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Subject: Electronic Filing - Docket # 080407-EG, et al.

Attachments: FPL's Prehearing Statement.pdf; FPL's Prehearing Statement.doc

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 080407-EG, et al.
In re: Commission review of numeric conservation goals (Florida Power & Light Company, et al.).

c. The documents are being filed on behalf of Florida Power & Light Company.

d. There are a total of sixteen (16) pages.

e. The document attached for electronic filing is:

Florida Power & Light Company's Prehearing Statement

(See attached file(s): FPL's Prehearing Statement.pdf; FPL's Prehearing Statement.doc)

Regards,
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Florida Power & Light Company)	Docket No. 080407-EG
In re: Commission review of numeric Conservation goals (Progress Energy Florida, Inc.)	Docket No. 080408-EG
In re: Commission review of numeric conservation goals (Tampa Electric Company)	Docket No. 080409-EG
In re: Commission review of numeric Conservation goals (Gulf Power Company)	Docket No. 080410-EG
In re: Commission review of numeric conservation goals (Florida Public Utilities Company)	Docket No. 080411-EG
In re: Commission review of numeric conservation goals (Orlando Utilities Commission)	Docket No. 080412-EG
In re: Commission review of numeric conservation goals (JEA)	Docket No. 080413-EG
	Filed: July 27, 2009

FLORIDA POWER & LIGHT COMPANY'S PREHEARING STATEMENT

Florida Power & Light Company ("FPL" or the "Company"), pursuant to Order No. PSC-08-0816-PCO-EI as revised, hereby files with the Florida Public Service Commission ("FPSC" or the "Commission") its Prehearing Statement in connection with the Commission's review of numeric conservation goals, and states:

I. FPL WITNESSES

A. Direct Testimony

Witness	Subject Matter	Issues
James W. Dean Principal and Owner, Weldon-Dean Associates	Presents the history and rationale for Commission decisions in past FEECA proceedings, the appropriateness of the enhanced Rate Impact Measure ("E-RIM") cost-effectiveness test, and an independent	3, 4, 7, 15

	review of FPL's processes to develop its DSM goals.	
John R. Haney Director, Demand Side Management	Describes FPL's successful DSM performance statewide and nationally, explains the robust process followed in the development of the proposed goals, including FPL's use of Itron's work product to develop reasonably achievable goals consistent with its planning process, and presents an outline of the proposed DSM goals for 2010-2019.	1, 2, 6, 8, 9, 10, 11, 12, 14, 15
Steven R. Sim Senior Manager, Integrated Resource Planning	Describes FPL's comprehensive resource planning process, the cost-effectiveness screening and further economic analyses of DSM measures, the appropriateness of the E-RIM cost-effectiveness test, and the economic and non-economic analyses of the resource plans incorporating four different DSM portfolios or a supply-only portfolio. Determines that FPL's proposed E-RIM 664 MW portfolio is the best choice for FPL's customers and results in the lowest electric rates.	2, 3, 4, 5, 7, 8, 9, 15
Mike Rufo Managing Director, Itron, Inc. (on behalf of the Collaborative)	Presents the methodology, input data and findings contained in the studies of the technical and achievable potential for cost-effective DSM for the seven FEECA utilities to use to develop goals.	1, 2

B. Rebuttal Testimony

At the time for filing its Prehearing Statement, FPL had not finalized its rebuttal testimony and list of rebuttal witnesses. It will supplement its Prehearing Statement after filing its rebuttal testimony and witnesses.

II. EXHIBITS

A. Direct Exhibits

Exhibits	Witness	Sponsor	Description
JWD-1	James W. Dean	FPL	Adoption of Numeric Conservation Goals and Consideration of National Energy Policy Act Standards,

			Commission Order No. 94-1313-FOF-EG, issued October 25, 1994 in Docket No. 930548-EG
JRH-1	John R. Haney	FPL	FPL's Industry Leading DSM Performance, DOE/EIA 2007 Data
JRH-2	John R. Haney	FPL	FPL's Contribution to National DSM,DOE/EIA 2007 Data
JRH-3	John R. Haney	FPL	FPL's DSM Performance Among Large Utilities
JRH-4	John R. Haney	FPL	FPL's Current DSM Programs
JRH-5	John R. Haney	FPL	FPL's DSM Achievements Through 2008
JRH-6	John R. Haney	FPL	Low-Income Participants in FPL's DSM Programs
JRH-7	John R. Haney	FPL	FPL's Low-Income Customer DSM Initiatives
JRH-8	John R. Haney	FPL	FPL's DSM Goals Experience 2005-2008
JRH-9	John R. Haney	FPL	FPL's DSM Goals Experience Over Time
JRH-10	John R. Haney	FPL	Collaborative Process Roadmap to Determining Goals
JRH-11	John R. Haney	FPL	Collaborative Sources Used to Develop the List of Measures
JRH-12	John R. Haney	FPL	Detailed List of Measures Entering the Technical Potential Step
JRH-13	John R. Haney	FPL	Comparison of Recent Technical Potential Results
JRH-14	John R. Haney	FPL	Estimates of FPL's Achievable Potential
JRH-15	John R. Haney	FPL	FPL's Proposed DSM Goals 2010-2019
JRH-16	John R. Haney	FPL	Comparison of FPL's Proposed Goals and Achievable Potential
JRH-17	John R. Haney	FPL	Comparison of FPL's Current and Proposed Goals
JRH-18	John R. Haney	FPL	Measures Screening
MR-1	Mike Rufo	FPL	Potential Studies Conducted by Itron
MR-2	Mike Rufo	FPL	Studies Within Scope
MR-3	Mike Rufo	FPL	FEECA Achievable Savings
MR-4	Mike Rufo	FPL	FPL Achievable Savings
MR-5	Mike Rufo	FPL	PEF Achievable Savings

MR-6	Mike Rufo	FPL	TECO Achievable Savings
MR-7	Mike Rufo	FPL	Gulf Achievable Savings
MR-8	Mike Rufo	FPL	JEA Achievable Savings
MR-9	Mike Rufo	FPL	OUC Achievable Savings
MR-10	Mike Rufo	FPL	FPUC Achievable Savings
MR-11	Mike Rufo	FPL	Achievable Potential Method
SRS-1	Steve R. Sim	FPL	Projection of FPL's Resource Needs for 2010-2019 with No Incremental DSM Signups After 2009
SRS-2	Steve R. Sim	FPL	Economic Elements Included in the DSM Cost Effectiveness Tests: Benefits Only
SRS-3	Steve R. Sim	FPL	Economic Elements Included in the DSM Cost-Effectiveness Tests: Benefits and Costs
SRS-4	Steve R. Sim	FPL	Summary Results of the DSM Cost-Effectiveness Screenings
SRS-5	Steve R. Sim	FPL	Results of Sensitivity Case Analyses of DSM Cost-Effectiveness Screening; Economic Potential Screening Analysis Only
SRS-6	Steve R. Sim	FPL	Fuel Cost Forecast Values Utilized in the Analyses
SRS-7	Steve R. Sim	FPL	The Environmental Compliance Cost Forecasts Used in the Analyses
SRS-8	Steve R. Sim	FPL	Comparison of the Five Resource Plans: Economic Analysis Results and Consequences
SRS-9	Steve R. Sim	FPL	Example of Levelized System Average Electric Rate for One Resource Plan: E-RIM 664-MW
SRS-10	Steve R. Sim	FPL	Projection of Average Customer Bill and Bill Differentials Assuming 1,200 kWh Usage
SRS-11	Steve R. Sim	FPL	Comparison of the Five Resource Plans: Projection of System Emissions
SRS-12	Steve R. Sim	FPL	Comparison of the Five Resource Plans: Projections of System Oil and Natural Gas Usage

B. Rebuttal Exhibits

At the time for filing its Prehearing Statement, FPL had not finalized its rebuttal testimony and list of rebuttal witnesses. It will supplement its Prehearing Statement after filing its rebuttal testimony and witnesses.

In addition to the above pre-filed exhibits, FPL reserves the right to utilize any exhibit introduced by any other party. FPL additionally reserves the right to introduce any additional exhibit necessary for rebuttal, cross-examination or impeachment at the final hearing.

III. STATEMENT OF BASIC POSITION

Rule 25-17.0021, Florida Administrative Code, establishes that the Commission shall set Demand Side Management ("DSM") goals for each utility at least once every five years. This rule was promulgated pursuant to the Florida Energy Efficiency and Conservation Act ("FEECA"). Each utility is required to propose numeric goals for the ten-year period and provide ten-year projections of the total cost-effective, winter and summer peak demand savings (kW) and annual energy savings (kWh) reasonably achievable in the residential and commercial/industrial classes through DSM. These goals are to be based upon the utility's most recent planning process. *See*, Rule 25-17.0021(1)-(3), Florida Administrative Code.

FPL has proposed goals which are (i) cost-effective; (ii) reasonably achievable; and (iii) based upon FPL's resource planning process, as required by Rule 25-17.0021 ("the Rule"). FPL's proposed goals also reflect the other requirements of the Rule – for example, consideration of "free riders" (those who would utilize DSM measures without any incentives, who accordingly, should not receive incentive funds paid by FPL's general body of customers), consideration of interactions with building codes and appliance efficiency standards, and consideration of the Company's latest monitoring and evaluation of DSM programs. The goals

recommended by GDS Associates, Inc. ("GDS") and by those testifying on behalf of the Natural Resources Defense Council ("NRDC") and the Southern Alliance for Clean Energy ("SACE") do not reflect or even recognize these requirements of the Rule.

Recent amendments to FEECA reflected in House Bill 7135 further support the appropriateness of FPL's proposed goals -- and further undermine those presented by GDS, NRDC and SACE. Specifically, the amendments require the Commission to consider costs and benefits "to the general body of ratepayers as a whole, including utility incentives and participant contributions." § 366.82(3)(b), Fla. Stat. Accordingly, the legislature has determined that the effect of DSM goals on a utility's general body of customers is of specific importance. The goals proposed by FPL are those which will minimize rate impacts for all customers and minimize cross-subsidies between customers.

FPL participated in a "Collaborative" made up of the seven utilities subject to FEECA and representatives from NRDC and SACE. The Collaborative made a robust determination of DSM Technical Potential. It hired a well-respected DSM consultant, Itron, Inc., and proceeded with an inclusive and thoughtful process for identifying measures to be analyzed, for which adequate data was available. The Collaborative also used Itron to develop multiple, appropriate estimates of Achievable Potential for all seven FEECA utilities. SACE and NRDC were not as involved in this aspect of the Collaborative as they were in the development of Technical Potential, but they did participate in and endorse some critical decisions which are now being challenged, including the use of the two year payback criterion to screen free riders. Itron's analytically sound estimates of Achievable Potential were then incorporated by each of the utilities into their respective planning processes, as envisioned under the DSM Goals rule, to develop goals.

FPL's proposed goals are based upon those measures which were determined to be cost-effective by a combined use of the Participant Test and the new, enhanced E-RIM test which accounts for environmental compliance costs. This economic screen accurately captures all costs and benefits of DSM which are borne by all of FPL's customers – a requirement of the recent FEECA amendments, and an important consideration in today's economic environment. *See* § 366.82(3)(b), Fla. Stat. The TRC or E-TRC test advocated by NRDC and SACE and by GDS, on the other hand, does not reflect costs to the general body of customers in the form of increased electric rates or incentives paid to participants, thus failing to meet the standard established in FEECA. By modifying and enhancing the original RIM test to capture the effect of environmental compliance costs, FPL's goals also reflect consideration of costs imposed by regulations on the emission of greenhouse gases – another important amendment to FEECA, and a significant improvement over past applications of the original RIM test. *See* § 366.82(3)(d), Fla. Stat. Additional amendments to FEECA, which include consideration of the costs and benefits to participating customers and the need for incentives to promote energy efficiency and demand side renewables, were also captured within the process used by FPL in the development of its proposed goals.

The DSM portfolio proposed by FPL will contribute to the most cost-effective resource plan on FPL's system, fully meeting FPL's projected resource needs through the end of the DSM goals period, 2019, while resulting in the lowest levelized system average electric rates for its customers when compared to (i) a supply-only portfolio; (ii) an E-RIM portfolio that exceeds FPL's actual system resource needs; (iii) an E-TRC portfolio based on resource needs; and (iv) and E-TRC portfolio that exceeds FPL's actual system resource needs. The even higher goals proposed by GDS and by NRDC and SACE, which completely fail to take FPL's planning

process and resource needs into account, would be expected to produce even more significant rate impacts to all customers. Consideration of FPL's resource needs is not only appropriate given the customer rate-impact implications, but is required by the Rule, which states that proposed numeric goals must be based upon the utility's most recent planning process. Rule 25-17.0021(3), Fla. Admin. Code.

For all the reasons discussed above, and as explained in more detail in the direct testimony and rebuttal testimony filed by its witnesses, FPL's proposed goals should be approved. Such goals comply with the requirements of FEECA, comply with the Commission's rules, and are the best choice for FPL's customers.

IV. ISSUES AND POSITIONS

ISSUE 1: Did the Company provide an adequate assessment of the full technical potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems, pursuant to Section 366.82(3), F.S.?

FPL: Yes. The assessment of technical potential began with a Collaborative effort to identify the conservation measures, demand reduction measures, and demand-side renewable energy systems which should be included in the calculation of each FEECA utility's technical potential. The entire Collaborative (including all FEECA utilities and representatives for NRDC and SACE) participated in developing the list of measures, to ensure that all measures were adequately assessed. After the Collaborative agreed to the final list of measures that are available in Florida and for which valid measure cost and savings data was available, the calculation of the technical potential for energy savings and demand reduction in FPL's service territory provided by these measures was determined by Itron. This process ensured a robust and thorough assessment of the full technical potential available. (Haney, Rufo)

ISSUE 2: Did the Company provide an adequate assessment of the achievable potential of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems?

Yes. After the determination of the technical potential for energy and demand savings, FPL performed cost-effectiveness screenings and analyses to determine

which measures would be cost-effective and properly includable in the achievable potential analysis. First, FPL screened measures using the E-RIM test and Participant Test or the E-TRC test and Participant Test. These "enhanced" versions of the original RIM and TRC tests account for the economic impact of environmental compliance costs associated with emissions of sulfur dioxide, nitrogen oxides, and carbon dioxide. (However, as described below in response to Issue 4 and Issue 7, the E-RIM test is the only test that accounts for all DSM-related costs that are incurred by all of FPL's customers.) Next, maximum incentive levels were determined which were then reduced in some cases, to ensure that each DSM measure results in positive net benefits. A two-year payback criterion was also utilized to minimize the occurrence of "free riders." FPL is required by Rule 25-17.0021(3) to account for the effect of free riders in this DSM goal setting proceeding.

After FPL identified the measures that were cost-effective and the appropriate incentive levels, Itron used this information to calculate FPL's achievable potential utilizing its DSM ASSYST model. The DSM ASSYST achievable potential model is a well-proven and updated model used on a wide variety of energy efficiency potential and goals-setting related projects over the past decade. (Sim, Haney, Rufo)

ISSUE 3: Do the Company's proposed goals adequately reflect the costs and benefits to customers participating in the measure, pursuant to Section 366.82(3)(a), F.S?

FPL: Yes. As mentioned above in response to Issue 2, FPL used the Participant Test in its economic screening of DSM measures. The Participant Test includes all relevant DSM-related costs that would be incurred by a customer participating in a DSM program. Measures which are not cost-effective to the participating customer are therefore not reflected in FPL's proposed DSM goals. (Dean, Sim)

ISSUE 4: Do the Company's proposed goals adequately reflect the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions, pursuant to Section 366.82(3)(b), F.S.?

FPL: Yes. The E-RIM test utilized by FPL includes all relevant DSM-related benefits and costs that will be incurred by the utility and all of its customers – both participants and non-participants. Accordingly, the achievable potential calculated and the resulting goals proposed reflect those measures which are cost-effective to all customers. The TRC or E-TRC test, on the other hand, does not reflect all DSM-related costs to the general body of ratepayers as required by Section 366.82(3)(b). The TRC test omits both the incentives paid to participating customers and the economic impact of unrecovered revenue requirements on electric rates – costs borne by all of FPL's customers. It also accounts for participants' out of pocket costs which are already reflected in the

Participant Test. The TRC test, therefore, does not adequately reflect the costs or the benefits to the general body of ratepayers.

FPL's proposed goals also reflect the costs and benefits to the general body of ratepayers in another important manner: the use of the proposed goals will provide the most cost-effective mix of resources on FPL's system. As described further below in response to Issue 8 and Issue 9, the resource plan incorporating FPL's proposed goals will provide the lowest levelized system average electric rate, when compared to the supply-only option or the use of any other DSM portfolio. Presenting goals which produce the lowest levelized system average electric rate clearly benefits FPL's general body of customers. (Dean, Sim)

ISSUE 5: Do the Company's proposed goals adequately reflect the costs imposed by state and federal regulations on the emission of greenhouse gases, pursuant to Section 366.82(3)(d), F.S?

FPL: Yes. FPL enhanced both the original RIM and original TRC tests by creating the E-RIM and E-TRC tests, to specifically account for future environmental compliance costs associated with carbon dioxide. FPL used a reasonable estimate of future environmental compliance costs, which was based upon ICF's U.S. Emission & Fuel Markets Outlook Winter 2007/2008. This is the same source that was used in FPL's recent supply-side need determination proceedings, and FPL's projected carbon dioxide costs are very similar to the Congressional Budget Office's recent projections. By incorporating such costs, the value of high kWh reduction DSM programs in regard to reduced emissions is fully captured and the cost-effectiveness of these DSM programs is appropriately increased. Additionally, because such compliance costs are incorporated in the cost-effectiveness tests of supply-side options, use of the E-RIM is a significant advancement in regard to continuing to analyze DSM programs and supply options on a level playing field. (Sim)

ISSUE 6: Should the Commission establish incentives to promote both customer-owned and utility-owned energy efficiency and demand-side renewable energy systems?

FPL: Not in this proceeding. Consideration of incentives, based on the goals that are established in this proceeding, would be more appropriately addressed in the plan phase of this docket or otherwise in a subsequent proceeding. (Haney)

ISSUE 7: What cost-effectiveness test or tests should the Commission use to set goals, pursuant to Section 366.82, F.S.?

FPL: The cost-effectiveness screening approach that is consistent with the Commission's obligation to set just and reasonable rates pursuant to Chapter 366,

Florida Statutes, and that meets the specific requirements of FEECA, as amended, is a combination of the E-RIM test and Participant Test, which was utilized by FPL. Accordingly, this is the test that should be used by the Commission to set DSM goals in this proceeding.

The E-RIM test utilized by FPL includes all relevant DSM-related costs that will be incurred by the utility and all of its customers – both participants and non-participants. Accordingly, the achievable potential calculated and the resulting goals proposed reflect those measures which are cost-effective to all customers. The TRC or E-TRC test, on the other hand, does not reflect all costs to the general body of ratepayers as required by Section 366.82(3)(b). The TRC test, therefore, does not adequately reflect the costs or the benefits to the general body of ratepayers. (Sim, Dean)

ISSUE 8: What residential summer and winter megawatt (MW) and annual Gigawatt-hour (GWh) goals should be established for the period 2010-2019?

FPL: Please refer to the table below. In total, FPL is proposing 664 MW of cumulative Summer demand reduction, 337 MW of cumulative Winter demand reduction, and 878.2 GWh of cumulative energy savings. These goals will contribute to the most cost-effective resource plan on FPL's system, result in the lowest levelized system average electric rate, and will help avoid subsidization of participants by non-participants. (Haney, Sim)

PROPOSED RESIDENTIAL CONSERVATION GOALS										
Year	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**
Summer MW	26.6	26.6	26.3	26.2	26.2	26.2	26.2	26.2	26.2	26.6
Winter MW	24.6	24.6	24.7	24.7	24.7	24.7	24.7	24.7	24.7	24.6
Annual GWh	33.1	33.1	32.8	32.7	32.7	32.7	32.7	32.7	32.7	33.1

ISSUE 9: What commercial/industrial summer and winter megawatt (MW) and annual Gigawatt hour (GWh) goals should be established for the period 2010-2019?

FPL: Please refer to the table below. In total, FPL is proposing 664 MW of cumulative Summer demand reduction, 337 MW of cumulative Winter demand reduction, and 878.2 GWh of cumulative energy savings. These goals will contribute to the most cost-effective resource plan on FPL's system, result in the lowest levelized system average electric rate, and will help avoid subsidization of participants by non-participants. (Haney, Sim)

PROPOSED COMMERCIAL/INDUSTRIAL CONSERVATION GOALS										
Year	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**
Summer MW	33.4	33.4	33.7	33.8	33.8	33.8	34.3	34.7	35.8	36.6
Winter MW	8.5	8.5	8.5	8.6	8.9	9.0	9.2	9.6	10.1	10.2
Annual GWh	41.0	41.4	44.2	45.3	53.9	54.6	59.8	63.3	71.2	75.4

ISSUE 10: In addition to the MW and GWh goals established in Issues 8 and 9, should the Commission establish separate goals for demand-side renewable energy systems?

FPL: No. The technical potential and achievable potential for demand-side renewable energy systems have been addressed in the comprehensive process detailed in FPL's response to Issue 1 and Issue 2 above, and is therefore reflected within FPL's proposed goals. (Haney)

ISSUE 11: In addition to the MW and GWh goals established in Issues 8 and 9, should the Commission establish additional goals for efficiency improvements in generation, transmission, and distribution?

FPL: Not at this time. As stated in Rule 25-17.001, "general goals and methods for increasing the overall efficiency of the bulk electric power system of Florida are broadly stated since these methods are an ongoing part of the practice of every well managed electric utility's programs and shall be continued." If such additional goals are desired, they should be considered in a subsequent proceeding. (Haney)

ISSUE 12: In addition to the MW and GWh goals established in Issues 8 and 9, should the Commission establish separate goals for residential and commercial/industrial customer participation in utility energy audit programs for the period 2010-2019?

FPL: Specific goals for customer participation in audit programs are unnecessary, but FPL would not oppose reasonably achievable energy audit goals. This issue should be considered, if at all, in a subsequent proceeding. (Haney)

ISSUE 13: Should this docket be closed?

FPL: Yes.

ADDITIONAL ISSUES:

ISSUE 14: What action(s), if any, should the Commission take in this proceeding to encourage the efficient use of cogeneration? (FIPUG NEW ISSUE)

FPL: No actions are necessary to encourage the efficient use of cogeneration in this proceeding. Cogeneration systems must be evaluated on a site-specific, case-by-case basis, which does not lend itself to the goals-setting process. Nonetheless, FPL will continue to evaluate and assess cogeneration options. (Haney)

ISSUE 15: In setting goals, what consideration should the Commission give to the impact on rates? (OUC NEW ISSUE)

FPL: The Commission must consider the impact on rates caused by DSM goals and should continue to set DSM goals which minimize rate impacts and avoid subsidization of participants by non-participants in DSM programs. The Commission is charged with determining and setting just and reasonable rates pursuant to its authority granted by Chapter 366, Florida Statutes, and the recent amendments to FEECA did not change that. In fact, FEECA now explicitly requires the Commission to consider costs and benefits "to the general body of ratepayers as a whole[.]" None of the amendments contained in HB 7135 imply that rate impacts should be disregarded. The DSM goals proposed by FPL will result in lowest levelized system average electric rate, and will help avoid subsidization of participants by non-participants. In contrast, the alternative goals proposed by GDS and by SACE and NRDC would impose unnecessary and immense rate impacts on FPL's customers, which is one of many reasons why they should be rejected. (Dean, Haney, Sim)

ISSUE 16: Since the Commission has no rate-setting authority over OUC and JEA, can the Commission establish goals that put upward pressure on their rates? (OUC NEW ISSUE)

FPL: No position.

V. STIPULATIONS

No issues have been stipulated at this time.

VI. PENDING MOTIONS OR REQUESTS FOR CONFIDENTIAL CLASSIFICATION

FPL has no motions or requests for confidential classification pending.

VII. OBJECTIONS TO WITNESSES' QUALIFICATIONS

At this time, FPL has no objections to any witness qualifications.

VIII. REQUIREMENTS OF THE PREHEARING ORDER THAT CANNOT BE MET

At this time, FPL is not aware of any requirements in the Order Establishing Procedure with which it cannot comply.

Respectfully submitted this 27th day of July, 2009.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically and by U.S. mail this 27th day of July, 2009, to the following:

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