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August 28, 2009

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080409-EG

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

Re: Commission review of numeric conservation goals (Tampa Electric Company);
FPSC Docket No. 080409-EG

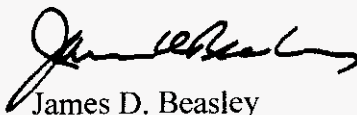
Dear Ms. Cole:

Enclosed for filing in the above docket, on behalf of Tampa Electric Company, are the original and fifteen (15) copies of Tampa Electric Company's Brief and Post-Hearing Statement of Issues and Positions.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,



James D. Beasley

JDB/pp
Enclosure

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cc: All parties of record (w/enc.)

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**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**IN RE: COMMISSION REVIEW OF
NUMERIC CONSERVATION GOALS**

**CONSOLIDATED DOCKETS NOS. 080407-EG,
080408-EG, 080409-EG, 080410-EG
080411-EG, 080412-EG, 080413-EG**



**TAMPA ELECTRIC COMPANY'S
BRIEF AND POST-HEARING STATEMENT
OF ISSUES AND POSITIONS IN
DOCKET NO. 080409-EG**

FILED: AUGUST 28, 2009

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FPSC-COMMISSION CLERK

TABLE OF CONTENTS

BRIEF 2

 Background..... 2

 Summary of Tampa Electric's Position 2

I. TAMPA ELECTRIC'S PROPOSED DSM GOALS
 ARE APPROPRIATE AND SHOULD BE APPROVED..... 5

 Tampa Electric's Proposed Goals..... 5

 The Collaborative Process..... 7

 Tampa Electric's DSM Goals Development Process was Thorough 8

 Proper Consideration was Given to
 Renewables and Natural Gas Applications 10

 Tampa Electric's Proposed DSM Goals were Developed
 in a Manner Compliant with FEECA Requirements as
 Recently Amended and the Commission's DSM Goals Rule 10

 Tampa Electric's Proposed Goals Facilitate a Continuation
 of Commission and Tampa Electric Leadership in the
 Pursuit of Energy Efficiency and Demand Side Management..... 13

II. THE COST-EFFECTIVENESS TEST EMPLOYED
 BY TAMPA ELECTRIC IN DEVELOPING ITS
 PROPOSED GOALS ARE REASONABLE AND
 APPROPRIATE 14

 The E-RIM Test is More Solar PV Friendly 16

 NRDC and SACE are Wrong and Misleading in
 Their Conclusion that the Commission is Bound
 by New Statutory Language to Use the TRC Test
 as the Only Standard in Setting DSM Goals..... 17

III. THE TWO-YEAR PAYBACK STANDARD FOR
 ADDRESSING AND MITIGATING "FREE-RIDERSHIP"
 REMAINS APPROPRIATE 19

IV.	THE ALTERNATIVE DSM GOALS PROPOSED BY NRDC/SACE AND GDS SUFFER NUMEROUS FAULTS AND DEFICIENCIES AND SHOULD BE REJECTED.....	22
	Adoption of the Goals Proposed by NRDC, SACE and GDS Could Have Monumental Negative Economic Impacts on Electric Customers in Florida and on the State as a Whole	23
	NRDC and SACE's Proposed Goals are Completely Arbitrary and should be Rejected	25
	NRDC and SACE Failed to Read the Commission's Duties Under FEECA Alongside the Commission's Other Statutory Responsibilities	26
	GDS's Proposed Goals in this Proceeding are Extreme and Unsupported.....	29
	GDS's Subsidy for Demand Side Renewable Projects should be Rejected	30
	SUMMARY	31
	POST-HEARING STATEMENT OF ISSUES AND POSITIONS.....	32
	CERTIFICATE OF SERVICE.....	38

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

**TAMPA ELECTRIC COMPANY'S BRIEF
AND POST-HEARING STATEMENT OF ISSUES AND POSITIONS**

Tampa Electric Company ("Tampa Electric" or "the company"), pursuant to the Prehearing Order¹ in these consolidated proceedings, submits this its Brief and Post-Hearing Statement of Issues and Positions.

¹ Order No. PSC-09-0545-PHO-EG, issued August 5, 2009

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BRIEF

Background

These consolidated dockets are before the Commission pursuant to the Florida Energy Efficiency and Conservation Act, or "FEECA" as it is commonly referred to, and Rule 25-17.0021, Florida Administrative Code, (the "DSM Goals Rule"), which is the rule the Commission adopted in 1993 to implement the setting of Demand Side Management ("DSM") goals for electric utilities in Florida that are subject to the requirements of FEECA.²

Under the DSM Goals Rule the Commission sets DSM goals for each of the FEECA utilities at least once every five years. Each utility is required by the rule 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 utilities' most recent planning process.

A hearing was conducted August 10-13, 2009 in these proceedings during which the Commission considered direct testimony of 19 witnesses for the parties and rebuttal testimony presented by 13 witnesses addressing the DSM goals proposed by the FEECA utilities and opposing proposals put forth by the Natural Resources Defense Council ("NRDC"), the Southern Alliance for Clean Energy ("SACE") and GDS Consulting, Inc. ("GDS").

Summary of Tampa Electric's Position

Tampa Electric has proposed DSM goals that are aggressive, but at the same time are reasonably achievable, cost-effective and fair for all ratepayers. The company's proposed goals,

² The seven utilities subject to FEECA who are parties to these consolidated proceedings are Florida Power & Light Company ("FPL"), Progress Energy Florida, Inc. ("Progress" or "PEF"), Tampa Electric, Gulf Power Company ("Gulf"), Florida Public Utilities Company ("FPUC"), Orlando Utilities Commission ("OUC") and Jacksonville Electric Authority ("JEA").

based on its most recent planning process, adhere to the requirements set forth in FEECA, including recent modest amendments to FEECA, and the requirements contained in the Commission's DSM Goals Rule.

Tampa Electric's Goals are Balanced and Aggressive

Tampa Electric's goal setting efforts were part of a larger collaborative team effort which began in early 2008 and included all FEECA utilities as well as NRDC and SACE. It was a lengthy and carefully thought out process. The resulting goals proposed by Tampa Electric achieve the proper balance of being aggressive in the pursuit of DSM savings, but at the same time cost-effective and fair for all of the company's customers.

NRDC, SACE and GDS Proposed Goals are Arbitrary and Devoid of Analytical Support

In stark contrast to the detailed statute and rule compliant efforts put forth by Tampa Electric and the other FEECA utilities in developing their proposed goals, NRDC, SACE and GDS urge the adoption of arbitrarily selected DSM goals for all of the utilities including Tampa Electric. The goals hastily put forth by these parties are devoid of any analytical support and lack any association with Tampa Electric's resource planning process. Similarly, they fail to consider any cost-effectiveness analyses and totally ignore the requirements of the Commission's DSM Goals Rule for setting demand side numeric goals for electric utilities.

NRDC, SACE and GDS Ignore Rate Impacts and Misapprehend Legislative Intent

NRDC, SACE and GDS present no evaluation of the resulting rate impact of their proposals on Tampa Electric's customers or the customers of any other FEECA utility. They intentionally ignore all rate impacts based on their erroneous conclusion that modest amendments made to FEECA during the 2008 legislative session are somehow reflective of legislative intent that the Commission should no longer concern itself with the impact of its decisions on the rates paid by electric utility customers in this state. This completely erroneous

interpretation of modest legislative changes to FEECA is totally baseless and should be soundly rejected. While NRDC and SACE clearly seek to utilize these proceedings for the singular purpose of reducing air emissions, their utter disregard for the rate impacts of their proposals on utility customers in this state has never been and should never be the approach utilized by this Commission in setting DSM goals.

Stark Contrast in Approach: Careful Analytics vs. Arbitrariness

Indeed, as presented in the opening statement of these proceedings on behalf of the four major investor-owned utilities, the evidence presented in the record of this case provides a striking contrast. On the one hand, the record displays an analytically robust, nearly year long evaluation of DSM by the FEECA utilities and a respected consulting firm, Itron, Inc. ("Itron"). The methods followed by Itron and the utilities fully complied with FEECA as recently amended and even went beyond the requirements of the Commission's DSM Goals Rule.

On the other hand, the record reflects goals proposed by NRDC, SACE and GDS that are over-the-top, "back of the envelope" type estimates. NRDC and SACE did not perform any study; they simply propose arbitrary goals of a 1% of total sales per year DSM savings. GDS's alternative, which they acknowledge is not a study, is equally arbitrary and infirm, and was shown during cross-examination to be an ever changing chameleon, fraught with errors. GDS's proposal would force customers to acquire DSM resources not needed to provide service, and would result in rate increases in the billions of dollars. The choice before the Commission is readily apparent and compelling.

I. TAMPA ELECTRIC'S PROPOSED DSM GOALS ARE APPROPRIATE AND SHOULD BE APPROVED.

Tampa Electric Proposed Goals

Tampa Electric submitted testimony and exhibits of witness Howard T. Bryant fully supporting as appropriate and reasonable cumulative DSM goals for the period 2010 through 2019 for both residential and commercial/industrial sectors at the generator level. (Tr. 497, lines 8-23). For the residential sector, the proposed goals are 33.3 MW of summer demand, 28.5 MW of winter demand and 59.0 GWH of annual energy. For the commercial/industrial section the appropriate goals for Tampa Electric are 48.5 MW of summer demand, 12.4 MW of winter demand and 142.7 GWH of annual energy. The incremental and cumulative annual amounts that comprise these goals are set forth in Document No. 1, page 1 of 1, in Hearing Exhibit 53, sponsored by witness Bryant.

Two significant considerations underscore the reasonableness of the DSM goals proposed by Tampa Electric. First, the proposed goals are consistent with the efforts Tampa Electric has put forth over the years, dating back to prior to the adoption of FEECA, and the significant accomplishments Tampa Electric has been able to achieve in the area of DSM, vis-à-vis most other utilities in the country. Those efforts have balanced an aggressive pursuit of cost-effective DSM savings with the need to avoid undue upward rate pressure and cross-subsidization between customer groups. Secondly, the proposed goals are the product of an exhaustive collaborative effort Tampa Electric participated in along with the other FEECA utilities and NRDC and SACE, to fully comply with the requirements of FEECA and each aspect of the Commission's DSM Goals Rule.

With respect to Tampa Electric's DSM accomplishments, the company has aggressively sought Commission approval for a broad range of effective DSM programs since the late 1970's, even prior to the 1980 enactment of FEECA (Tr. 498, lines 16-19). The company has also modified existing DSM programs over time to promote evolving technologies and to maintain program cost effectiveness. (Tr. 498, line 24 – Tr. 499, line 2)

From the inception of Tampa Electric's DSM programs through 2008, the company has achieved 660 MW of winter peak load reduction, 232 MW of summer peak load reduction and 647 GWH of annual energy savings. These efforts have avoided the need for the equivalent of more than three 180 MW power plants of winter capacity. (Tr. 499, lines 7-9)

Tampa Electric's continuing efforts have placed it high on the DSM achievement list among utilities across the nation. Statistics from the Energy Information Administration ("EIA") of the Department of Energy reveal that for the 2001 – 2007 period Tampa Electric was as high as the 96th percentile for cumulative conservation results and in the 90th percentile for load management achievements. (Tr. 499, lines 17-23)

The other primary basis for approving the goals proposed by Tampa Electric derives from the collaborative process in which the company actively participated over nearly a year's time to develop its proposed DSM goals. The collaborative approach taken in these proceedings offered a number of benefits. There were efficiencies owing to the size of the task and the similarity of the activities across all FEECA utilities. In addition, SACE and NRDC had requested intervenor status in each FEECA utility's docket, which made a collaborative effort a more efficient manner to accommodate that participation and facilitate all of the major aspects of the goal setting process. (Tr. 500, line 20 – Tr. 501, line 3)

The Collaborative Process

The collaborative process enabled each member to draw upon the collective judgment of the group, which helped to insure that each utility's ultimate goal proposals were the product of a rigorous and orderly process that consistently adhered to FEECA and the Commission's DSM Goals Rule for all of the collaborative participants.

The following steps were included in the process:

(1) The establishment of a collaborative team among the FEECA utilities, SACE and NRDC;

(2) The selection of a consultant capable of performing the requisite tasks associated with a comprehensive DSM evaluation for all FEECA utilities;

(3) The identification of a comprehensive list of DSM measures that met the requirements of the DSM Goals Rule;

(4) The establishment of Technical, Economic and Achievable Potentials through systematic cost-effectiveness evaluations of the DSM measures; and

(5) The establishment of each utility's proposed DSM savings. (Tr. 500, lines 4-18)

Through these steps the collaborative process brought value to the overall DSM goal setting process. The full participation of multiple collaborative parties insured integrity of the process. For example, the entire team including SACE and NRDC participated in the request for proposal process for selecting Itron, Inc. to conduct the DSM potential study. (Tr. 501, line 15 – Tr. 502, line 14)

Itron's responsibilities to each member of the collaborative team were categorized into four major areas. These areas were:

- Develop DSM measures and estimate the Technical Potential;

- Collect building characteristics and end-use measure saturation data;
- Estimate the Economic and Achievable Potentials; and
- Provide regulatory support, reporting and project management.

As each of these areas of responsibility were executed, there were frequent exchanges of data and calibration checks made in order to provide the best estimates of the three potentials.

Many meetings, conference calls and presentations, including all of the collaborative members and Itron, took place over nearly a year's time and assisted the group in applying consistent methodologies to the evaluation process. (Tr. 501, line 24 – Tr. 502, line 2). Ultimately, the collaborative team worked as closely as possible to provide reasonable Achievable Potential DSM goals for each member utility while respecting key differences among the group members. (Tr. 502, lines 7-10)

Input from all collaborative members produced a comprehensive list of DSM measures including some 67 residential sector measures, 82 commercial sector measures and 118 industrial sector measures, for a combined total of 267 DSM measures. (Tr. 503, lines 15-19). By the time the comprehensive DSM measure list was applied to all of the various building types and each sector reviewed, a total of almost 2,300 specific DSM measure applications was developed for evaluation. This is but one example of the exhaustive analysis of DSM opportunities the collaborative members examined. (Tr. 504, lines 8-11)

Tampa Electric's DSM Goals Development Process was Thorough

Tampa Electric worked with Itron in establishing the company's Technical Potential (Tr. 505, lines 4-6) and a voluminous final report reflecting that effort was filed with the Commission. (Tr. 506, lines 9-19). Tampa Electric then initiated its integrated resource planning ("IRP") process which had been utilized and approved in all previous DSM goal setting

proceedings. The purpose here was to develop a supply-only resource plan, assuming no additional DSM, in order to derive the avoided unit to be used in the cost-effectiveness analysis portion of the goals setting process. (Tr. 506, line 24 – Tr. 507, line 11)

The company next developed its Economic Potential by utilizing the Commission's approved cost-effectiveness tests. Following that, the company performed a systematic analysis to determine the appropriate incentive for each measure under the E-RIM and E-TRC Economic Potential scenarios. As later discussed, the E-RIM and E-TRC tests are enhancements of the previously utilized RIM and TRC tests that take into account significant costs associated with anticipated legislation pertaining to greenhouse gas mitigation. (Tr. 507, line 15 – Tr. 508, line 9)

Measures that could cost-effectively manage the application of incentives were then analyzed through a screening process designed to take into account factors required to be considered under the Commission's DSM Goals Rule. Measures which were cost-effective including an incentive and which remained after screening to minimize free-ridership were provided to Itron. (Tr. 509, line 10 – Tr. 511, line 24). Itron, in turn, developed the achievable DSM potential for each incentive level under both E-RIM and E-TRC scenarios, creating six different DSM Achievable Potentials. (Tr. 511, line 23 – Tr. 512, line 3). Tampa Electric then selected the Achievable Potential that was associated with the maximum incentive level; namely, the two-year payback criterion. This was done for both E-RIM and E-TRC scenarios and provided the largest potential for each scenario. (Tr. 512, lines 8-12). This produced Tampa Electric's estimated energy efficiency DSM Achievable Potential goals for 2010-2019. (Tr. 512, line 14 – Tr. 513, line 2). In addition to this, Itron developed the Achievable Potential for demand response and renewable measures separately from the foregoing. (Tr. 513, lines 17-20).

Tampa Electric selected Itron's high scenario estimate of demand response for its Achievable Potential goals. The associated demand and energy components are 16.5 MW of summer demand savings, 12.1 MW of winter demand savings. (Tr. 514, lines 9-11)

Proper Consideration was Given to Renewables and Natural Gas Applications

For renewables, Itron evaluated photovoltaic ("PV") measures that could be applied to various building types in the residential and commercial sectors. However, solar water heating measures were evaluated through the energy efficiency process previously discussed. All evaluated measures failed on cost-effectiveness. Specifically, for PV evaluations under the E-RIM scenario, the measures did not fail cost-effectiveness screening until incentives were applied. Under the E-TRC scenario the measures failed from the outset. Therefore, based on the evaluation results, no PV contribution to the company's estimated Achievable Potential was available. (Tr. 514, lines 13-23)

As discussed later herein, if and when the economics of solar applications approach cost-effectiveness, they will become cost-effective under the E-RIM and Participants' tests long before they pass the E-TRC test.

Tampa Electric evaluated the potential for available natural gas measures, all of which failed both the E-RIM and E-TRC cost-effectiveness tests at the initial screening level. (Tr. 514, line 25 – Tr. 515, line 9)

Tampa Electric's Proposed DSM Goals were Developed in a Manner Compliant with FEECA Requirements as Recently Amended and the Commission's DSM Goals Rule

Tampa Electric complied with FEECA, including the modest 2008 amendments to that Act, in developing its proposed goals. Through the use of the E-RIM test and the Participants' test, the company gave full consideration to subsections 3(a) and (b) of Section 366.82, Florida

Statutes, which were added to this section in House Bill 7135 enacted in 2008 as Chapter 2008-227, Laws of Florida. Those additional subsections call upon the Commission to take into consideration the costs and benefits to customers participating in a DSM measure and the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions.

The company also addressed the third and fourth considerations added in HB 7135 as subsections (3)(c) and (d) of Section 366.82, Florida Statutes. Those sections require the Commission to take into consideration the need for incentives to promote both customer-owned and utility-owned energy efficiency and demand side renewable energy systems as well as the costs imposed by state and federal regulations of greenhouse gases. In this regard the E-RIM test was specifically designed to address the estimated costs associated with greenhouse gases, sulfur dioxide ("SO₂") and nitrous oxide ("NO_x").

Section 366.82(3), Florida Statutes, also requires the Commission to evaluate all available demand side conservation and efficiency measures, included demand side renewable energy systems. The statewide collaborative process that developed a comprehensive DSM measure list and conducted an adequate assessment of the full Technical Potential of all available demand side conservation and efficiency measures, including renewable energy systems, facilitated the Commission's consideration of this requirement.

While Section 366.82(3), Florida Statutes, requires utilities to perform an adequate assessment of supply-side conservation measures, Tampa Electric has yet to perform this assessment. The enormity of the task to adequately assess supply-side conservation measures to the degree this Commission would expect is unreasonable for the timeline of this docket. Given the immediate need to properly assess the demand side conservation and efficiency measures that

are at issue here, Tampa Electric believes a better approach would be to complete all work associated with establishing DSM goals for the 2010-2019 period and then perform an assessment of supply-side conservation measures. In so doing, adequate time will be available to properly evaluate the new requirement of supply-side conservation measures. (Tr. 519, line 19 – Tr. 520, line 12)

Tampa Electric's proposed goals, likewise, comply with the specific requirements of the Commission's DSM Goals Rule, whereas the goals proposed by NRDC, SACE and GDS clearly do not. The Commission's DSM Goals Rule specifically requires utilities to propose goals based upon the utilities most recent planning process. Tampa Electric's proposed goals clearly are based on the company's most recent planning process – something which NRDC, SACE and GDS completely overlook. The rule also requires each utility's projection to reflect consideration of overlapping measures, rebound effects, free riders, interactions with building codes and appliance efficiency standards, and the utility's latest monitoring and evaluation of conservation programs and measures. Tampa Electric complied with each of these requirements, whereas NRDC, SACE and GDS completely ignored them.

The cost-effectiveness basis for Tampa Electric's goals is the E-RIM test in conjunction with the Participants' test. The customer-oriented benefits of this selection of cost-effectiveness tests are the subject of Point II of this brief. For reasons described in more detail in Point II, Tampa Electric firmly believes its DSM goals for the 2010-2019 period should continue to be established on the RIM test basis, updated to E-RIM. (Tr. 517, line 3 – Tr. 518, line 3)

In addition to the foregoing, Tampa Electric conducted sensitivity analyses requested by the Commission's Staff, (Tr. 525, line 20 – Tr. 527, line 12). While these analyses provide relative indications as to how cost-effectiveness evaluations may be affected by changes in

assumptions, they do not require any change in the actual assumptions provided by the company's resource planning experts. (Tr. 528, lines 5-17)

Again, Tampa Electric's nearly year long efforts as an active collaborative participant in developing DSM goals that are compliant with FEECA and the Commission's DSM Goals Rule are in stark contrast with the arbitrary goals put forth by NRDC, SACE and GDS which are based on a misinterpretation of FEECA and total ignorance of the requirements of the Commission's DSM Goals Rule.

Tampa Electric's Proposed Goals Facilitate a Continuation of Commission and Tampa Electric Leadership in the Pursuit of Energy Efficiency and Demand Side Management

The proposed goals of Tampa Electric and the other FEECA utilities were developed in a manner that more aggressively addresses costs that may be avoided by DSM than at any time in the past, particularly with their focus on costs associated with anticipated legislation mandating greenhouse gas mitigation. Approval of these proposed goals should enable the Commission and Tampa Electric to continue in a leadership position relative to DSM achievements from a national perspective.

As previously stated, Tampa Electric's accomplishments in the area of DSM are significantly greater than most other utilities in the country. The avoidance of three power plants of 180 MW of winter capacity has been a significant accomplishment in one of the country's faster growing states. Of greater significance is the fact that this accomplishment was achieved without subsidizing or penalizing customers who were not participants. Tampa Electric achieved this level of reduction by offering only those DSM programs that reduce rates for all customers, both DSM participants and non-participants alike.

The reality of these continuing efforts by Tampa Electric is demonstrated by the statistics from the EIA of the Department of Energy. For the 2001-2007 period, EIA has nationally ranked Tampa Electric as high as the 96th percentile for cumulative conservation and the 90th percentile for load management achievements. (Tr. 499, lines 17-23)

Approval of the company's proposed goals, which go the next step by taking into account the cost of greenhouse gas mitigation, should enable Tampa Electric and this Commission to continue in their DSM leadership roles.

II. THE COST-EFFECTIVENESS TESTS EMPLOYED BY TAMPA ELECTRIC IN DEVELOPING ITS PROPOSED GOALS ARE REASONABLE AND APPROPRIATE.

The Commission should approve Tampa Electric's use of the E-RIM test and Participants' test as the cost-effectiveness tests used to select measures comprising the company's DSM goals. These two tests are the best means of insuring the selection of aggressive yet cost-effective DSM goals that avoid undue upward pressure on electric rates and insure that all customers are treated fairly. As previously stated, the E-RIM test is an enhancement of the RIM test which recognizes anticipated costs associated with addressing and mitigating greenhouse gas and other air emissions. Use of the E-RIM test will not only continue but actually improve upon the use of the RIM test which the Commission has considered the most appropriate measure of DSM cost effectiveness since the 1994 DSM goals proceeding. In that proceeding the determination of which cost-effectiveness test to utilize was the most contentious issue before the Commission. After considering all of the evidence, the Commission decided to base DSM goals on measures that passed both the RIM and Participants' tests, rather than measures that passed the TRC test.

There, after considerable input from a huge host of active participants, the Commission explained its selection as follows:

. . . We find that goals based on measures that pass the TRC but not RIM would result in increased rates and would cost customers who do not participate in a utility DSM measure to subsidize customers who do participate. Since the record reflects that the benefits of adopting TRC goals are minimal, we do not believe that increasing rates, even slightly, is justified.

(Order No. 94-1313-FOF-EG, issued October 25, 1994, in Docket No. 930548-EG). (Tr. 1222, lines 13-20)

The Commission also addressed the benefits to low income customers of using the RIM standard as the controlling one for adopting goals:

All customers, including low income customers should benefit from RIM-based programs. This is because RIM-based programs insure that both participating and non-participating customers benefit from utility sponsored conservation programs. Additional general capacity is deferred and the rates paid by low income customers are less than they otherwise would be. (Order No. 94-1313-FOF-EG, issued on October 25, 1994, in Docket No. 930548). (Tr. 1223, lines 3-10)

On reconsideration of its final order in the 1994 case, the Commission adhered to its basis for relying on the RIM test and the Participants' test, saying that it chose to keep rates lower for all customers, lowering bills for non-participants and participants. (Id.)

The Legal Environmental Assistance Foundation ("LEAF") appealed the Commission's 1994 decision to the Florida Supreme Court. In affirming the Commission the Court stated:

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 customer. 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. Accordingly, we affirm the orders of the Commission.

(Tr. 1224, lines 11-19)

The same considerations which warranted the Commission's selection of the RIM test in 1994 support reliance upon the improved E-RIM test today. The E-RIM test, when used in tandem with the Participants' test, provides a cost-effective, fair, reasonable and equitable determination of DSM expenditures for both the participants and the non-participants. These two tests put the least amount of upward pressure on rates while allowing for significant accomplishments of DSM measure deployment. Furthermore, the E-RIM test does not promote the cross-subsidization among participants and non-participants that flows from using the E-TRC test.

History confirms that this Commission's decisions in the past to approve a utility's DSM goals on the RIM test have not hindered DSM performance of the Florida utilities relative to other utilities in the industry. As Mr. Bryant testified, according to EIA, since 2001, Florida's four largest investor-owned utilities have consistently ranked among the nation's leaders for cumulative energy efficiency accomplishments with the top three utilities having achieved rankings in the top ten nationwide. Based on these results and the fairness of the methodology, Tampa Electric believes its DSM goals for the 2010-2019 period should continue to be established on the RIM test basis, only updated to E-RIM to take into account greenhouse gas and other air emission mitigation costs. (Tr. 517, line 6 – Tr. 518, line 3)

The E-RIM Test is More Solar Technology Friendly

During the hearing in this proceeding FPL witness Sim explained that under the Commission's cost-effectiveness manual the RIM test denominator includes all program costs incurred by the utility, incentives paid to participants and revenues the utility is unable to collect due to the effects of the program or measure being analyzed. Under the TRC test, however, the

denominator includes all program costs incurred by the utility and all equipment costs, operating and maintenance expenses, regardless of who pays for them. (Tr. 1785, lines 4-23). The E-RIM and the E-TRC tests operate in the same fashion as the RIM and TRC with the enhancement that the cost of greenhouse gas and other air emission compliance is factored in as a benefit for both tests.

Although solar technologies are not currently cost-effective under either the E-RIM or E-TRC test, if and when the costs of these technologies recede to the point that they may be cost-effective, they will certainly be cost-effective first under the E-RIM test well before becoming cost-effective under the E-TRC test. This is due to the high equipment costs associated with solar technologies, all of which are captured in the denominator of a TRC or E-TRC benefit cost ratio and thus become very detrimental to solar technologies passing those tests. Thus, anyone favoring solar applications for future DSM programs would certainly want to test the cost effectiveness of that technology using the E-RIM test as opposed to the E-TRC test.

NRDC and SACE are Wrong and Misleading in Their Conclusion that the Commission is Bound by New Statutory Language to Use the TRC Test as the Only Standard in Setting DSM Goals

Witnesses Wilson, Cavanagh and Mosenthal all argue that the Commission is bound by new statutory language requiring the Commission to use the TRC test as the only standard in setting DSM goals. Witness Wilson bases his erroneous legal argument on HB 7135, now embodied as Chapter 2008-227, Laws of Florida. He cites three portions of the Florida Statutes amended by HB 7135, including the State Comprehensive Plan, contained in Chapter 187, the creation of the Florida Energy Climate Commission within Chapter 377, Florida Statutes, and FEECA.

Witness Wilson's reference to the State Comprehensive Plan is misplaced and misleading. He fails to note that that the State Comprehensive Plan is not restricted to electric consumption, or even energy usage, but actually covers 24 goals and some 277 policies covering everything from children's issues to urban revitalization to public safety. Even more importantly, he ignores the plain language of the State Comprehensive Plan, unamended by HB 7135, expressly stating:

The Plan does not create regulatory authority or authorize the adoption of agency rules, criteria or standards not otherwise authorized by law. Section 187.101(2), Florida Statutes

The State Comprehensive Plan does not mention any cost-effectiveness test at all, either before or after the enactment of HB 7135.

With respect to HB 7135's creation of the Florida Energy and Climate Commission, Mr. Wilson similarly ignores the following express legislative intent contained in that portion of HB 7135 creating the Florida Energy and Climate Commission:

. . .It is the specific intent of the Legislature that nothing in this Act shall in any way change. . .the powers, duties and responsibilities of the Florida Public Service Commission. Section 377.703(1), Florida Statutes

This portion of HB 7135 relating to the Florida Energy and Climate Commission doesn't mention any cost-effectiveness test, either.

Finally, Mr. Wilson misinterprets the modest amendments to FEECA contained in HB 7135 in an effort to find a mandate to use the TRC test where none exists. He points to the Act's addition of four criteria in Section 366.82(3) that the Commission is only required to take into consideration, none of which even refers to, much less requires use of the TRC test, or precludes use of the RIM or E-RIM. All four of the criteria added have been fully addressed in the FEECA utilities' filings in this proceeding and were fully considered by the Commission in the lengthy

hearing recently concluded. The four added criteria include "the costs and benefits to customers participating in the measure." This clearly is covered through the use of the Participants' test. The second criteria is "the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions." This clearly is done through application of the E-RIM test, which takes into account utility incentives paid to participants in a particular measure. The third criterion, "the need for incentives to promote both customer owned and utility owned energy efficiency and demand side renewable energy systems," was clearly considered as discussed earlier. Finally, the fourth consideration, "the costs imposed by state and federal regulations on the emission of greenhouse gases," is expressly covered through modifications of the RIM test and the TRC test to include those costs, resulting in the enhanced E-RIM and E-TRC tests.

GDS's invitation for the Commission to select the TRC test and NRDC and SACE's erroneous demand that the Commission use TRC as a matter of legal compulsion would result in extreme undue upward pressure on rates for all customers. It would also unfairly discriminate against those who do not or cannot participate in a particular measure by making them subsidize those who are able to and elect to participate. It is clear that the substantial interests of electric utility customers in Florida will be best served by the Commission declining GDS's invitation to embrace TRC and dismissing as false and misleading NRDC's and SACE's erroneous legal conclusion that the Commission is compelled to do so.

III. THE TWO-YEAR PAYBACK STANDARD FOR ADDRESSING AND MITIGATING "FREE-RIDERSHIP" REMAINS APPROPRIATE.

Tampa Electric appropriately screened out measures that are most likely to result in free riders by using a two-year payback criterion for this purpose. The use of the two-year payback

criterion to address and mitigate free-ridership was a decision made by all members of the collaborative including witness Wilson who represented NRDC and SACE in the collaborative. (Tr. 1748, lines 8-13; Tr. 1750, lines 8-12; Tr. 1862, lines 19-23). Witness Sim for FPL testified that he was on the collaborative conference call the day the topic was discussed. When the two-year payback was addressed and decided upon, witness Wilson readily agreed with the two-year payback criterion. He offered no alternatives and raised no objections. (Tr. 1750, lines 8-12). Even if witness Wilson hadn't been on the conference call or hadn't agreed that use of the two-year payback to address free-ridership is appropriate, that standard is appropriate in its own right as later discussed herein.

NRDC's and SACE's witness Mosenthal spent a considerable portion of his testimony attacking the use of the two-year payback. As witness Dean observed, Mr. Mosenthal's attack is either direct criticism of his fellow witness Wilson's agreement to use the two-year payback as a means of addressing free riders or an after-the-fact change in the position of NRDC and SACE, neither of which is very flattering. (Tr. 2074, lines 1-7)

Witness Mosenthal further contended that free-ridership should not be addressed in goal setting but, instead, should be addressed in program design. His erroneous conclusion in this regard completely ignores the Commission's DSM Goals Rule which requires utilities to address free riders in setting goals. Deferring consideration of free-ridership to the program design stage would not be in compliance with the Commission's DSM Goals Rule.

The Commission has a long history of using the two-year payback criterion in goals setting and program participation standards. Tampa Electric first introduced the screen in 1991 as a key part of a program standard which restricted incentive payments to any measure that had less than a two-year customer payback. The Commission approved that two-year payback

standard in 1991 and has subsequently approved it in every program filing since then. (Tr. 1861, lines 15-23)

Despite the criticisms of NRDC, SACE and GDS, this is the fourth goals setting process where the two-year payback criterion has been used to address and mitigate free-ridership. It was initially used in the 1994 goals setting process. (Docket No. 930548-EG and other dockets). LEAF took issue with the use of this criterion and the Commission ultimately approved DSM goals based upon the use of the two-year payback. This criterion was used again in the 1999 and 2004 goal setting dockets. No challenges were presented on this use and the Commission's Staff was fully aware of the reasons it was used. Use of the two-year payback to address free-ridership is not a novel approach and the collaborative decision to use it was consistent with prior Commission DSM goals approvals.

The Commission's Staff has acknowledged the use the Participants' test and the two-year payback criterion to control free-ridership in recent workshops. In addition, John Laitner with the American Council for an Energy Efficient Economy ("ACEEE") published an article identifying the two-year payback as a reasonable threshold below which a customer does not require any utility incentive in order to pursue a DSM measure. Similarly, the Environmental Protection Agency's Energy Star Program indicates that consumers desire rapid payback when incremental up-front payment is required and that period is in the range of two to three years. (Tr. 1862, lines 2-17)

The two-year payback is a rational approach to mitigating free-ridership. It is based upon the principle that a rational consumer will invest in energy saving measures that pay for themselves in two years or less. The record reflects that all of the FEECA utilities utilize various means to educate their customers regarding the benefits of installing such measures. The basis

for the two-year payback and the Commission's attention to free-ridership in its DSM Goals Rule is the desire to avoid paying incentives to customers to take an action when those customers already have built-in economic incentives to take the action on their own without receiving incentives funded by the general body of ratepayers. If the two-year payback standard were not a reasonable means of addressing and mitigating free-ridership, the Commission would not have approved its use in the last three DSM goals proceedings.

Even GDS's witnesses Spellman and Guidry endorsed the two-year payback standard as a means of addressing free-ridership for large commercial and industrial classes. (Tr. 1507, lines 4-7). However, the Commission's DSM Goals Rule requires all market segments – residential and commercial/industrial – to be addressed in establishing DSM goals. The same rationale witnesses Spellman and Guidry rely upon for endorsing the two-year payback for large commercial and industrial customers applies with equal force to residential and small commercial customers, especially in these economic times when dollars saved through energy conservation are all the more important.

IV. THE ALTERNATIVE DSM GOALS PROPOSED BY NRDC/SACE AND GDS SUFFER NUMEROUS FAULTS AND DEFICIENCIES AND SHOULD BE REJECTED.

In this proceeding, witnesses for NRDC, SACE and GDS essentially urge the Commission to disregard nearly 30 years of reasoned implementation of FEECA and the significant success in DSM acquisition that the Commission and the utilities in this state have been able to achieve. They urge the Commission to accept their hurried "back of the envelope" DSM goals proposals and to ignore the product of a nearly year long effort that gave rise to Tampa Electric's proposed DSM goals. The arbitrarily selected DSM goals these witnesses seek

to have adopted for Tampa Electric and the other FEECA utilities are devoid of any meaningful analytical support and lack any association at all with the company's resource planning process. Their proposed goals are not based on any cost-effectiveness analyses and completely walk by any adherence to the Commission's DSM Goals Rule for setting demand side numeric goals for electric utilities. (Tr. 1851, lines 3-21). They would have the Commission simply disregard the DSM goals proposed by Tampa Electric and the other FEECA utilities - - goals that are based on utility resource needs and which fully comply with the DSM Goals Rule, FEECA and many years of well-established Commission and Florida Supreme Court precedent.

In preparation for this hearing Tampa Electric, the other FEECA utilities and the Commission's Staff have engaged in a coordinated, comprehensive, thorough and nearly year long endeavor to develop aggressive, yet reasonable and cost-effective DSM goals that are consistent with the provisions of FEECA and the Commission's goal setting rule. The counterproposals of NRDC, SACE and GDS, on the other hand, are arbitrarily crafted, "made up" goals designed to pursue an overarching environmental agenda that has no concern whatsoever for the level of electric rates that customers in Florida would have to pay and no concern for the impact on the economy of this state.

**Adoption of the Goals Proposed by NRDC, SACE and GDS
Could Have Monumental Negative Economic Impacts on
Electric Customers in Florida and on the State as a Whole**

From Tampa Electric's perspective the DSM goals proposed by Mr. Steinhurst and GDS are significantly higher than the DSM goals proposed by the company. In fact, the magnitude of difference is six to ten times greater than the company's proposal. (Tr. 1867, lines 19-23). Neither Mr. Steinhurst nor GDS offer any cost information concerning their arbitrary proposals, which makes it clear that neither has any concern about the costs of what they advocate or the

impact of those costs on Floridians. This serious deficiency, coupled with the fact that neither Mr. Steinhurst nor GDS identifies the specific measures upon which their arbitrary proposals are based, make it impossible to assess the cost impact of their proposals in any precise manner. However, an approximation can be made by examining the costs Tampa Electric has incurred under FEECA. Tampa Electric has accomplished 647 GWH of energy savings from the inception of FEECA in 1981 through 2008 and has spent approximately \$430 million on DSM programs during that time period. If the goals proposed by Mr. Steinhurst and GDS were adopted for the company, Tampa Electric's customers would likely have to bear the burden of six to ten times the expenditures the company has experienced over a 28 year period in just 10 years, all in the absence of any proven cost-effectiveness by the advocates of such a colossal financial commitment. This does not even take into account the cost of making up lost contributions to Tampa Electric's fixed costs that would result from the blind application of DSM programs designed to meet these arbitrarily over inflated DSM goals. (Tr. 1868, lines 3-11)

Witness Dean, testifying for the four major investor-owned electric utilities, quantified the impact on rates of GDS's proposed goals. Mr. Dean used a number of very conservative assumptions, including an assumption that the energy conservation cost recovery clause would not increase even in pursuit of GDS's DSM goals. Mr. Dean's calculation concluded that the total ten-year reduction in Commission approved revenue that would have to be recovered through higher rates would be approximately \$3.8 billion for the four investor-owned electric utilities, or about \$380 million per year in additional revenue to cover their Commission approved revenue requirement. (Tr. 2037, line 6 – Tr. 2038, line 2; Exhibit 130)

Mr. Dean also addressed direct losses in state and local revenue associated with imposition of the GDS DSM goals. Again, using extremely conservative estimates, Mr. Dean

calculated that losses of public revenue in the form of gross receipts taxes and sales taxes over the ten year period would be at least \$183 million. He also testified that if one assumed conservatively that even half of lost electric sales would be subject to franchise fees and local sales taxes, then foregone local government revenue could easily top \$276 million. (Tr. 2039, lines 6-8)

NRDC's and SACE's arbitrarily proposed DSM goals are somewhat similar in size to the DSM goals GDS has made up for purposes of these proceedings. It follows that the adverse economic consequences of adopting NRDC and SACE's proposed goals would roughly approximate those that would occur if GDS's proposed goals were adopted.

NRDC and SACE's Proposed Goals are Completely Arbitrary and should be Rejected

NRDC and SACE have one goal in this proceeding and that goal is to reduce air emissions through DSM. Their myopic focus on this single goal explains the arbitrary nature of their proposed goals and their disregard for the controlling statutes, this Commission's DSM Goals Rule and the arduous year long collaborative process in which they were participants.

On behalf of NRDC and SACE, witness Steinhurst advocates the total rejection of the FEECA utilities' proposals and the substitution in their place of an arbitrary across the board interim DSM savings goal of 1.0% of annual sales per year for each utility, a goal he said he chose because it is a "nice round number." (Tr. 1147, lines 3-11). NRDC and SACE offer no analytical support whatsoever for their arbitrary proposal, much less any analysis at all using Florida-specific information to support their position.

NRDC and SACE misrepresent the content and effect of 2008 legislation in the form of HB 7135 to support their recommendation that Florida set arbitrary goals almost exclusively on an energy reduction basis. They contend that HB 7135 makes a sweeping amendment to FEECA

by requiring, for the first time, that the Commission use the TRC test to determine cost effectiveness of DSM to the exclusion of any reliance on the RIM test. That is simply a misreading and misrepresentation of the controlling statutes and the import of HB 7135. Nowhere does Florida law (before or after the enactment of HB 7135) require the use of the TRC test to the exclusion of the RIM and Participants' test. Most of HB 7135 addresses state agencies other than the Commission. The Act only modestly amends FEECA by requiring the Commission to take into consideration four additional factors in setting DSM goals. That is the only change effected by HB 7135 that is relevant to this proceeding.

As far as TRC versus RIM is concerned, HB 7135 does not even mention the TRC test nor does it mention the RIM or Participants' tests. Indeed, as witness Dean explains in his rebuttal testimony, the express terms of HB 7135 render the use of the TRC test inconsistent with the intent of that Act. (Tr. 2070, line 22 – Tr. 2071, line 2)

By modestly amending FEECA, HB 7135 intentionally leaves unchanged most of the language on which this Commission has based its nearly 30 years of sound policy in implementing FEECA. HB 7135 simply does not mandate, require or direct the Commission to make any change whatsoever to its current method of determining DSM measure cost-effectiveness. It follows that the continued use of the RIM test, enhanced to take into account costs associated with greenhouse gases (E-RIM), in tandem with the Participants' test, is completely consistent with adherence to FEECA, as amended in 2008.

NRDC and SACE Failed to Read the Commission's Duties Under FEECA Alongside the Commission's Other Statutory Responsibilities

A simple review of the modest FEECA amendments set forth in HB 7135 makes it clear that the Legislature did not intend to effect the sweeping changes suggested by NRDC and SACE. Even if there were doubt as to the legislative intent, it is a principle of statutory

construction that statutes relating to the same subject or object should be construed together in order to harmonize the statutes and give effect to the Legislature's intent. (48A Fla. Jur. 2nd, Statutes, Section 177). A simple review of the portions of FEECA and Chapter 366, Florida Statutes, that were intentionally left unchanged by the Legislature in HB 7135, completely undermines NRDC and SACE's claim that in setting DSM goals the Commission should not focus on electric rates or impacts to non-participants. One of the key unchanged provisions of FEECA specifically focuses on the avoidance of discrimination as between classes of customers in the pursuit of energy efficiency and demand reduction. Section 366.81, Florida Statutes, setting forth legislative findings and intent relative to FEECA, continues to provide in pertinent part:

. . . Since solutions to our energy problems are complex, the Legislature intends that the use of solar energy, renewable energy sources, highly efficient systems, cogeneration, and load-control systems be encouraged. Accordingly, in exercising its jurisdiction, the commission shall not approve any rate or rate structure which discriminates against any class of customers on account of the use of such facilities, systems, or devices.

Indeed, Section 366.04, Florida Statutes, in prescribing the jurisdiction of the Commission, remains unchanged and begins as follows:

(1) In addition to its existing functions, the Commission shall have jurisdiction to regulate and supervise each public utility with respect to its rates and service; . . . (emphasis supplied)

This language makes it clear that rates and service are the two polestars of Commission jurisdiction.

Section 366.04(2)(b), Florida Statutes, authorizes the Commission to prescribe a rate structure for all electric utilities and Section 366.03, Florida Statutes, mandates that all rates and charges be fair and reasonable.

Section 366.03, Florida Statutes, further states that no public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect.

In a similar focus on the fairness of rates, Section 366.06(2), Florida Statutes, requires the Commission to address situations where rates are unjust, unreasonable, or unduly discriminatory. These sections of Chapter 366, Florida Statutes, appear to place a focus on rates whenever the Commission acts. These provisions do not say that, except when setting FEECA goals, the rate impacts on customers matter. Even witness Wilson, testifying for NRDC and SACE, admitted in his deposition that he does not believe that HB 7135 shows any legislative intent that the Commission should ignore the rate impact of decisions it makes. (Ex. 4 - Wilson deposition transcript page 55, line 18)

Even Section 366.82(7), Florida Statutes, contained in FEECA, authorizes the Commission to modify or deny DSM plans or programs that would have an undue impact on costs passed on to customers. The only way those costs can be passed on to customers is through the utility's rates and charges.

NRDC and SACE's efforts to ignore the rate impact on utility customers in Florida and the economic impact that result could have throughout this state is understandable given these intervenors' myopic goal of using this proceeding solely as a means of pursuing their myopic environmental agenda. While it may be understandable, it is entirely incorrect. Tampa Electric urges the Commission to continue to strive for a balance of aggressive, but cost-effective, DSM goals which avoid cross-subsidization and undue upward pressure on rates for all utility customers in Florida.

GDS's Proposed Goals in this Proceeding are Extreme and Unsupported

In terms of summer MW, GDS's recommended goals for Tampa Electric are more than ten times those proposed by the company on a winter demand side basis and their energy saving goals are more than eight times those the company has proposed after its year long involvement in the FEECA utilities, NRDC and SACE collaborative process. Like NRDC and SACE, GDS offers absolutely no economic analysis to support its hastily conjured goals. In addition, GDS chose not to use the results of the utilities' most recent planning process (as required by the DSM Goals Rule). They also chose not to be concerned with increased electric rates in this state or cross-subsidization of customer groups.

GDS misinterprets the modest changes to FEECA contained in HB 7135 to define a new goals standard described as the "maximum achievable cost-effective energy savings." (Tr. 1480, lines 23-24; Tr. 1535, lines 15-16; Tr. 2028, line 15). This is simply a misinterpretation of HB 7135 that only serves as an excuse for proposing absurd goals that have no relationship for the FEECA utilities' planning processes and no concern whatsoever for the rate impact those absurd goals would have on electric customers in the state.

GDS's approach to developing its goals has two parts, the first being focused on developing a new estimate for Achievable Potential by using the highest starting value they could find, then making a series of adjustments that only move the Achievable Potential in one direction – higher. (Tr. 1674, lines 13-20). FPL's Dr. Sim described GDS's approach as follows:

- [GDS] Started with the highest Achievable Potential value derived in the Collaborative work;
- Then increased that Achievable Potential value by largely ignoring the two-year payback criterion agreed to by all of the Collaborative members (to address free riders), including NRDC-SACE, and adding back all measures eliminated by this

criterion for all but very large commercial and industrial customers;

- Increased the Achievable Potential value gain by assuming higher market penetration levels than those developed by the Collaborative after months of work;
- Increased the ever-growing Achievable Potential value again by adding back certain DSM measures that the Collaborative excluded from the Technical Potential analyses.

(Tr. 1674, line 13 – Tr. 1675, line 11)

If GDS's approach had any legitimacy (which it does not), GDS's implementation of its approach is completely riddled with errors as was demonstrated during cross-examination of witnesses Spellman and Guidry. (Tr. 1564-1601). Consequently, GDS's conclusions in the form of its proposed DSM goals should be summarily rejected on three compelling grounds: their complete lack of analytical integrity; their failure to adhere to FEECA and the Commission's DSM Goals Rule and their patently sloppy execution.

**GDS's Subsidy for Demand Side
Renewable Projects should be Rejected**

GDS proposes to allocate a large annual sum of each utility's ECCR clause expenditures to demand side renewable system research and development ("R & D"). This approach should be rejected. Section 366.82, Florida Statutes, does require consideration of demand side renewable measures and these measures were given proper consideration in the goals development process. As stated earlier, the FEECA utilities included six individual demand side renewable measures in the total number of measures evaluated for potential goals and determined that none of the renewable measures was cost-effective. In addition, the expenditures GDS proposes are not for R & D. According to GDS's witnesses Spellman and Guidry, the proposed funds would be used as one-time rebates to "sweeten the pot" for customers

to encourage the installation of a demand side renewable measure that is not cost-effective. (Tr. 1551, line 19 – Tr. 1552, line 7). Therefore, in consideration of subsection (3) of the Rule, any demand and energy contributions from renewable measures were not included in Tampa Electric's proposed goals due to the measures' non-cost-effectiveness.

For GDS to ignore the non-cost-effectiveness of these measures and to propose a financial burden on Tampa Electric's customers in the form of a huge subsidy of those measures over a five year period is totally wrong. Nothing of the sort is mandated or even contemplated in FEECA. (Tr. 1870, line 22 – Tr. 1871, line 8)

SUMMARY

In deciding these consolidated proceedings the Commission would do well to recognize the solid efforts that have been put forth by the FEECA utilities and the Commission's Staff over nearly a year-long process to develop aggressive, yet reasonable, DSM goals consistent with the Commission's DSM Goals Rule and the provisions of FEECA that it implements. All participants in this effort should be proud of the results and confident that they meet all relevant legislative objectives. The counter-proposals of NRDC, SACE and GDS, on the other hand, appear to be arbitrarily crafted, "made up" goals designed to pursue an overarching environmental agenda that has no concern whatsoever for electric customers in Florida or the economy of this state.

The proposed "goals" of NRDC, SACE and GDS, are on the order of six to ten times higher than the goals proposed by Tampa Electric which were derived from a nearly year long collaborative effort with valuable Staff input. These stark differences alone make the proposals put forth by NRDC, SACE and GDS inherently suspect.

Based on the foregoing, the Commission should approve the DSM goals proposed by Tampa Electric and reject the arbitrary and unsupported goals put forth by NRDC, SACE and GDS.

**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.?

TECO: *Yes. Through the work of a collaborative team comprised of Florida Power and Light Company, Progress Energy Florida, Inc., Tampa Electric Company, Gulf Power Company, Florida Public Utilities, Jacksonville Electric Authority, Orlando Utilities Commission (collectively “FEECA utilities”), SACE/NRDC and Itron, Tampa Electric provided an adequate assessment of the full Technical Potential pursuant to the Section 366.82(3), F.S.* (Rufo, Bryant)

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?

TECO: *Yes. Through a rigorous and comprehensive evaluation process aimed at providing the highest Enhanced 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, Tampa Electric conducted and has provided an adequate assessment of DSM Achievable Potential.* (Rufo, Bryant)

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.?

TECO: *Yes. Tampa Electric 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), Florida Statutes.* (Bryant)

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.?

TECO: *Yes. Tampa Electric utilized the cost-effectiveness methodologies as delineated in Rule 25-17.008, Florida Administrative Code, to adequately reflect the costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions. Accomplishing this objective is best achieved through the use of the E-RIM and Participants' cost-effectiveness tests.* (Bryant)

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.?

TECO: *Yes. Tampa Electric utilized a mid-range cost of CO₂ mitigation compliance taken from recently proposed national carbon legislation throughout its DSM goals evaluation process. This is consistent with need determination practice where the cost of CO₂ is integral to the analysis and puts demand-side evaluations on a more level playing field with supply-side options.* (Bryant)

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

TECO: *No, not in this proceeding. If the Commission deems utility incentives to be appropriate, the evaluation and potential establishment should be conducted in a separate proceeding.* (Bryant)

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

TECO: *The Commission should use the E-RIM test in conjunction with the Participants' test to establish DSM goals. These tests allow the accomplishment of significant DSM development without placing undue upward pressure on rates or causing cross-subsidization among participants and non-participants. It also insures consideration of greenhouse gas mitigation in the goals setting process.* (Bryant)

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

*

PROPOSED RESIDENTIAL CONSERVATION GOALS										
(At the Generator)										
Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Summer MW	1.4	2.1	2.9	3.5	4.0	4.3	4.3	3.9	3.7	3.2
Winter MW	1.2	1.9	2.4	3.0	3.5	3.5	3.7	3.4	3.1	2.8
Annual GWh	1.9	3.6	5.0	6.3	7.2	7.7	7.9	7.2	6.5	5.7

The cumulative effect of these goals through 2019 would be a summer MW reduction of 33.3 MW, a winter reduction of 28.5 MW and cumulative energy savings of 59.0 GWh.* (Bryant)

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

*

PROPOSED COMMERCIAL/INDUSTRIAL CONSERVATION GOALS										
(At the Generator)										
Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Summer MW	2.7	3.9	4.3	5.2	5.3	5.5	5.7	5.3	5.5	5.1
Winter MW	0.9	1.0	1.2	1.3	1.2	1.3	1.4	1.4	1.4	1.3
Annual GWh	6.3	9.8	13.0	15.0	16.2	16.9	17.0	16.7	16.2	15.6

The cumulative effect of these goals through 2019 would be a summer MW reduction of 48.5 MW, a winter reduction of 12.4 MW and cumulative energy savings of 142.7 GWh.* (Bryant)

ISSUE 11: 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?

TECO: *No. Tampa Electric evaluated demand-side renewable energy systems in its overall DSM goals evaluation process; therefore, no separate goals are necessary. This is consistent with the approach taken by the other FEECA utilities.* (Bryant)

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

TECO: *No. Tampa Electric believes the Commission should consider goals for efficiency improvement in generation, transmission, and distribution in a separate proceeding.* (Bryant)

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?

TECO: *No. The Commission should not establish separate goals for residential and commercial/industrial customer participation in utility energy audit programs. FEECA utilities are required to offer, promote and perform audits for all customers. Resources utilized to achieve audit performance goals are better allocated to specific programs with greater potential for demand and energy savings.* (Bryant)

ISSUE 16: Should this docket be closed?

TECO: Yes. (Bryant)

Additional Issues

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

TECO: *No such action(s) is(are) needed. These consolidated proceedings were commenced to set overall DSM goals for the FEECA utilities and not as scoped proceedings to focus on promoting cogeneration. This is evidenced by the fact that many key participants in cogeneration are not parties to this proceeding.*
(Bryant)

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

TECO: *The Commission should give significant consideration to the rate impact of the goals it sets in this proceeding consistent with Chapter 366, Florida Statutes, including FEECA. The use of the E-RIM and Participants' tests remains the best methodology for selecting optimal DSM goals that do not impose undue upward pressure on rates or cross-subsidizations between customer groups.* (Bryant)

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?

TECO: *No position.*

DATED this 28th day of August, 2009.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lee L. Willis", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Brief and Post-Hearing Statement of Issues and Positions, filed on behalf of Tampa Electric Company, has been furnished by U. S. Mail or hand delivery (*) on this 28th day of August 2009 to the following:

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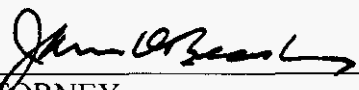
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