each utility and  
21 probably the actual methodology used to estimate free  
22 riders, we may vary.

23 MR. LAUX: Mike, that's the question I was  
24 getting at. Is it in your evaluation of what is a free  
25 rider or not a free rider? I don't think the goal has --

1 whether or not the level of where you set your goals has an  
2 impact as to whether there is a free rider or not.

3 MS. NEYMAN: Right.

4 MS. SWIM: And I think, you know, there is the  
5 basic black box, and then there are differences outside the  
6 box of how things are calculated, but certainly whether  
7 it's net or gross should be inside, common.

8 MR. BRANDT: I mean I think if we end up with  
9 numeric goals, I don't think we -- I mean I would think as  
10 a group we could understand that the goals proposed are net  
11 or gross.

12 MS. SWIM: We didn't do that last time.

13 MS. KAMARAS: So we want to do it right this  
14 time.

15 MR. BRANDT: Right. We would be willing to work  
16 with other people to come up with a consistent method to do  
17 it.

18 MS. NEYMAN: They just didn't do it last time.

19 MS. LAMPI: Yeah, I think the methodology is  
20 important as well, not just that it be either done or not  
21 done. Let's try and do it with consistency.

22 MR. GUYTON: I will say that the rule as  
23 originally drafted envisioned that the utilities would have  
24 that flexibility to do individual. I mean that was a very  
25 conscious discussion that happened in the drafting of the

1 rule originally. Having said that, I don't mean to say  
2 that FPL won't work towards trying in efforts to be  
3 uniform. We may or may not come to consensus on it.

4 MR. FUTRELL: And that's okay. Like I said, the  
5 rule doesn't require that, but it's just -- again, this is  
6 another attempt to try to smooth out the process is all.

7 MR. HERNANDEZ: Mark?

8 MR. FUTRELL: Yes.

9 MR. HERNANDEZ: Let me just add something. The  
10 flip side of -- I apologize, I can't remember your name.

11 MS. LAMPI: Molly.

12 MR. HERNANDEZ: What Molly was saying about that  
13 the market can, in fact, respond to some of the things that  
14 are introduced in terms of the CR 10 comment made, the flip  
15 side is that this process is internalized. It is  
16 not -- What it captures is the, just like you said, the  
17 economic potential. It is an economic viability, cost  
18 effectiveness, if you will, but it does not guarantee  
19 achievability of the market. How the market responds to  
20 the programs or portfolio programs does not guarantee it  
21 simply by a statute. It can influence how the market will  
22 react, but it does not guarantee it. And all of us in here  
23 are responding and becoming much more externally focused in  
24 the market. I think that is the direction that we need to  
25 take as we establish any kind of process. You need to have

1 that flexibility because the market we are talking about is  
2 changing. It's changing today. And whatever we say, if we  
3 are talking in terms of five years, I'll guarantee you in  
4 two years it's not going to work. So you need to consider  
5 that and allow the flexibility, and keep in mind, just  
6 because we do this internalized flip does not guarantee  
7 achievability. The market is going to determine that.

8 MS. LAMPI: Well, and the quality of the program  
9 design I think helps.

10 MR. SPANGENBERG: It also sounds like that to the  
11 extent that we are so affected in our measures and our  
12 programs that we are, if we do achieve a change in the  
13 market, at that point we no longer get credit for it.

14 MS. KAMARAS: It usually takes more than just a  
15 couple of years to transform a market, but that is, I mean  
16 that is certainly -- I don't want to use the term goal, but  
17 that is certainly a worthy objective or idea to keep in  
18 mind and maybe something to discuss as we go along in terms  
19 of, you know, what the focus might be. Market  
20 transformation might be a very valuable idea or notion to  
21 try to factor into how we go forward.

22 MR. FUTRELL: Well, let's try to finish up on  
23 number nine.

24 MR. GUYTON: I mean I think precise measurement  
25 is the least of the problems about which the Commission

1 would have in trying to set a penalty for failure to meet a  
2 goal. The idea, I mean the Commission's entire penalty  
3 policy is inconsistent with the language of the goal, the  
4 goals rule itself that was discussed back when the goals  
5 rule was adopted. We were surprised that we visited with  
6 this non-rule policy which was inconsistent with the  
7 language and the rule at the time of the order.  
8 Measurement I think would be the least of the problems in  
9 terms of whether or not a penalty would be arbitrary and  
10 capricious.

11 We are not entirely sure either what you mean by  
12 precise measurement. We are not sure that DSM lends itself  
13 to, quote, precise measurement, end quote.

14 MS. KAMARAS: It may be reasonably precise  
15 measurement might be a better phrase.

16 MR. FUTRELL: Right.

17 MR. GUYTON: Or maybe just reasonable.

18 MR. HAFF: Well, I think we had trouble defining  
19 that term at the goals hearing, didn't we?

20 MS. KAMARAS: But there is a definition of  
21 reasonably achievable or there is a discussion. We  
22 certainly think that the numeric goals lend themselves to  
23 better monitoring and evaluation and that, thereby, an  
24 assessment of whether or not the utilities are achieving or  
25 complying or not. You know, in terms of penalty, you know,

1 they should all have to live in the dark without  
2 electricity if they don't meet their goals.

3 MS. NEYMAN: Do what?

4 MS. KAMARAS: You should all have to live in the  
5 dark without electricity if you don't meet your goals.

6 MS. NEYMAN: Are you all going to explain what  
7 you meant by precise measurement?

8 MR. FUTRELL: I think it had to do with, again,  
9 this idea of, you know, do we know absolutely for certain  
10 that a program is going to produce the savings that it  
11 assumed on the front end. I mean obviously the load  
12 management where you have the control, there is some  
13 level -- much more precision there than with duct repair or  
14 something like that.

15 MR. HAFF: It's the old engineering estimate  
16 versus end-use metering argument all over again.

17 MS. NEYMAN: Uh-huh, that's what -- So there are  
18 two questions in here, really. One is what do we think  
19 about assessment of penalties? And the other is, what do  
20 we think about precise measurement, really? Is that really  
21 the two questions?

22 On the subject of penalties, we feel like before  
23 any penalty was assessed, the reasons behind the goal being  
24 missed should be looked at. I mean just to, if a penalty  
25 is assessed without looking at what the circumstances are,

1 you know, if there has been a good faith effort and there  
2 has been some just incredible circumstances that have led  
3 to that, then I don't think that would be fair just to  
4 assess it for under achievement.

5 In terms of precise measurement, we got into this  
6 discussion on one of our recent filings somewhat, but we  
7 can get pretty close with some engineering estimates. Now  
8 we are the first ones to say when we were going through --  
9 You just can't rely on engineering estimates but, you know,  
10 through a variety of things we can turn the impact; but  
11 when you start loading on end-use metering, you are talking  
12 about some expense, you know, just some big, big, big bucks  
13 which are going to wipe out the benefits, and it won't  
14 necessarily pass RIM at that point. So I think that you  
15 can take this too far and, you know, I think we -- if  
16 end-use metering is what the objective is and that  
17 everything is going to have to have end-use metering, then  
18 we would have a problem with that.

19 MS. KAMARAS: I think the utilities have had some  
20 pretty good experience over the last several years since  
21 the goals were set in doing some measurement, either based  
22 on end-use or engineering; but we've got, you know, the  
23 annual goals report showing how they have fared. In some  
24 cases their margin of error, if you will, either plus or  
25 minus, is quite significant. In other cases it's very,

1 very close, and I think those kinds of things may, you  
2 know, may need to be looked at.

3 MR. HAFF: And when they are quite significant,  
4 is it not because -- I mean we've got some of these  
5 programs in here. They have shown it since the DSM plan  
6 was established or approved, and they've had these  
7 engineering estimates of demand and energy savings that  
8 reality has shown those savings to be overly optimistic,  
9 for lack of a better term.

10 MS. KAMARAS: Underly optimistic.

11 MS. SWIM: Underly optimistic is the case.

12 MR. HAFF: Well, I think what we have seen is  
13 that they are not saving as much demand energy as they  
14 thought.

15 MS. SWIM: Well, there are some where they have  
16 saved more than they thought.

17 MR. HAFF: And the reason they've come back in  
18 here --

19 MR. BRYANT: Do we get penalized for that too?

20 MR. HAFF: No, all I'm saying is that's --

21 MR. BRYANT: Mike, I think it goes beyond that as  
22 well. There is another issue here, and that is, will the  
23 marketplace take our dollars that we are dangling out  
24 there, which are larger than we have dangled in the past,  
25 and just because they're out there, go ahead and replace



1 that strip heater? And the marketplace is telling us no  
2 because the adage that has been said all along and still  
3 works, if it ain't broke, we ain't going to fix it. And so  
4 I can't make a heat pump break. I can't make a chiller,  
5 you know, become -- I can't make it break either, and so to  
6 the extent that I can model timing on when equipment breaks  
7 and then put that into a plan, again those are difficult  
8 things, so it's a market issue as well.

9 MS. LAMPI: But they are lost opportunities  
10 issues too. I mean they are program design issues. You  
11 need to design your programs to be coordinated with when  
12 the appliance is expected to --

13 MR. HERNANDEZ: A penalty should not be imposed  
14 if the market doesn't respond because I've got the best  
15 product. I mean when I've a 5.0 RIM it doesn't make any  
16 difference if the market doesn't take it.

17 The other thing that should not be lost on this  
18 Commission as you all consider this, is look at what we  
19 have done in this state. Take the FRCC region, it's the  
20 tenth newly established region of the NERC sub regions for  
21 reliability. This state, this region, the FRCC, has the  
22 highest contribution in achievement in conservation, bar  
23 none, on cost effectiveness and related to conservation  
24 measures. We have done a great job, we have done an  
25 excellent job, and I encourage you to go back and compare

1 the FRCC to any of the other NERC regions, and we have  
2 achieved it by far compared to any other region.

3           And you can look at some other states that have  
4 had higher concentration of conservation but it's not cost  
5 effective. And what we've done, what we've achieved is  
6 cost effectiveness and high achievability in conservation,  
7 but we are approaching that point where the market says,  
8 incrementally is there that much more. You've got new  
9 construction. You've got -- This is a growth state, and  
10 certainly we are going to address that, but there is only  
11 so much you can put forth in the market, and that has to be  
12 considered. So even talk about a penalty independent of  
13 what we have done I think is absurd.

14           MR. LAUX: Mark, I think there are a couple of  
15 things. One of the things that you all need to understand  
16 is whether or not when a goal is set, did anyone set out  
17 and guarantee that that is what was going to happen? I  
18 don't think one utility or any party said that is a  
19 guarantee.

20           The second part of that is when you are talking  
21 about penalties is to see whether or not the FEECA language  
22 changed anything as the broad power of the Commission to be  
23 able to penalize any party that comes in front of them and  
24 what is the standard that the Commission has to reach  
25 before they apply that penalty? I mean right now if that's

1 the key where things are going, I think people need to  
2 start going back and looking at the actions in the water  
3 and sewer industry, but probably more like -- more  
4 importantly in the telecommunications industry and see how  
5 the Commission has struggled in trying to deal with  
6 applying penalties to people on things that are very, very  
7 blatant. We are not talking about whether or not the  
8 market supports something or not. Some of that stuff seems  
9 almost criminal to me, the behavior, but the Commission  
10 still had some problems with trying to deal with  
11 penalties.

12           You might as well get it clear and get it cleaned  
13 up right up front. There is no reason to keep going on and  
14 arguing about this, you know, over and over and all out in  
15 the future. Clear it up, and if the language is going to  
16 be, you will be assessed this type of a penalty if you do  
17 not do this or something like that, and then just put it in  
18 the rule.

19           MR. JACOB: That's one of my comments too, is  
20 right now the rule, first of all, doesn't require the use  
21 of a penalty. And when I think of performance related  
22 goals, I think that they should be achievable. You should  
23 be able to achieve the goal if it's performance related.  
24 It should be clearly communicated between the parties, and  
25 it should be measurable; and that really can be

1 accomplished through word goals or numeric goals. Just by  
2 the standpoint to have this numeric goal of 1,258 kilowatt  
3 hours I think is implying that I need a real precise  
4 measurement to make sure I didn't only get 1,257 kilowatt  
5 hours. Word goals or something other than numeric goals  
6 can still be very measurable and maybe not be so firm as  
7 requiring this precise measurement.

8 MR. HAFF: I think you answered why the first  
9 three words are in this question "without precise  
10 measurement." I mean do you penalize -- if there was a  
11 forum for penalizing somebody for not meeting a goal and  
12 you miss it by one kWh, that is exactly why that is there,  
13 so I'm glad you hit on that.

14 MR. GUYTON: But what system of measurement do  
15 you have enough confidence in to know that you've really  
16 got 1,257 versus 1,258?

17 MR. HAFF: Exactly.

18 MS. NEYMAN: Good point.

19 MS. KAMARAS: But should there not be a penalty  
20 if you've got only eight hundred?

21 MR. HAFF: Where is the threshold?

22 MS. LAMPI: Reasonable.

23 MR. HAFF: Oh, great.

24 MS. ELDER: As kind of a general comment on this  
25 question and then a more specific one, I guess it seems

1 performance incentive similar on the demand side, GPIF  
2 (sic).

3 MR. JACOB: I think we had once talked about CPIF  
4 (sic) long ago.

5 MS. SWIM: There we go.

6 MR. FUTRELL: Okay. Anyone else have any other  
7 comments, questions? I think obviously we have a  
8 transcript today that everybody can refer to. If anyone  
9 would like to file comments as far as response to the  
10 questions or anything, feel free. Does anyone anticipate  
11 doing that at this point, have any desire to do that? Is  
12 everyone satisfied that their comments are on the record?  
13 Because if not, you can certainly do that, file it with us.

14 MS. KAMARAS: We might want to clarify one or two  
15 things that we said that we didn't get to clarify just so  
16 as not to hold up the conversation.

17 Question, what do you anticipate workshop number  
18 two looking like, if you have any idea?

19 MR. FUTRELL: Yeah, right now I've sat that up  
20 just kind of tentatively. Obviously we had to reserve a  
21 room, and it will depend -- I guess we're probably going to  
22 go back and huddle up and talk about, you know, what was  
23 said today and see if we can get a direction on which way  
24 to go and how we should go.

25 Certainly, if we have a second workshop, we'll

1 contrary to us that the state would establish a requirement  
2 and then have no consequence if that requirement is not  
3 met. So from a policy perspective, we would support there  
4 being penalties if a requirement of the state is not met.

5 On specifics, you've mentioned as far as the cost  
6 of measuring and also the circumstances, and we would think  
7 that considering circumstances that the Commission should  
8 consider, well, what was the situation specifically? And  
9 that to go to extremes to measure something would not be  
10 appropriate. I mean you want to be practical in this as  
11 well, but at the same time you do want to measure so that  
12 we know what it is we are doing and that we are getting  
13 somewhere through all of this effort. It's not just an  
14 exercise in regulation, it's to produce an outcome that  
15 benefits the state.

16 We disagree with any assumption that there is not  
17 a lot more that could be achieved in terms of efficiency  
18 and new technologies. We not only believe but we know that  
19 there is. And I think it was stated jokingly about on the  
20 incentive side, but we continue to support utilities being  
21 rewarded financially for the achievements that they see.  
22 We supported share savings as a policy, and we think that  
23 it should be a win, win situation where utilities can  
24 profit from making investments in these areas.

25 MS. SWIM: Similar, I mean there is a generating

1 try to put out some more questions. Maybe, you know, for  
2 example, like get people to think about measures, process,  
3 things like that; but we are going to need some time to  
4 digest today. But if you could get any comments you want  
5 to file with us as soon as you can, that would be fine.

6 MS. LAMPI: Do I hear some uncertainty on whether  
7 you will be scheduling a second workshop? I know it's --

8 MR. FUTRELL: Well, no, I know the timing may be  
9 a little tight now, and we may -- if we have another  
10 workshop, it may be a little farther out potentially. We  
11 had to pick a, we had to get -- Rooms are, this room is  
12 really difficult to reserve, so we'll just have to see.  
13 We'll certainly give everybody plenty of notice as we tried  
14 to do this time. So if nobody else has any other  
15 comments --

16 MR. GUYTON: One other thing.

17 MR. FUTRELL: Yes, sir.

18 MR. GUYTON: We've talked a lot about things that  
19 we feel like we could do to streamline this, and we think  
20 the biggest thing would be to go back to word goals; but  
21 even if you don't go that far, there are a number of  
22 requirements of this rule that may require -- to streamline  
23 it efficiently, we need to go back to rulemaking to delete  
24 or take a look at it. My experience has been it's probably  
25 faster to go back and change the rule.

1 MS. KAMARAS: I wouldn't count on that.

2 MR. GUYTON: But that's something that we need  
3 to -- Your point is well taken. We need to work that into  
4 our schedule.

5 MR. LAUX: Are these the types of rules that can  
6 be filed by the Commission?

7 MR. ELIAS: Any rule that we've got in Florida's  
8 Administrative Code pursuant to 125.42 we can waive. I  
9 mean, you know, the process is, I believe, unduly time  
10 consuming and, you know, some of the publications and the  
11 F.A.W. I think are pretty needless, but that's not my  
12 decision. But as an alternative to going through a  
13 rulemaking proceeding and all that it entails, it may be  
14 that, especially if there is consensus as to how to  
15 proceed, that somewhat we're talking falls within the ambit  
16 of that statute.

17 MS. PAUGH: All right?

18 MR. FUTRELL: Thanks very much.

19 MS. PAUGH: Thank you.

20 (WHEREUPON, THE HEARING WAS CONCLUDED)

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CERTIFICATE

STATE OF FLORIDA     )  
COUNTY OF LEON     )

I, NANCY S. METZKE, Certified Shorthand Reporter and Registered Professional Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 22nd day of October, 1997.

  
NANCY S. METZKE, CCR, RPR