



August 27, 2009

Ms. Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

080407-EG
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Re: Commission review of numeric conservation goals (Progress Energy Florida)
Docket No. 070703-EI

Dear Mr. Cole:

Enclosed for filing in the above referenced docket on behalf of Progress Energy Florida, Inc. ("PEF") are the original and seven (7) copies of PEF's Post-Hearing Statement and Brief.

Thank you for your assistance in this matter and please let me know if you have any questions.

Sincerely,

John T. Burnett
John T. Burnett

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Attachments

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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: August 28, 2009

PROGRESS ENERGY FLORIDA, INC.'S POST-HEARING STATEMENT AND BRIEF

Progress Energy Florida, Inc. ("PEF" or the "Company"), hereby submits its Post-Hearing Statement of Issues, Positions, and Brief in this matter and states as follows:

I. The proposed goals set forth in PEF's E-RIM scenario contained in Mr. Masiello's testimony reflect the reasonably achievable demand side management potential in PEF's service territory over the ten year period 2010-2019 and should be approved by this Commission.

A. Fundamental Legal Requirements

Florida utilities and this Commission are guided by statutory requirements of the Florida Energy Efficiency and Conservation Act, commonly known as "FEECA," (Sections 366.80-366.85 and 403.519, Florida Statutes (F.S.)), and the remainder of Chapter 366 F.S. which gives the Commission the fundamental responsibility of assuring that customers are charged fair, just,

and reasonable rates by public utilities. Along with those statutory requirements, utilities and the Commission are also guided by recent amendments to FEECA reflected in House Bill 7135, and Rule 25-17.0021, the Commission's Demand Side Management ("DSM") goals rule which was adopted to implement FEECA.

At least once every five years, Florida utilities are required to propose numeric goals for a ten-year period and provide ten-year projections of the total cost-effective, winter and summer peak demand savings and annual energy savings reasonably achievable in the residential and commercial/industrial classes through DSM based upon the utility's most recent planning process. The rules establish that utility goals must be cost-effective and reasonably achievable. The goals must consider free riders, interactions with building codes and appliance efficiency standards, and the utility's latest monitoring and evaluation of DSM programs. In reviewing utility goals, the Commission must also consider costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions.

(i) History of DSM Goal Setting

Through the FPSC's leadership, PEF has been successfully and aggressively conducting energy efficiency and demand response programs for 28 years. As a direct result of this effort, PEF has delivered significant savings and benefits to its customers. PEF is a national leader in DSM. Our leadership is testimony to the efforts made by the FPSC, Florida legislators, and PEF's customers.

For more than a decade, this Commission has established a well-reasoned and consistent implementation of FEECA. This precedent is reflected in Order Nos. PSC-94-1313-FOF-EG, PSC-99-1942-FOF-EG, and PSC-04-0769-PAA-EG. In addition, the Florida Supreme Court has squarely supported the Commission's fair and equitable rulings. In its 1996 decision, the Court held:

In instructing the Commission to set conservation goals for increasing energy efficiency and conservation, the legislature directed the Commission to not approve any rate or rate structure which discriminates against any class of customers. *See* §366.81, *Fla. Stat. (1993)*. The Commission was therefore compelled to determine the overall effect on rates, generation expansion, and revenue requirements. Based on our review of the record, we find ample support for the Commission's determination to set conservation goals using RIM measures.¹

In this decision, the Court clearly recognized the Total Resource Cost ("TRC") test, but in weighing and comparing the results, the Court found that the measures passing the TRC test, but not RIM, would result in increased rates and would cause customers who do not participate in a utility DSM measure to subsidize customers who do participate. The Court concluded that the benefits of adopting a TRC goal were minimal and that increasing rates based on the TRC test was unjustified.²

This Commission has consistently taken the position of protecting customers by aggressively pursuing DSM that is cost-effective. The precedent established by this Commission and the Florida Supreme Court is relevant to this proceeding and must be given great weight in the goals setting process.

(ii) This Docket.

The case before us is no different than the well-reasoned decisions that this Commission has made in the past. The only thing that has changed is the addition of House Bill 7135 which does not change the Commission's extensive authority under Chapter 366 to set fair, just and reasonable rates. House Bill 7135 only modestly amends FEECA and leaves intact most of the provisions of FEECA that the Commission has relied upon for its historic and successful implementation.

¹ Legal Environmental Assistance Foundation v. Clark et. al., 668 So. 2d 982, 988 (1996).

² Id. at 987.

PEF intends to continue its success in DSM programs and has proposed goals that are both aggressive and in compliance with the requirements of FEECA. To that end, PEF has increased our energy goal from our 2004 ten-year goals filing by over 300%. PEF has implemented enhancements to its RIM test that created a high scenario based on the Enhanced Rate Impact Measurement test (“E-RIM”). Additionally, PEF has also lowered its pass/fail ratio under the traditional RIM test to 1.01, down from 1.20, allowing many more measures to pass “E-RIM”. These two additions alone have dramatically increased our potential and will result in significant savings to our customers.

This year, in collaboration with the other FEECA utilities, PEF has developed comprehensive plans and programs for increasing energy efficiency and conservation and demand-side renewable energy systems within its service area. PEF’s ten-year proposed conservation goals comply with the DSM goals rule which the Commission must follow in this proceeding as well as FEECA. The Commission should review the proposed goal scenarios with consideration of its well-reasoned past. The Commission should also balance the needs of all stakeholders and minimize any adverse impacts to customers. Indeed, special consideration must be given to external factors beyond PEF’s control such as tightened credit availability, weakened financial and retail industries, unemployment, and the overall Florida economy, all of which may make highly aggressive goals difficult to achieve.

B. The Evaluation Process of DSM Goals

To evaluate and develop proposed goals in this docket, investor-owned utilities together with NRDC and SACE formed an interactive working collaborative. The collaborative collectively made a decision to retain a respected firm to conduct a technical potential study for each of the FEECA utilities. The collaborative ultimately selected Itron to perform that study, and after nearly a yearlong comprehensive analysis and evaluation of DSM, Itron produced an

exhaustive technical potential study that analyzed 267 unique measures, 58 of which Itron had never analyzed before.

The results of the study were then integrated by the FEECA utilities into their respective resource plans and screened for cost-effectiveness by each utility under all of the Commission's approved cost-effectiveness methodology including the RIM test, the TRC test, and the Participant test. To meet the new FEECA requirement under HB 7135, giving consideration to the cost of greenhouse gases during the goal horizons, the RIM and TRC tests were enhanced resulting in two new enhanced tests: E-RIM and E-TRC. (Tr. P. 431-432, L. 20-6). The new E-RIM test significantly increased the number of measures found to be cost-effective compared to the number of cost-effective measures under the original RIM test. The cost-effective measures were then screened for free riders using a two-year payback criterion that has been used in setting DSM goals and participation standards in Florida for 15 years.

The remaining measures for each utility were then processed through Itron's sophisticated DSM ASSYST model that produced two sets of achievable potential estimates for each utility. One estimate held measures that passed both E-RIM and the Participant Test. The other estimate contained measures that passed both the E-TRC and the Participants Test. Each utility then integrated their respective achievable potential estimates into their planning processes. For the four Florida major IOUs, the E-RIM and Participant Test yielded significant advantages over the E-TRC and Participant Test. Specifically, advantages in the E-RIM portfolio were seen in lower customer rates, prevention of cross-subsidization, and protection of low income customers who are the least likely to be able to participate in cost-intensive DSM programs. The E-TRC test, on the other hand, did not yield these significant advantages. In fact, the proposed goals adopted by the interveners using the TRC test, were significantly above E-RIM which adds more concern that low income participants could afford these measures.

C. Objectives, Compliance and Consideration

The objective of the DSM goals setting process is to establish goals that meet the criteria set forth in the fundamental legal requirements of the DSM goals rule and FEECA as amended by HB 7135. It is important to note that the analysis, methodology, and considerations that were used by Itron and the utilities fully complied with FEECA, and in fact, went beyond the requirements of the Commission's DSM goals rule. (Tr. P. 1833, L. 14-20; Tr. P. 1284-1285, L. 8-19).

On the other hand, NRDC, SACE, and GDS disparage the proper implementation of FEECA and the DSM goals rule by erroneously suggesting that the Commission should embark on a new radical approach that would no longer minimize rate impacts or rely on utility planning processes. (Tr. P. 1830, L. 14-17; Tr. P. 1832-1833, L. 14-3). For NRDC and SACE, their primary goal is reducing air emissions through DSM no matter what the cost while disregarding important considerations such as rate impact, cross subsidization, and resource needs of the utilities. (Tr. P. 1830, L. 14-17; Tr. P. 1832-1833, L. 14-3). In fact, NRDC and SACE did not perform any meaningful study at all to support their proposals. (Tr. P. 1147, L. 12-19, 20-24; Tr. P. 1377, L. 19-21; Tr. P. 1388-1389, L. 17-9). Their approach is based on arbitrary goals of one percent of sales per year that are simply baseless and unsupported. (Tr. P. 1147, 3-8; Tr. P. 1832-1833, L. 14-3). Their goals are also significantly greater than Itron's achievable potential. Similarly, GDS's proposal, which also is not based on any meaningful study or analysis, would force customers, many who are on low and fixed incomes, to acquire DSM resources that are not needed and that result in unfair rate increases. (Tr. P. 1832-1833, L. 14-3). Further, neither SACE/NRDC, nor GDS coherently interpret the meaning of the relevant rules and statutes. (Tr. P. 1147, L. 12-19; Tr. P. 1148-1149, L. 16-3; Tr. P. 1379-1380, L. 9-10; Tr. P. 1380-1381, L. 24-12; Tr. P. 1383-1385, L. 20-5; Tr. P. 1396-1397, L. 19-7; Tr. P. 2077-2079, L. 6-6). In fact,

witness Steinhurst admitted that he did not even review the Florida Administrative Code containing rules applicable to this docket prior to submitting his testimony. (Tr. P. 1148-9, L. 16-3). Instead, the interveners rely on unsubstantiated, unsupported, and unrealistic contentions that offer rank speculation and supposition based upon a fundamental lack of consideration of how the Commission and the Florida legislature have responsibly and prudently managed demand side management and energy efficiency in Florida over the past two decades. (Tr. P. 1377, L. 19-21; Tr. P. 1377, L. 22-25; Tr. P. 1379-1380, L. 9-10; Tr. P. 1380-1381, L. 24-12; Tr. P. 1383-1385, L. 20-5). Further, neither NRDC, SACE, nor GDS, has submitted any specifics to the Commission as to how their proposals would work in Florida, what programs and measures would be used to achieve their proposals, or what their proposals would mean to Florida customers. (Tr. P. 1151-1152, L. 23-3; Tr. P. 1152, L. 5-12).

D. The Technical and Achievable Potential Studies

SACE/NRDC and GDS criticize the studies that Itron and the FEECA utilities performed by making haphazard comparisons of Florida to a handful of states in New England and other sections of the country, some of which have deregulated electric service. (Tr. P. 1164, L. 6-11). By comparing Florida to New Hampshire and other “apples-to-oranges” jurisdictions, GDS and SACE/NRDC witnesses come to the flawed conclusion that the FEECA studies excluded many important energy efficiency measures that allegedly work elsewhere, but these are just further examples of how GDS and SACE/NRDC incorrectly compare PEF’s service territory to service territories that are over a thousand miles away and assume, without any analysis, that what works in New England will automatically work in Florida. (Tr. P. 1147, L. 20-24; Tr. P. 1162-1164, L. 2-15; Tr. P. 1830-1833, L. 18-20). To the contrary, PEF has demonstrated that its studies did not exclude important measures in the goal setting process. Instead, focus was maintained on

measures that will actually work in Florida, that have the greatest potential impact, and that have the possibility for realistic adoption. (Tr. P. 1830-1833, L. 18-20). It is simply not appropriate to compare energy efficiency measures in other jurisdictions to Florida (where the climate, culture, weather patterns customer base, and electric end-use is radically different), without any analysis or meaningful review. (Tr. P. 1830-1833, L. 18-20).

The SACE/NRDC and GDS witnesses go on to criticize PEF's analysis by making statements such as "energy efficiency programs can help reduce the demand for electricity at a levelized cost per lifetime kWh saved that is much less expensive than building and operating a new nuclear power plant or power plant fueled with clean coal." (Spellman testimony, P. 16, L. 7-10). For assertions such as these to be taken seriously, they need to be objectively analyzed and factually supported. However, these witnesses offer no facts or analysis to support these statements, nor do they provide any analysis on how these assertions may or may not be consistent with system planning and reserve margin needs within a given service territory. (Tr. P. 1147, L. 3-8; Tr. P. 1832-1833, L. 14-3). In fact, only ten days before the hearing in this matter, witness Steinhurst admitted during his deposition that he did not know the Commission's target reserve margin for FEECA utilities. (Tr. P. 1151, L. 7-10). PEF and the other FEECA utilities, on the other hand, have actually performed an analysis that considers system planning and cost effectiveness and have submitted that information to the Commission in their direct testimony. (Masiello direct testimony, Exhibit JAM-6). This is the only credible and supported evidence that the Commission can rely on to make decisions in this docket, and SACE/NRDC's and GDS's assertions of "it's true because I say so" cannot be accepted.

Witnesses Spellman and Guidry also calculated a proposed ratio of summer peak kW savings to the annual kWh savings for each market sector using an overly simplistic methodology and an incorrect approach to estimate summer and winter peak demand savings by

assuming peak demand savings reasonably achievable through utility DSM programs can be extrapolated based solely on kWh energy savings. By failing to consider the utility's resource plan, their approach ignores standard resource planning practices in that it allows peak demand savings to grow well beyond a utility's capacity needs. (Masiello rebuttal testimony p. 23, L. 17-19). The GDS ratio approach also doesn't consider the mix of demand response versus energy efficiency programs in the goals. (Masiello rebuttal testimony p. 23, L. 19-20). Nor does their approach consider the proper mix of demand-side versus supply-side resources in the projection of planning reserves. (Masiello rebuttal testimony p. 23, L. 20-22). Needless to say, their recommended peak demand savings goals leads to an overreliance on demand response as it becomes a proportionally larger share of planning reserves in the future. These misleading calculations are simply incorrect and the Commission should reject them.

E. PEF's Proposed E-RIM Goals are Appropriate, Properly Analyzed, and Meet the Objectives Established in FEECA.

PEF's proposed goals meet the objectives established in the DSM goals rule and FEECA. PEF's goals are based upon PEF's most recent planning process of the total, cost-effective, winter and summer peak demand (MW) and annual energy (GWH) savings reasonably achievable in the residential and commercial/industrial classes through demand side management. PEF's projections of summer and winter demand savings, annual energy savings and participants reflect consideration of overlapping measures, rebound effects, free riders, interactions with building codes and appliance efficiency standards, and PEF's evaluation of conservation programs and measures. These goals reflect the reasonably achievable demand side management potential in PEF's service territory over the ten year period 2010-2019 developed in PEF's planning process.

To the contrary, GDS witness, Richard Spellman, proposes goals in his testimony that are developed by making unsupportable “adjustments” to some of the FEECA utilities’ technical and achievable potential. (Tr. P. 1573, L. 13-17; Tr. P. 1577-1580, L. 5-4; Tr. P. 1580, L. 15-25; Tr. P. 1587, L. 3-15; Tr. P. 1589-1590, L. 10-11; Tr. P. 1591-1592, L. 1-14; Tr. P. 1592, L. 15-23; Tr. P. 1593, L. 10-13; Tr. P. 1593-1594, L. 21-13; Tr. P. 1594, L. 14-22; Tr. P. 1595-1596, L. 21-19). For instance, he improperly adds in energy efficiency measures that have been appropriately eliminated due to free ridership consideration. (Tr. P. 1573-1574, L. 24-2). He selectively increases market penetrations and he makes other self-serving revisions to arrive at goals for each of the FEECA utilities. (Tr. P. 1574-1575, L. 3-13). Similarly, SACE/NRDC witnesses propose arbitrary “percentage of sales” goals for PEF instead of goals that are supported by principled analysis. (Tr. P. 1147, L. 3-8; Tr. P. 1381-1382, L. 21-4). These goals are merely back-of-the-envelope hurried type estimates that are unsupported by any meaningful study. (Tr. P. 1573, L. 13-17; Tr. P. 1577-1580, L. 5-4; Tr. P. 1580, L. 15-25; Tr. P. 1587, L. 3-15; Tr. P. 1589-1590, L. 10-11; Tr. P. 1591-1592, L. 1-14; Tr. P. 1592, L. 15-23; Tr. P. 1593, L. 10-13; Tr. P. 1593-1594, L. 21-13; Tr. P. 1594, L. 14-22; Tr. P. 1595-1596, L. 21-19; Tr. P. 1598-1601, L. 19-4; Tr. P. 1625, L. 4-11; Tr. P. 1385-1386, L. 9-1).

Mr. Spellman also clearly demonstrates that his “non-lawyer” legal analysis is flawed by asserting that “The ultimate goal of the FEECA statutes is to implement successful energy efficiency programs that can reduce the growth rate of electric consumption.” (Spellman testimony, P. 54, L. 16-17). His view of FEECA’s “ultimate goal” is a misinterpretation based on “cherry picking” sentences from the Statute while dismissing other language. For example, the FEECA Statute §366.81, F.S., states that “Reduction in, and control of, the growth rates of electric consumption and of weather-sensitive peak demand are of particular importance.” By conveniently ignoring that FEECA also recognizes the reduction in “weather-sensitive peak

demand” as being “of particular importance,” Mr. Spellman’s statement demonstrates his lack of knowledge of Florida’s laws, rules, and unique characteristics, as well as a bias against demand response programs that focus on reducing weather-sensitive peak demand.

FEECA specifically states in §366.81, F.S., that “...it is critical to utilize the most efficient and cost-effective demand-side renewable energy systems and conservation systems in order to protect the health, prosperity, and general welfare of the state and its citizens.” Contrary to Mr. Spellman’s view, simply implementing “successful” programs is not equivalent to “utilizing the most efficient and cost-effective” programs. Further, FEECA does not encourage energy efficiency programs over other types of demand-side programs. To suggest that any one of the FEECA goals is superior above the other is demonstrative of a flawed understanding of the statute and of Florida’s history with demand side management.

F. Comparing E-RIM to E-TRC

SACE/NRDC and GDS recommend that the Commission should adopt some form of the E-TRC test in setting goals for PEF. However, using the TRC or E-TRC test to determine the cost effectiveness of a DSM portfolio affects customers negatively in several ways. (Masiello rebuttal testimony, P. 24, L. 7-14). First, TRC and E-TRC will result in higher electricity rates for the DSM portfolio resource plan than for a supply-side only resource plan without any DSM. Second, TRC and E-TRC allow cross-subsidization between participants and non-participants such that program participants receive an economic benefit from the DSM portfolio while program non-participants actually suffer an economic loss. TRC and E-TRC also allow utilities to pay higher incentives to participating customers than RIM, which, of course, drives up rates. (Tr. P. 1844-1845, L. 23-25). Third, there is a misconception that all customers will be able to install all measures equally. While GDS, SACE, and NRDC are advocating the E-TRC test, they

have no apparent regard for the implications that such a test would have on Florida customers, especially on those customers least able to afford those implications. (Tr. P. 1151-1152, L. 23-4; Tr. P. 1153, L. 6-16).

In contrast, PEF's proposal to use the E-RIM and Participant tests helps to ensure that PEF's DSM portfolio plan will: (1) result in lower electric rates than the supply-side only plan, (2) represent a win-win scenario for all customers by providing an economic benefit to both participants and non-participants, (3) will only allow cost-effective incentives, and (4) minimize free riders. (Tr. P. 418, L. 1-11). Where the E-RIM test captures the costs and benefits of measures to non-participating customers, the participant test captures the costs and benefits of participating customers. Thus, the interests of both participants and non-participants are considered and adequately reflect the costs and benefits to provide equitable treatment for all ratepayers while minimizing overall rate impacts. (Tr. 1844-1845, L. 23-25; Tr. P. 2087, L. 4-13).

Besides providing DSM cost impacts based upon the E-RIM test, PEF also provided an estimate of the DSM cost impacts based upon GDS's proposed goals for PEF. (Masiello rebuttal testimony, P. 26-27, L. 7-3; Tr. P. 398-399, L. 2-2). Collectively, the costs for GDS's proposed goals under the E-TRC test are estimated to be in the range of \$5.7 *billion* for program costs plus incentives over the 10 years of the plan. (Tr. P. 398, L. 15-20; Tr. P. 1832, L. 14-21). That cost component alone has the potential to add over \$570 million in costs annually and could significantly increase PEF's current ECCR annual cost of approximately \$80 million. (Tr. P. 398-399, L. 21-2; Tr. P. 1832, L. 21-25). Again, GDS ignores the impact their proposed goals will have on PEF customers. (Tr. P. 1833, L. 1-8).

Similarly, SACE/NRDC has not even analyzed what the dollar per kilowatt hour impact on monthly residential electric bills would be if the PSC accepted their proposal. (Tr. P. 1149, L.

4-8). They have not performed any detailed DSM program design work for Florida utilities, nor have they performed any other type of quantitative analysis on rate impacts to the FEECA utilities prior to filing their testimony. (Tr. P. 1149, L. 9-12; Tr. P. 1152, L. 13-15).

PEF's research and long-standing experience confirm that customers at the lower income levels have the least participation in DSM programs. All customer segments support energy efficiency programs, therefore all customer segments should receive benefits from the programs they support. While the RIM benefit cost model ensures benefits to all customer segments whether they participate or not, the TRC does not. Thus, TRC will allow cross subsidies to occur without reward to the rate impacts on low income customers. Said simply, with TRC, the customer least capable of participating in the measures ends up paying the higher ECCR cost without getting benefits of rate savings.

H. Challenges to the Two-Year Payback Limit

Since 1991, a payback of two years or less has been recognized by the Commission as an appropriate threshold to reduce free ridership and maximize cost-effectiveness in DSM program design. (Tr. P. 476-477, L. 9-10). The goal of DSM rebates has been to help offset high capital cost measures and reduce paybacks which help to motivate customer action. Even Mr. Spellman recognized in his testimony that the two year payback "makes sense for the large commercial/industrial market." (Spellman testimony, P. 32, L. 4-5). Indeed, the two year payback is an effective means of managing free riders. (Tr. P. 473, L. 5-13). It is not prudent to direct customer funded incentives toward measures that already provide a high value to the participant. Instead, PEF has shown that education is a more cost-effective solution. (Tr. P. 412-413, L. 12-13; Tr. P. 480, L. 4-9; Tr. P. 482-483, L. 12-18).

There are many published curves that estimate customer adoption in response to payback levels. (Tr. P. 1253-1256, L. 6-11). Reliable market data contained in the ACEEE curve introduced by witness Masiello reports 45% free riders for a two year payback. (Masiello rebuttal testimony, P. 13, table 5; Tr. P. 476-477, L. 25-3). But rebates to achieve a 1.5 year payback would result in 55% free riders and increase costs significantly. By providing an incentive to buy down a 2-year payback to 1 year creates 62% free riders and is estimated to almost double costs due to increased incentives. (Masiello rebuttal testimony, P. 14, table 6; Tr. P. 477, L. 3-5).

Ignoring published market data available to him, witness Spellman spent considerable time criticizing the two-year payback limitation, but when actual facts and actual analysis are applied to his criticisms, there is no merit to his arguments. For instance, he incorrectly jumps to a conclusion that the two year payback screening limits technical potential and is inconsistent with FEECA. But he doesn't take into consideration that the evaluation of technical potential and economic potential was performed prior to the application of the two year payback screening criterion so it logically had no effect toward limiting the technical potential.

Mr. Spellman also incorrectly alleges that the utilities eliminated measures based on the two year minimum payback requirement "without considering the actual market barriers and low market saturations of many of these energy efficiency measures." (Spellman testimony, P. 6, L. 17-20). However, Mr. Spellman fails to provide any support for this conclusion and his statement further supports the fact that he is not familiar with PEF's residential and commercial audit programs or other education and awareness efforts promoted by the company. (Tr. P. 1830, L. 14-17). Programs such as *Save the Watts* do indeed address several of the market barriers which he references on pages 28-29 of his testimony. (Tr. P. 469-472, L. 20-6). Education and awareness is also provided during our energy audits and twice annually in bill inserts. (Tr. P.

471, L. 25). A list of PEF's customer awareness and education initiatives is provided in Exhibit JAM-16 of John Masiello's direct testimony. PEF's programs have been very effective in promoting energy awareness and participation in PEF programs show high penetration rates. Once again, had witness Spellman utilized reliable market data and familiarized himself with PEF's audit programs and educational awareness efforts, he would have likely arrived at a much different conclusion.

I. Market Penetration Rates.

GDS and SACE/NRDC witnesses have made inaccurate and misguided allegations that PEF's market penetration estimates are conservative, but they fail to prove or support any of their assertions. (John Masiello rebuttal testimony, P. 15-16, L. 6-7). PEF, however, provided objective data to clearly show that PEF's market penetration is by no means conservative. (John Masiello rebuttal testimony, P. 15-16, L. 6-7).

PEF's aggressive goals are achieved by our energy advisors through programs that provide education and promote many measures during our in-home audits. (Tr. P. 410-411, L. 23-10; Tr. P. 413-414, L. 18-11; Tr. P. 471, L. 25). PEF has a long history of developing and implementing innovative and meaningful DSM programs to all segments of our service territory. PEF efficiency advisors are committed to sharing their knowledge and expertise in delivering programs that provide a great benefit to all sectors including low income customers. (Tr. P. 410-411, L. 23-10; Tr. P. 471, L. 25; Tr. P. 1841-1843, L. 19-25). PEF has provided examples as well as objective data to support our programs. (Tr. P. 413, L. 5-13; Tr. P. 471, L. 25; Tr. P. 1841-1843, L. 19-25). We have also explained our three-pronged approach to educate and inform customers about energy efficiency programs. (Tr. P. 469-472, L. 20-6). Mr. Spellman and the SACE/NRDC, on the other hand, simply assert that more aggressive measures are needed but do nothing to address current efforts and programs, nor do they offer any specific

recommendations as to how these unspecified “aggressive measures” would be implemented or how they would work. GDS and the interveners are quick to criticize PEF’s education and marketing efforts, but they do not know what PEF does in this regard, nor do they offer any specifics on how PEF could do its job better. (Tr. P. 1147, L. 16-19; Tr. P. 1151, L. 11-16; Tr. P. 1152, L. 13-15). In fact, Mr. Steinhurst admitted that he has not conducted any specific study or analysis of what the FEECA utilities are currently doing with respect to energy audits. (Tr. P. 1151, L. 17-22). Indeed, when NRDC attempted to show that PEF’s penetration rate was only 2-3% for certain programs, Mr. Masiello proved, however, that SACE/NRDC’s asserted percentages were inaccurate. (Tr. P. 484-486, L. 7-17). For example, Mr. Masiello clarified that the percentages in the four measures in Exhibit 151 represented future penetration rates for the programs, not existing penetration rates. Specifically, existing penetration rates for AC maintenance outdoor coil cleaning is 40 percent, not 2.6. Likewise, the current penetration for refrigerant charging and air flow is 60 percent, not 6.3. In addition, existing penetration rates for showerheads are 43 percent, not 7.5, and aerators are 33 percent, not 11.5. (Tr. P. 484-486, L. 7-17).

J. Peak Demand Reduction and Energy Savings

GDS and SACE/NRDC witnesses suggest that PEF only focuses on peak demand reduction with its energy efficiency programs and not on energy savings, but it is easy to dismiss these assertions when proper analysis is applied to them. On page 19 of witness Masiello’s rebuttal testimony, he confirms that PEF customers who have implemented energy efficiency measures have saved over \$1 billion in energy costs. PEF’s second \$1 billion in energy costs savings for customers is predicted to occur by the 3rd quarter of 2018 based on PEF’s “high” scenario (E-RIM) filed as its goal. Again, neither GDS nor SACE/NRDC has offered any meaningful support for their contentions, nor have they offered any evidence to rebut Mr.

Masiello's rebuttal. (Tr. P. 1155-1156, L. 20-15). As the record evidence shows, PEF has and does focus on energy savings and to say otherwise is simply wrong.

K. PEF Has Proven its Performance.

PEF's efficiency programs target the most energy intensive measures impacting the major loads that provide significant energy savings. Our full portfolio design has succeeded in placing an emphasis on reducing the growth rates of weather sensitive peak demand, reducing and controlling the growth rates of electricity consumption, and reducing the consumption of expensive resources such as petroleum fuels. When meaningful analysis is applied to objective data, the results clearly show that Florida utilities and the FPSC have been and continue to be a national leader in DSM and energy efficiency. (Tr. P. 1831-1832, L. 12-8). Even Mr. Spellman admits that Florida utilities have been highly successful in their contribution to FEECA goals. (Spellman testimony P. 12, L. 1-4). He also admits that PEF and Florida utilities are national leaders based on incremental annual kW savings from load management programs. (Spellman testimony P. 12, L. 6-15). This status has not come easily and is the result of many years of working with the Florida Public Service Commission to implement aggressive DSM programs. PEF's success is a testament to our Public Service Commission and the legislators that wrote and continue to support FEECA.

Yet the GDS and SACE/NRDC witnesses allege that Florida utilities are falling short of national leadership status. Their allegations ignore, however, the commendable and long-standing efforts that the FPSC and the Florida utilities have taken under FEECA by creating a legacy of programs that are recognized throughout the nation. PEF's sustainable performance and the numerous awards and recognition for our exemplary efforts and innovation in the area of energy efficiency support PEF's position. Witness Spellman attempts to support his position by

comparing PEF to other utilities in California and New England by contending that those states perform better than Florida. In its rebuttal, however, PEF provided comparisons of actual performance which clearly prove that when one focuses on real, objective data, the FEECA utilities, under direction of the FPSC, are leading the country in actual reduction of residential energy usage on a per customer basis at a lower cost when compared to the states that Mr. Spellman cites. (Masiello rebuttal testimony, P. 29-30, L. 1-2; Tr. P. 1830, L. 18-24; Tr. P. 1831-1833, L. 3-20; Tr. P. 1835, L. 7-25).

PEF's performance was also challenged by SACE/NRDC witness Wilson who relied on incorrect data to make incorrect assertions about the costs of DSM in Florida. More specifically, he quoted from reports that inaccurately depict PEF's accomplishments. (Tr. P. 1836, L. 7-19; Masiello rebuttal testimony, P. 9-11, L. 8-11). Specifically, Mr. Wilson relied on a Summit Blue report and stated that PEF's cost for DSM programs is shown as the highest at \$1.70 per kWh. As Mr. Masiello explained in his rebuttal testimony, however, the Summit Blue report that Mr. Wilson used did not account for the fact that 76% of PEF's DSM expenses are used to support and maintain the existing 1,000 MWs of demand response that PEF has obtained through its aggressive historical efforts. When the costs were properly accounted for, the \$1.70 per kWh cost of conserved energy becomes \$0.42 per kWh. (Masiello rebuttal testimony, p. 10, table 2; Tr. P. 1836-1837, L. 20-17).

Additionally, the Summit Blue report incorrectly stated the residential cost per kWh at \$1.05, instead of the proper cost of \$0.37 when existing DR system costs were excluded. (Masiello rebuttal testimony, P. 9-10, L. 19-2). Also, as Table 3 in Mr. Masiello's rebuttal testimony shows, the \$1000 costs for residential kW that Summit Blue asserts becomes \$41 when the calculation is based on present demand response megawatts and relationship to cost. (Masiello rebuttal testimony, p. 10, table 3).

L. Conclusion

In summary, PEF's witnesses put on substantively unchallenged testimony showing that PEF has proposed initiatives in its filing that are innovative and would allow even greater opportunities for all segments of our population including low income residential and business customers. Our proposal will benefit both customers that can install measures and those that can least afford to participate. PEF's proposed goals are fair and equitable and should be approved.

PEF has complied with FEECA by submitting realistic, ambitious, and achievable goals that are based on extensive analysis to assess the full technical and achievable potential for energy and peak demand savings for DSM in Florida. PEF's proposed goals are based upon the Company's most recent planning process of the total cost-effective kilowatt and kilowatt-hour (kWh) DSM savings reasonably achievable in PEF's service territory over the ten-year period 2010 to 2019 and were developed using the Commission's approved cost-effective methodology. PEF's E-RIM and the participant portfolio account for all the specific measures that are required under the Commission's DSM goals rule and the proposals meet the requirements of FEECA as it's been amended by House Bill 7135. Most importantly PEF's proposed goals:

- Reduce and control the growth rate of electric consumption;
- Reduce the growth rate of weather-sensitive peak demand;
- Increase the conservation of expensive resources such as petroleum;
- Are based on the evaluation of full technical potential;
- Consider the cost and benefits to participants;
- Consider all the costs and all the benefits to the general body of ratepayers, including utility incentives and participant costs, because they pass both the E-RIM and the Participants test;
- Consider the need for incentives to promote energy efficiency and demand-side renewable energy systems;
- They properly reflect the cost of the regulation of greenhouse gases as is required by the recent amendments to FEECA.
- Result in over a 300% increase in energy efficiency programs over the 2004 DSM goals filing.

For all of these reasons, PEF's proposed goals meet the requirements of your DSM goals rule and the requirements set forth in FEECA as amended by House Bill 7135 and should be approved by this Commission.

II. Post-Hearing Statement of 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.?

Yes. Through the work of a collaborative team comprised of the collective "FEECA utilities," SACE/NRDC, and Itron, PEF provided an adequate assessment of the full technical potential pursuant to the Section 366.82(3), F.S.

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. Through a rigorous and comprehensive evaluation process aimed at providing the highest E-Rate Impact Measure ("E-RIM")-based cost-effective level of all available demand-side and supply-side conservation and efficiency measures, including demand-side renewable energy systems, PEF conducted and has provided an adequate assessment of DSM achievable potential.

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.?

Yes. PEF utilized the Participants' test as delineated in Rule 25-17.008, F.A.C., to adequately reflect the costs and benefits to customers participating in a DSM measure thereby adhering to the requirement of Section 366.82(3)(a), F.S.

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.?

Yes. The E-RIM test manages the inclusion of utility incentives and other utility costs that creates a benefit for all ratepayers while protecting all ratepayers, both participants and non-participants, from rates that would otherwise be higher in the absence of the DSM program. The Participants' test was also utilized to adequately reflect participant contributions.

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?

Yes. The E-RIM test includes carbon costs as a benefit that increases DSM potential.

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

Utility incentives can provide the Commission a useful tool to address a utility’s performance and financial impacts to meet future goals. If the Commission seeks to prescribe goals based on any test other than the recently modified E-RIM, the issues of goals and incentives would become inseparable, and an immediate consideration of incentives would become necessary.

ISSUE 7: In setting goals, what consideration should the Commission give to the impact on rates?

The Commission should give serious consideration to such rate impacts as it did in Order No. PSC-04-0769-PAA-EG. In doing so, the Commission should use the E-RIM test as the threshold measure for evaluation as the E-RIM test reasonably balances the interests of all stakeholders.

ISSUE 8: What cost-effectiveness test or tests should the Commission use to set goals, pursuant to Section 366.82, F.S.?

The E-RIM test is the threshold measure that should be used in Florida as it reasonably balances the interests of all stakeholders.

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

PEF’s annual goals are listed in the table below. The cumulative effect of these goals through 2019 would be a summer MW reduction of 323 MW, a winter reduction of 463 MW, and cumulative energy savings of 488 GWh.

PROPOSED RESIDENTIAL CONSERVATION GOALS										
Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Summer MW	24.57	25.88	27.90	29.33	30.64	33.26	43.28	42.58	39.23	26.09
Winter MW	37.68	41.55	43.20	44.30	45.40	45.88	58.53	58.31	55.23	33.06
Annual GWh	40.22	42.66	46.31	48.75	51.19	57.77	54.85	54.36	47.53	43.88

ISSUE 10: What commercial/industrial summer and winter megawatt (MW) and annual Gigawatt hour (GWh) goals should be established for the period 2010-2019?

PEF's annual goals are listed in the table below. The cumulative effect of these goals through 2019 would be a summer MW reduction of 198 MW, a winter reduction of 96 MW, and cumulative energy savings of 126 GWh.

PROPOSED COMMERCIAL CONSERVATION GOALS										
Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Summer MW	8.77	11.57	21.46	22.49	23.27	23.52	24.04	23.01	21.46	18.24
Winter MW	4.74	4.77	10.80	10.84	10.87	10.96	10.92	10.91	10.82	10.77
Annual GWh	10.42	11.05	12.00	12.63	13.26	14.96	14.21	14.08	12.31	11.37

ISSUE 11: In addition to the MW and GWh goals established in Issues 9 and 10, should the Commission establish separate goals for demand-side renewable energy systems?

No. Since demand-side renewables are included in PEF's overall DSM goals, a separate goal is not required.

ISSUE 12: In addition to the MW and GWh goals established in Issues 9 and 10, should the Commission establish additional goals for efficiency improvements in generation, transmission, and distribution?

No. PEF continuously identifies and evaluates conservation and efficiency improvement opportunities throughout its transmission and distribution resources, as guided in Rule 25-17.001(e) F.A.C.

ISSUE 13: In addition to the MW and GWh goals established in Issues 9 and 10, should the Commission establish separate goals for residential and commercial/industrial customer participation in utility energy audit programs for the period 2010-2019?

No. PEF's DSM program requires energy audit participation prior to the installation of DSM measures. PEF meets the needs of its diverse customers by offering multiple audit options. While specific measures are designed and directed for individual customer segments, the process, procedures and objectives are developed as a cohesive collection which ensure cost effective synergies.

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

No such action is needed in this proceeding.

ISSUE 15: Since the Commission has no rate-setting authority over OUC and JEA, can the Commission establish goals that puts upward pressure on their rates?

No position.

ISSUE 16: Should this docket be closed?

Yes.

RESPECTFULLY SUBMITTED this 28th day of August, 2009.

By: 

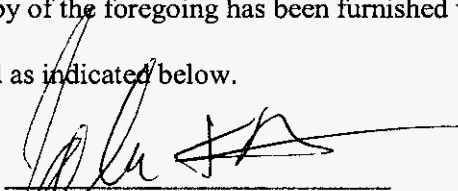
R. ALEXANDER GLENN
General Counsel – Florida
JOHN T. BURNETT
Associate General Counsel – Florida
Progress Energy Service Co., LLC
100 Central Avenue
St. Petersburg, FL 33701-3324
Telephone: (727) 820-5184
Facsimile: (727) 820-5249
E-Mail: john.burnett@pgnmail.com

Attorneys for PROGRESS ENERGY FLORIDA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S.

Mail this 28th day of August, 2009 to all parties of record as indicated below.


JOHN T. BURNETT

<p>Florida Public Utilities Company Mr. John T. English P. O. Box 3395 West Palm Beach, FL 33402-3395 Phone: (561) 838-1762 FAX: (561) 833-8562</p>	<p>Southern Alliance for Clean Air/Natural Resources Defense E. Leon Jacobs, Jr. c/o Williams & Jacobs, LLC 1720 South Gadsden St. MS 14, Suite 201 Tallahassee, FL 32301</p>
<p>Susan Clark Radey Law Firm 301 South Bronough Street, Suite 200 Tallahassee, FL 32301</p>	<p>Jeremy Susac, Executive Director Florida Energy and Climate Commission c/o Governor's Energy Office 600 South Calhoun St., Suite 251 Tallahassee, FL 32399-0001</p>
<p>Florida Solar Coalition Suzanne Brownless Suzanne Brownless, PA 1975 Buford Blvd. Tallahassee, FL 32308</p>	<p>Office of General Counsel Katherine Fleming, Esquire Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850</p>
<p>JEA Ms. Teala A. Milton V.P., Government Relations 21 West Church Street, Tower 16 Jacksonville, FL 32202-3158 Phone: (904) 665-7574 FAX: (904) 665-4238 Email: miltta@jea.com</p>	<p>Orlando Utilities Commission W. Chris Browder 100 W. Anderson Street Orlando, FL 32802 Phone: 407-236-9698 FAX: 407-236-9639 Email: cbrowder@ouc.com</p>
<p>Orlando Utilities Commission Randy Halley 100 W. Anderson Street Orlando, FL 32802 Phone: 407-418-5030 FAX: 407-423-9198 Email: rhalley@ouc.com</p>	<p>Messer Law Firm Norman H. Horton, Jr. Post Office Box 15579 Tallahassee, FL 32317 Phone: 850-222-0720 FAX: 224-4359 Email: nhorton@lawfla.com</p>
<p>Beggs & Lane Law Firm Steven R. Griffin 501 Commendancia Street Pensacola, FL 32502 Phone: 850-432-2451 Email: srg@beggslane.com</p>	<p>Gulf Power Company Ms. Susan D. Ritenour One Energy Place Pensacola, FL 32520-0780 Phone: (850) 444-6231 FAX: (850) 444-6026 Email: sdriteno@southernco.com</p>

<p>Florida Power & Light Company Mr. Wade Litchfield 215 South Monroe Street, Suite 810 Tallahassee, FL 32301-1859 Phone: (850) 521-3900 FAX: 521-3939 Email: wade_litchfield@fpl.com</p>	<p>Ausley Law Firm Lee L. Willis/James D. Beasley Post Office Box 391 Tallahassee, FL 32302 Phone: 850-224-9115 FAX: 222-7560</p>
<p>Lakeland Electric Jeff Curry 501 East Lemon Street Lakeland, FL 33801 Phone: 863-834-6853 Email: jeff.curry@lakelandelectric.com</p>	<p>Tampa Electric Company Ms. Paula K. Brown Regulatory Affairs P. O. Box 111 Tampa, FL 33601-0111 Phone: (813) 228-1444 Email: Regdept@tecoenergy.com</p>
<p>George S. Cavros, Esq., P.A. 120 E Oakland Park Blvd., Suite 10 Ft. Lauderdale, FL 33334</p>	<p>FIPUG John W. McWhirter, Jr. P.O. Box 3350 Tampa, FL 33601-3350</p>
<p>Florida Power & Light Company Charles A. Guyton Squire, Sanders & Dempsey, LLP 215 South Monroe Street Suite 601 Tallahassee, FL 32301</p>	<p>Florida Power & Light Company Jessica A. Cano Florida Power & Light Company 700 Universe Boulevard Juno Beach, FL 33408</p>
<p>FIPUG Vicki Gordon Kaufman Jon C. Moyle, Jr Keefe Anchors Gordon & Moyle, PA. 118 North Gadsden Street Tallahassee, FL 32301</p>	