Ruth Nettles 080410-EG

From: Rogers, Mallory [MAROGER@SOUTHERNCO.COM]
Sent: Friday, August 28, 2009 4:08 PM
To: Filings@psc.state.fl.us
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A. Susan D. Ritenour
Gulf Power Company
One Energy Place
Pensacola FL 32520
850.444.6696
maroger@southernco.com

B. Docket No. 080410-EG
In Re: Commission Review of Numeric Conservation Goals for Gulf Power Company.

C. Gulf Power Company

D. Document consists of 27 pages.

E. The attached document is Gulf Power Company's Post-Hearing Brief and Statement of issues and Positions, pursuant to Order No. PSC-09-0545-PHO-EG.

<<08-28-09 Hearing Briefs.pdf>>
Mallory Rogers
Administrative Assistant | Corporate Secretary Gulf Power Company | Bin 0786
Tel: 850.444.6696 | Fax: 850.444.6026
Email: maroger@southernco.com

Susan D. Ritenour
Secretary and Treasurer
and Regulatory Manager

One Energy Place
Pensacola, Florida 32520-0781

Tel 850.444.6231
Fax 850.444.6026
SDRITENO@southernco.com

GULF POWER
A SOUTHERN COMPANY

August 28, 2009

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

Dear Ms. Cole:

Re: Docket No. 080410-EG

Enclosed are Gulf Power Company's Post-Hearing Brief and Statement of Issues and Positions, pursuant to Order No. PSC-09-0545-PHO-EG.

Sincerely,

Susan D. Ritenour

mr

Enclosures

cc: Beggs & Lane
Jeffrey A. Stone, Esq.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: **Commission Review of Numeric Conservation Goals for Gulf Power Company**	))))	Docket No.: **080410-EG**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was furnished by U. S. mail this 28th day of August, 2009, on the following:

Susan Clark
Radey Law Firm
301 S. Bronough Street, Ste 200
Tallahassee FL 32301

Suzanne Brownless
Suzanne Brownless, PA
1975 Buford Blvd
Tallahassee FL 32308

E. Leon Jacobs, Jr.
c/o Williams & Jacobs, LLC
1720 South Gadsden Street, MS 14, Suit
Tallahassee, FL 32301

Jeremy Susac, Executive Director
Florida Energy & Climate Commission
c/o Governor's Energy office
600 S. Calhoun St, Ste. 251
Tallahassee, FL 32399-0001

Katherine Fleming, Esq
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, FL 32399-0850

J. R. Kelly, Esq
Stephen Burgess, Esq
Office of the Public Counsel
111 West Madison Street, Rm 812
Tallahassee, FL 32399-1400

Wade Litchfield, Esq
Florida Power & Light Co
215 South Monroe St, Suite 810
Tallahassee, FL 32301

Paul Lewis Jr
Progress Energy Florida, Inc
106 East College Ave, Ste 800
Tallahassee, FL 32301-7740

John T. Burnett, Esq
Progress Energy Service Company, LLC
P.O. Box 14042
St. Petersburg, FL 33733-4042

Paula K. Brown
TECO
PO Box 111
Tampa, FL 33601-0111

John T. English
Florida Public Utilities Co.
PO Box 3395
West Palm Beach, FL 33402-3395

Norman H. Horton Jr Esq
Messer, Caparello, & Self, PA
PO Box 15579
Tallahassee FL 32317

Roy C. Young/Tasha O. Buford
c/o Young Law Firm
225 South Adams Street, Suite 200
Tallahassee, FL 32301

James D. Beasley, Esq
Lee L. Willis, Esq
Ausley Law Firm
PO Box 391
Tallahassee FL 32302

Chris Browder
PO Box 3193
Orlando FL 32802-3193

Teala A. Milton
VP Government Relations
21 West Church St, Tower 16
Jacksonville, FL 32202-3158

Jeff Curry
Lakeland Electric Utility Co
501 East Lemon St
Lakeland FL 33801

Mr. Michael Ting
Itron, Inc
Consulting & Analysis Services
1111 Broadway Street, Ste 1800
Oakland, CA 94607

Mr. Richard F. Spelman, President
GDS Associates, Inc
1850 Parkway Place, Ste. 800
Marietta, GA 30067

George S. Cavros
George Cavros, Esq., P.A.
120 E. Oakland Park Blvd, Ste. 105
Ft. Lauderdale, FL 33334

Vicki Gordon Kaufman
Jon C. Moyle, Jr.
Keefe Anchors Gordon & Moyle
118 North Gadsden Street
Tallahassee, FL 32301

John W. McWhirter, Jr.
P.O. Box 3350
Tampa, Florida 33601 -33 50

Jessica A. Cano, Esq.
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408

Charles A. Guyton
Squire, Sanders & Dempsey, LLP
215 South Monroe Street, Suite 601
Tallahassee, FL 32301

JEFFREY A. STONE
Florida Bar No. 325953
RUSSELL A. BADDERS
Florida Bar No. 007455
STEVEN R. GRIFFIN
Florida Bar No. 0627569
BEGGS & LANE
P. O. Box 12950
Pensacola FL 32591-2950
(850) 432-2451
Attorneys for Gulf Power Company

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (Gulf Power Company) /	Docket No.:	080410-EG
	Filed:	August 28, 2009

POST-HEARING BRIEF AND STATEMENT OF ISSUES AND POSITIONS OF GULF POWER COMPANY

Gulf Power Company, ("Gulf Power," "Gulf," or "the Company"), by and through its undersigned attorneys, files the following as its post-hearing brief and post-hearing Statement of Issues and Positions in this proceeding pursuant to Order No. PSC-09-0545-PHO-EG and Rule 28-106.215, Florida Administrative Code (F.A.C.).

GENERAL DISCUSSION

Gulf Power's proposed demand-side management ("DSM") goals represent the total cost-effective winter and summer peak MW demand reductions and annual GWh savings which are reasonably achievable in Gulf Power's service area for the period 2010 through 2019. [Tr. 613] The Company's proposed goals are consistent with the fundamental legal requirements of the Florida Energy Efficiency and Conservation Act ("FEECA"), the Commission's rules, and are the product of a thorough and deliberative process which spanned nearly one year. In order to ensure the consistency and integrity of the process used to develop proposed goals, Gulf and the other FEECA utilities retained the services of a well-respected expert, Itron, Inc. ("Itron"), to conduct exhaustive technical and achievable potential studies. [Tr. 620] The FEECA utilities also invited the Southern Alliance for Clean Energy ("SACE") and the Natural Resources Defense Council ("NRDC") to join the "Collaborative" and participate in and oversee the studies. [Tr. 619] The rigorous technical and achievable potential studies developed by Itron were the product of a time-tested methodology which included relevant and verifiable end-use baseline and measure cost/savings data. [Tr. 1014-17, 1033-34] Moreover, for the first time, Gulf Power and the other investor-owned utilities included estimates of the avoided cost of carbon in their analysis of the benefits of demand-side management measures. [Tr. 1885] In Gulf Power's case this led to a significant increase in the number of measures found to be cost-effective under the E-RIM[1] test and contributed, in part, to a 184 percent increase in the Company's proposed annual energy goal. [Tr. 729, 1885] Additionally, through use of the E-RIM and Participant test, the significant savings represented by the Company's proposed goals will be captured in a way that places downward pressure on rates and that benefits Gulf Power's general body of ratepayers as a whole, not just participants in DSM programs. [Tr. 1885] The same cannot be said of the E-TRC test. [Id.]

Compare the FEECA utilities' analysis to the approaches advocated by SACE/NRDC and GDS in this proceeding. The SACE/NRDC witnesses did not perform any utility-specific studies or analysis. [Tr. 1376-1378, 1385] [Tr. 1147] Instead, they attempt to impugn the results of a study in which they, in part, participated and endorsed. In fact, during a November 3, 2008, presentation before the Commission, SACE/NRDC Witness Wilson characterized the technical potential study in favorable terms, stating that "[t]his is going to be, quite simply, the finest study of its caliber in the southeast and probably one of the finest in the nation in the past few years." [Tr. 1883] In many cases, SACE/NRDC witnesses did not even take the time to review the testimony of the utility witnesses whom they criticized, or the Commission's own goal-setting rules, prior to filing their testimony. For example, SACE/NRDC Witness Mosenthal acknowledged under cross-examination that he did not read any of the testimony of Gulf witness Floyd or Progress Energy Florida Witness Masiello before filing his own testimony. [Tr. 1376-77] Nor did he review the Commission's own goal-setting rule [Tr. 1380] or the PSC Cost-

[1] "E-RIM" refers to enhancement of the RIM test through the addition of projected carbon costs. "E-TRC" refers to enhancement of the TRC test in the same manner.

Effectiveness Manual [Tr. 1380-81] prior to filing his testimony. SACE/NRDC Witness Steinhurst also conceded that he had not read any of the Commission rules, or the full testimony of Itron or any of the FEECA utility witnesses prior to submitting his testimony [Tr. 1147-49] This lack of preparation or concern for Commission rules and procedures is simply irresponsible.

In stark contrast to the thoughtful and robust analysis utilized by the FEECA utilities, SACE/NRDC employed a "back of the envelope" approach and simply applied a generic one percent multiplier to the utilities' load forecasts. They did not base their proposed goals on any analysis of what would be reasonably achievable in Florida, but rather on the bare assumption that because other purportedly "leading" jurisdictions aspire to save approximately one percent of electricity sales each year, then a similar goal must necessarily be appropriate for Florida. [Tr. 1879, and Deposition of Philip Mosenthal, Staff Composite Exhibit 4, Schedule 11 at page 65] Tellingly, SACE/NRDC did not offer any quantification of the substantial cost impacts to Florida's ratepayers if their proposal was adopted [Tr. 1149], or any analysis suggesting that approaches adopted by other jurisdictions like Vermont and California would be workable or appropriate for a state like Florida. [Tr. 1152, 1164] Indeed, SACE/NRDC Witness Steinhurst testified under cross-examination that his recommended one percent goal was, in effect, nothing more than a "nice round number." [Tr. 1147] SACE/NRDC's haphazard approach simply is not consistent with the detailed requirements of section 366.82(3), Florida Statutes or Rule 25-17.0021, Florida Administrative Code --a rule which at least two witnesses did not even bother to read before developing their recommendations. To the contrary, when viewed in the context of the evidence presented, it is apparent that SACE/NRDC's support of such extreme goals is founded squarely upon their self-acknowledged and narrowly-focused objective to "advocate for the reduction of greenhouse gas emissions." [Tr. 1432] However, unlike SACE/NRDC, the

FEECA utilities and the Commission have other interests to consider, including ensuring fair and reasonable rates and the continued existence of a reliable source of electric energy for the citizens of the State of Florida.

The analysis performed by GDS was legally and analytically deficient as well. From a legal standpoint, GDS has proposed goals based upon an estimate of "maximum achievable" values under the E-TRC test. [1480] Rule 25-17.0021(1) plainly requires that goals be based on an estimate of savings which are "reasonably achievable" through demand-side management in each utility's service area, not "maximum achievable" savings. GDS's proposed goal portfolio would represent maximum adoption of all measures resulting from unlimited incentive levels. [Tr. 1881] As a practical matter, this target for a utility-sponsored goal portfolio is extreme and not reasonably achievable. [Id.]

GDS did not perform its own technical or achievable potential studies. Instead, they simply added additional savings to the Itron E-TRC achievable potential results based on their view that measures were either left out of the Technical Potential, underrepresented in terms of market penetration, or improperly omitted from Itron's achievable potential results because of the FEECA utilities' use of a two-year payback criterion to screen free riders. [Tr. 1539-40] During cross examination, GDS Witness Spellman admitted to numerous calculation errors which discredit the integrity of GDS's analysis as a whole. [Tr. 1568, 1570, 1573, 1574, 1576, 1592, 1594] For example, as explained by Gulf Witness Floyd, when GDS added back the potential associated with the residential measures screened out because of the two-year payback criterion, they used 100% of the technical potential associated with those measures. [1882] As explained by Witness Rufo, and various other witnesses, technical potential is a theoretical construct which represents the upper bound of what is technically achievable from an engineering perspective. [Tr. 881] It does not take into account other real-world constraints such as product availability, contractor/vendor capacity, cost-effectiveness, customer preferences or normal equipment replacement rates. [Id.] Achieving a level of 100 percent penetration of these measures would not be feasible even if Gulf Power gave them away to every single customer. [Tr. 1882]. Since this group of measures has the highest incidence of naturally occurring adoption of all measures in the portfolio, spending customer dollars to incentivize such measures at any level is particularly unnecessary and wasteful. [Id.]

GDS and SACE/NRDC both criticized the FEECA utilities' use of a two-year payback criterion to screen free riders --customers who would implement efficiency measures in the absence of a utility incentive. [Tr. 249] Despite their sharp criticism, they offered no other alternatives for screening free riders at the goal-setting phase. Rule 25-17.0021(3) specifically requires that free riders be considered in setting goals.[2] The two-year payback criterion was initially accepted by the Commission as a means of reducing free riders in Order No. PSC-94-1313-FOF-EG and has consistently been used in subsequent goal-setting proceedings. [Tr. 1886] Additionally, this criterion is used in Gulf Power's Commission-approved Commercial Energy Services program in which customized incentives are offered for commercial energy efficiency projects up to a level that results in a two-year payback. [Tr. 1887] Screening of measures having a customer payback of two years or less is a reasonable means of reducing free-ridership. The basic premise behind the use of this criterion is simple and compelling: utilities, and their customers, through ECCR recovery of program costs, should not be paying incentives to customers who have a sufficient economic incentive to implement DSM on their own. [Tr. 249-250] That is not to say, however, that the utilities do, or should, ignore these measures. For

[2] SACE/NRDC Witness Mosenthal argues that free ridership should be addressed at the "program level rather than the goal-setting level." [Tr. 1331] This recommendation, however, is in direct conflict with Rule 25-17.0021(3).

example, Gulf Power routinely informs customers about measures having a payback of two years or less during its energy audits, home shows, website and through its Energy Education Program. [Tr. 667, 669] In fact, results from follow-up surveys of Gulf Power's audit participants suggest that Gulf Power customers are already implementing short payback measures such as CFLs at high rates absent any utility incentives. [Tr. 659]

Legal and analytical deficiencies aside, the most astonishing aspect of the goals proposed by GDS and SACE/NRDC is the sheer magnitude of cost that would be required to achieve such an extreme level of energy savings. While GDS and SACE/NRDC chose not quantify the cost-impacts associated with their proposals, preliminary utility estimates demonstrate that the costs are sure to run into the billions of dollars. [Tr. 398, ($6 billion, PEF); 545, ($893 million, TECO); 1898, ($600 million, Gulf); 2037 ($3.8 billion in un-recovered Commission authorized revenue for all investor-owned utilities)]

GDS Witness Spellman readily acknowledges that his proposal would result in rate increases, but summarily dismisses the impact as "negligible." [Tr. 1532] SACE/NRDC Witness Wilson goes further to suggest that he does not believe the Commission should even consider electricity rates or impacts to non-participating customers in setting DSM goals. [1449] These assertions are incredible and serve to further underscore these parties' indifference to the severe financial impacts that their policy recommendations will have on utility customers throughout the State of Florida.

Gulf Power respectfully urges the Commission to reject SACE/NRDC and GDS's superficial proposals and approve the Company's proposed goals for the period 2010 through 2019. Gulf Power stands prepared to aggressively pursue and promote additional energy and demand savings within its customer base, and to do so in a manner that comports with utility-planning processes, avoids cross-subsidization and places downward pressure on rates for the Company's general body of customers as a whole. Unlike the approaches recommended by SACE/NRDC and GDS, such an approach is consistent with FEECA, the Commission's rules and twenty-nine years of reasoned and responsible Commission precedent.

DISCUSSION OF SPECIFIC ISSUES [3]:

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.?

***

SUMMARY: Yes. Through the Itron study, Gulf has performed an adequate assessment of the full technical potential of all available demand-side conservation and energy measures, including demand-side renewables. An assessment of supply-side conservation and efficiency measures is more appropriately considered in a separate proceeding following the conclusion of the goal-setting process.

***

DISCUSSION:

The Collaborative (consisting of the FEECA utilities and SACE/NRDC) selected a nationally recognized energy analysis expert, Itron, Inc., to perform extensive technical potential studies for each FEECA utility's service area. [Tr. 249] Itron used a rigorous "bottom up" approach of assessing actual end-use penetrations in Gulf Power's service area and opportunities for increased efficiency. [Tr. 620] The process began with the development of a comprehensive list of energy efficiency, renewable and demand response ("DR") measures. [Tr. 621] As in previous goals proceedings, the starting point for the measures to be studied was the Synergistic Resources Corporation ("SRC") Electricity Conservation and Energy Efficiency in Florida study commissioned by the Florida Energy Office in 1993. [Id.] The Collaborative members,

[3] The listing of issues and position summaries that follow in this section is also intended to serve as Gulf Power's post-hearing Statement of Issues and Positions required by Order No. PSC-09-0545-PHO-EG.

including SACE/NRDC, then submitted additional measures for consideration based on existing Commission-approved utility programs and other technologies not considered in the 1993 study, nor currently part of any Florida utility DSM program. [Id.] Itron also included additional measures that had been recently analyzed in technical potential studies for other jurisdictions. [Id.] Ultimately, the comprehensive measure list included 257 unique energy efficiency measures (including solar thermal water heating and photovoltaic ("PV") powered pool pumps), seven DR measures and three rooftop and ground mounted PV measures. [Tr. 622, 628, 879] In total, the Technical Potential Study analyzed 267 unique measures, including 49 "new" measures which Itron had not analyzed in previous technical potential studies. [Tr. 1014]

Once the measures to be studied were identified, Itron then developed cost and savings data for each measure and estimated baseline end-use energy consumption and peak demand savings for all in-scope market segments. [Tr. 876, 880] Importantly, in order to ensure the integrity of the analysis, the scope of measures considered in the Technical Potential Study was limited to measures that were currently available in the Florida market and for which independently-verified cost and savings data were available. [Tr. 878] SACE/NRDC and GDS' claims that certain emerging measures and market segments were improperly omitted from the Technical Potential Study ignore the fact that the Technical Potential Study serves as the foundation for estimating economic and achievable potential for each FEECA utility. [Tr. 1029] In order to serve in that capacity, the Technical Potential Study must be grounded in defensible end-use baselines and measure-specific cost and savings data. [Id.] As explained by Witness Rufo and other utility witnesses, certain measures and sectors were appropriately excluded from consideration in the Technical Potential Study due to a lack of reliable data. [Tr. 1023-29] Through the Itron study, Gulf has performed an adequate assessment of the full technical potential of all available demand-side conservation and energy measures, including demand-side renewables. [Tr. 879]

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?

***

SUMMARY: Yes. Through the Itron study, Gulf has performed an adequate assessment of the achievable potential of all available demand-side conservation and efficiency measures and demand-side renewable energy systems. An assessment of supply-side conservation and efficiency measures is more appropriately considered in a separate proceeding following the conclusion of the goal-setting process.

***

DISCUSSION:

After Itron developed the technical potential for Gulf Power and the remaining FEECA utilities, Gulf Power determined the economic potential for each of the measures included in the comprehensive measure list using Itron's measure data. [Tr. 624, 875] Gulf Power screened each measure using Commission-approved cost effectiveness criteria, namely the E-RIM and the E-TRC tests. [Tr. 624] This resulted in two sets of economic potential: a set based on measures that passed E-RIM, and a set that passed E-TRC. [Id.] For the first time, Gulf Power included carbon dioxide cost projections as a component of fuel costs used in the economic screening under both tests. [Tr. 633-34] This resulted in more measures passing the cost-effectiveness screening than would have otherwise been the case. [Tr. 729] Further screening of the measures was conducted to determine which measures also passed the Participant test. [Tr. 625] Finally, in order to reduce free-ridership, measures that had cost/savings combinations that resulted in a customer payback of two years or less without any incentives were screened from the analysis. [Id.] At the completion of the screening process, 143 energy efficiency measures remained and were provided to Itron for achievable potential modeling utilizing KEMA's DSM ASSYST model. [Tr. 625-26] The outputs from the DSM ASSYST model formed the basis for Gulf Power's proposed goals. Specifically, the bases for the Gulf's proposed goals are the MW and GWh associated with the measures that passed both E-RIM and the Participant test under Gulf's "high incentive" scenario. [Tr. 613, 626]

SACE/NRDC and GDS contend that Itron's achievable potential results for the FEECA utilities are understated primarily due to the removal of measures having a customer payback of two years or less and use of the E-RIM, rather than the E-TRC test. [Tr. 1371, 1464-1465] . SACE/NRDC also criticized the FEECA utilities for improperly calculating the Participant test <u>without</u> incentives [Tr. 1335-1338, 1465] but later acknowledged under cross-examination that the criticisms are baseless in light of the fact that incentives were, in fact, included in the FEECA utilities' calculations. [Tr. 1381-83]

As addressed in detail in response to Issue Four below, Gulf Power believes that use of the E-RIM test is not only consistent with FEECA, but also the only means of protecting its general body of customers from cross-subsidization and rate impacts. As mentioned previously, the two-year payback criterion was utilized by the Collaborative to reduce free ridership. SACE/NRDC and GDS's criticism of the use of this criterion demonstrates their unfamiliarity with Rule 25-17.0021(3) which specifically requires that free riders be considered in setting goals. The basic premise behind the use of this criterion is simple and compelling: utilities, and their customers, through ECCR recovery of program costs, should not be paying incentives to customers who have a sufficient economic incentive to implement DSM on their own. [Tr. 249-250] The two-year payback criterion was initially accepted by the Commission as a means of reducing free riders in Order No. PSC-94-1313-FOF-EG and has consistently been used in subsequent goal-setting proceedings. [Tr. 1886] Additionally, this criterion is used in Gulf

Power's Commission-approved Commercial Energy Services program in which customized incentives are offered for commercial energy efficiency projects up to a level that results in a two-year payback. [Tr. 1887] That fact that the FEECA utilities screened measures having a customer payback of two years or less from their achievable potential does not mean that these measures are ignored. For example, Gulf Power routinely informs customers about measures having a payback of two years or less during its energy audits, home shows, website and through its Energy Education Program. [Tr. 667, 669]

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.?

***

SUMMARY: Yes. The measures included in the development of Gulf's goals reflect the costs and benefits to the participating customers. This is accomplished by performing the Participant test and requiring that all measures included in the goals pass this test.

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DISCUSSION:

It was generally accepted by all parties to this proceeding that the statutory language appearing in section 366.82(3)(a) refers to the Participant test. See, Order No. PSC-09-0545-PHO-EG. The purpose of the Participant test is to determine whether program participation is economically beneficial for the customer that the program targets. [Tr. 1231] Gulf Power and the other FEECA utilities used the Participant test in the economic screening of DSM measures. If a measure did not pass the Participant Test, it was screened out and is not reflected in Gulf Power's proposed goals. SACE/NRDC initially criticized the FEECA utilities for improperly calculating the Participant Test without incentives [Tr. 1335-1338, 1465] but later acknowledged under cross-examination that the criticisms are baseless in light of the fact that incentives were included in the FEECA utilities' calculations. [Tr. 1381-83]

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.?

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SUMMARY: Yes. Measures passing the E-RIM test reflect the costs and benefits to Gulf's general body of ratepayers as a whole, including utility incentives. By only including measures that also pass the Participant test, Gulf's proposed goals adequately consider participant contributions as a component of overall customer impact.

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DISCUSSION:

There has been extensive debate in this proceeding concerning the proper interpretation of section 366.82(3)(b), Florida Statutes. SACE/NRDC take the position that the language added as a result of HB 7135 unequivocally mandates use of the E-TRC test and prohibits the Commission from utilizing the E-RIM test in setting goals. [Tr. 1449] GDS argues that the language should be afforded a somewhat less compulsory interpretation. Essentially, GDS contends that the language provides the Commission broader authority to maximize the achievement of energy efficiency in Florida. [Tr. 1486]

One thing is certain: the new statutory language does not reference a specific cost-effectiveness test by name. [Tr. 1384] Moreover, had the legislature desired to erase twenty-nine years of Commission precedent and mandate exclusive use of the TRC test in goal-setting proceedings, it easily could have said so. It did not. This too is not in dispute. [Id.] The amended language requires the Commission to consider the "costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions." § 366.82(3)(b), Fla. Stat. (emphasis supplied) It does not "mandate" any particular test. [Tr. 2069] Both the E-RIM and E-TRC tests consider the "benefits to the general body of ratepayers." [Tr. 1230] What distinguishes the two tests is that not all utility costs and impacts are considered in the E-TRC calculation. [Id.] For example, only the E-RIM test treats "utility incentives" as a cost. [Id.] Utility incentives are not identified as a cost in the E-TRC test. [Tr. 2069] The fact that the statute expressly references utility incentives as a separate cost suggests reference to the E-RIM test. [Tr. 1927] Moreover, through application of the Participant test in combination with the E-RIM test, "participant contributions" are accounted for as well.

The E-RIM test is the only test that ensures that a program is economically beneficial to the entire body of customers, including non-participating customers. [Tr. 1231] Further, it is the only test that ensures downward pressure on rates and avoids cross-subsidies between participating and non-participating customers. [Tr. 1231-32] That is why the E-RIM test is referred to as a "no losers" test. [Id.] No individual is worse off as a result of the program. [Id.] As SACE/NRDC Witness Mosenthal unapologetically noted in his opening statement [Tr. 1373] and again during cross-examination [1396-97], application of the E-TRC test results in "a transfer of wealth from non-participants to participants." (emphasis supplied) This form of subsidy is inconsistent with the fundamental principles of utility ratemaking. In this regard, section 366.03, Florida Statutes, provides:

> "[N]o 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...."

Moreover, the "transfer of wealth" referenced by Witness Mosenthal will disproportionately impact lower income customers. As explained by Witness Dean in his rebuttal testimony, most DSM programs require that program participants pay some amount of the program costs up front. [Tr. 1233] Since lower income customers are more likely to have less investable capital or be renters, they are less likely to participate in DSM programs. [Id.] In other words, they subsidize program participants who have the financial resources to take advantage of utility

DSM programs. [Id.] The financial impacts associated with such subsidies will only be compounded by the realities of these challenging economic times.

SACE/NRDC and GDS attempt to divert the Commission's attention from these undesirable consequences by stating that "average" customer bills will go down under their proposals. [1343, 1531] To be sure, customers who participate in a utility program and receive an incentive will generally use less energy and may experience reductions in bills. [Tr. 2036] The fact remains, however, that rates will be higher for everyone and those customers who do not, or cannot participate in a utility program will be saddled with higher rates and higher bills. [Id.]

This Commission has a rich history of implementing FEECA. During the past twenty-nine years the Commission has, on five separate occasions, declined to establish TRC-based DSM goals, opting instead for RIM-based goals. [Tr. 1212] In doing so, the Commission has steadfastly recognized the importance of establishing reasonably achievable goals that also minimize rate impacts, minimize cross-subsidies and comport with utility planning processes. [Id.] Unlike Gulf Power's proposed goals, the haphazard proposals put forth by SACE/NRDC and GDS do none of these things.

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.?

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SUMMARY: Yes. Although there are currently no state or federal regulations governing the emission of greenhouse gases, assumptions for CO_2 cost avoidance have been considered as a benefit in Gulf Power's evaluation of all measures.

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DISCUSSION:

For the first time, Gulf Power included carbon dioxide cost projections as a component of energy cost used in the economic screening of measures. [Tr. 634] Gulf's projected carbon costs are generally consistent with the Congressional Budget Office analysis of House Resolution 2454 as referenced by GDS Witness Spellman in his testimony. [Tr. 1889] As stated previously, Gulf's inclusion of carbon costs in its analysis has contributed, in part, to a 184 percent increase in Gulf Power's annual energy reduction goal. [Id.] Gulf believes that its projected carbon costs are reasonable, consistent with those utilized by the remaining FEECA utilities, consistent with those provided by the Congressional Budget Office and submits that they be approved without modification.

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

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SUMMARY: Not at this time. The establishment of incentives, if necessary, should take place in a separate proceeding.

***

DISCUSSION:

Historically, the Commission's preference for relying on the combination of the RIM and Participant tests in the evaluation and approval of utility conservation programs has provided the necessary structure to ensure that the interests of all stakeholders are balanced. [Tr. 634] In practice, these tests have provided incentives to customers through the payment of rebates, to the utility by balancing the impacts of avoided cost benefits against revenue impacts, and to the general body of customers by preventing cross-subsidization between DSM program participants and non-participants. [Id.] If, in establishing Gulf Power's goals, the Commission were to adopt the recommendations of SACE/NRDC or GDS, or establish goals which otherwise disturb the appropriate balance between the interests of all stakeholders, Gulf believes that the Commission should consider a utility incentive mechanism as a potential remedy. [Id.] SACE/NRDC and

GDS do not take issue with the Commission's authority to establish a utility incentive mechanism. In fact, they agree that utility incentives may be appropriate if linked to the achievement of strong goals. [Tr. 1452, 1545-46]

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

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SUMMARY: The Commission should give serious consideration to the rate impacts of DSM goals in this proceeding.

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DISCUSSION:

In FEECA, specifically section 366.82(3) and (7), the Commission is charged with developing goals that explicitly consider costs to the customer. Moreover, throughout Chapter 366, Florida Statutes, the Commission is given responsibility to consider costs and their resultant impact on rates. The Commission is charged with prescribing fair and reasonable rates pursuant to its authority granted by section 366.05(1) Florida Statutes, and the recent amendments to FEECA did not change that. As acknowledged by GDS Witness Spellman, the adoption of the E-TRC test as the primary cost-effectiveness test for setting goals will result in upward pressure on rates. [Tr. 1532] Witness Spellman dismisses these increases as "negligible." [Id.] SACE/NRDC Witness Wilson goes further to suggest that he does not believe the Commission should even consider electricity rates or impacts to non-participating customers in setting DSM goals. [1449] These assertions are irresponsible and only serve to further underscore these parties' indifference to the severe financial impacts that their policy recommendations will have on utility customers throughout the State of Florida. The Commission has a better option, the E-RIM test, which provides for both an increase in the level of energy goals and downward pressure on rates.

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

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SUMMARY: A combination of the E-RIM and the Participant test should be used to set goals pursuant to section 366.82, F.S. This combination of tests provides a reasonable balance between participating and non-participating customer benefits and provides downward pressure on overall electric rates while still supporting significant conservation activities.

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DISCUSSION:

Gulf Power believes that a combination of the E-RIM and the Participant test should be used to set goals pursuant section 366.82, Florida Statutes. A detailed discussion of the rationale for this belief is found in the pre-filed direct and rebuttal testimony of Witnesses Floyd and Dean. There has been extensive debate in this proceeding concerning the proper interpretation of section 366.82(3)(b), Florida Statutes. SACE/NRDC take the position that the language added as a result of HB 7135 unequivocally mandates use of the E-TRC test and prohibits the Commission from utilizing the RIM test in setting goals. [Tr. 1449] GDS argues that the language should be afforded a somewhat less compulsory interpretation. Essentially, GDS contends that the language provides the Commission broader authority to maximize the achievement of energy efficiency in Florida. [Tr. 1486]

One thing is certain: the new statutory language does not reference a specific cost-effectiveness test by name. [Tr. 1384] Moreover, had the legislature desired to erase twenty-nine years of Commission precedent and mandate exclusive use of the TRC test in goal-setting proceedings, it easily could have said so. It did not. This too is not in dispute. [Id.] The amended language requires the Commission to consider the "costs and benefits to the general body of ratepayers as a whole, including utility incentives and participant contributions." §

366.82(3)(b), Fla. Stat. (emphasis supplied) It does not "mandate" any particular test. [Tr. 2069] Both the E-RIM and E-TRC tests consider the "benefits to the general body of ratepayers." [Tr. 1230] What distinguishes the two tests is that not all utility costs and impacts are considered in the TRC calculation. [Id.] For example, only the E-RIM test treats "utility incentives" as a cost. [Id.] Utility incentives are not identified as a cost in the E-TRC test. [Tr. 2069] The fact that the statute expressly references utility incentives as a separate cost suggests reference to the E-RIM test. [Tr. 1927] Moreover, through application of the Participant test in combination with the E-RIM test, "participant contributions" are accounted for as well. [Tr. 371]

The E-RIM test is the only test that ensures that a program is economically beneficial to the entire body of customers, including non-participating customers. [Tr. 1231] Further, it is the only test that ensures downward pressure on rates and avoids cross-subsidies between participating and non-participating customers. [Tr. 1231-32] That is why the E-RIM test is referred to as a "no losers" test. [Id.] No individual is worse off as a result of the program. [Id.] As SACE/NRDC Witness Mosenthal unapologetically noted in his opening statement [Tr. 1373] and again during cross-examination [1396-97], application of the E-TRC test results in "a transfer of wealth from non-participants to participants." (emphasis supplied) This form of subsidy is inconsistent with the fundamental principles of utility ratemaking. In this regard, section 366.03, Florida Statutes, provides:

> "[N]o 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...."

Moreover, the "transfer of wealth" referenced by Witness Mosenthal will disproportionately impact lower income customers. As explained by Witness Dean in his rebuttal testimony, most DSM programs require that program participants pay some amount of the program costs up front. [Tr. 1233] Since lower income customers are more likely have less investable capital or be renters, they are less likely to participate in DSM programs. In other words, they subsidize program participants who have the financial resources to take advantage of utility DSM programs. [Id.] The financial impacts associated with such subsidies will only be compounded by the realities of these challenging economic times.

SACE/NRDC and GDS attempt to divert the Commission's attention from these undesirable consequences by stating that "average" customer bills will go down under their proposals. [1343, 1531] To be sure, customers who participate in a utility program and receive an incentive will generally use less energy and may experience reductions in bills. [Tr. 2036] The fact remains, however, that rates will be higher for everyone if the Commission were to adopt the TRC test as the primary cost-effectiveness test in Florida and those customers who do not, or cannot participate in a utility program will be saddled with higher rates and higher bills. [Id.]

FIPUG Witness Pollock supports the continued use of RIM test for the reasons noted above [Tr. 1301-02], but suggests that there is some degree of "controversy" concerning how each utility calculates what he characterizes as "lost revenues" for purposes of the RIM test. [Tr. 1299] According to the position taken by FIPUG in response to Issue 8 of the Prehearing Order, it appears that FIPUG does not believe that "clause" revenues should be included as costs in the RIM calculation. Witness Pollock does not address this issue in his testimony and the record is devoid of any evidence to support it. It is Gulf Power's understanding that the investor-owned utilities are accounting for change in electric revenues consistently. [Tr. 1890] This calculation appropriately considers clause revenues. [Id.] In order to accurately represent the rate impacts associated with DSM, the RIM calculation must consider all costs, regardless of how they are recovered. Doing otherwise would lead to an erroneous result not consistent with the economic theory behind the test.

This Commission has a rich history of implementing FEECA. During the past twenty-nine years the Commission has, on five separate occasions, declined to establish TRC-based DSM goals, opting instead for RIM-based goals. [1212] In doing so, the Commission has steadfastly and appropriately recognized the importance of establishing reasonably achievable goals that also minimize rate impacts, minimize cross-subsidies and comport with utility planning processes. [Id.] Unlike Gulf Power's proposed goals, the haphazard proposals put forth by SACE/NRDC and GDS do none of these things.

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

RESPONSE:

PROPOSED RESIDENTIAL CONSERVATION GOALS										
Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Summer MW	1.9	2.8	3.7	4.5	5.1	5.7	6.1	6.1	5.7	5.4
Winter MW	1.8	2.5	3.1	3.7	4.3	4.6	5.0	5.0	4.7	4.5
Annual GWh	2.0	4.0	6.3	8.2	9.8	11.0	11.9	12.1	11.2	10.3

The cumulative effect of these goals through 2019 would be a summer peak demand reduction of 47 MW, a winter peak demand reduction of 39.2 MW and annual energy reduction of 86.8 GWh.

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

RESPONSE:

PROPOSED COMMERCIAL/INDUSTRIAL CONSERVATION GOALS										
Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Summer MW	1.2	1.6	1.9	2.2	2.4	2.5	2.6	2.6	2.5	2.4
Winter MW	0.5	0.5	0.6	0.7	0.7	0.8	0.8	0.8	0.8	0.8
Annual GWh	2.7	4.6	6.1	7.3	8.0	8.5	8.9	9.0	8.8	8.3

The cumulative effect of these goals through 2019 would be a summer peak demand reduction of 21.9 MW, a winter peak demand reduction of 7 MW and annual energy reduction of 72.2 GWh.

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?

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SUMMARY: No. Demand-side renewables should be evaluated and included in Gulf's DSM plan based on the same criteria already established for traditional end-use energy efficiency measures. Since Gulf Power evaluated demand-side renewable energy systems in its overall DSM goals evaluation process, a separate goal is unnecessary.

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DISCUSSION:

Gulf Power does not believe that the Commission should establish separate goals for demand-side renewable energy systems. Instead, demand-side renewables should be evaluated and included in Gulf Power's DSM plan based on the same criteria already established for traditional energy efficiency measures. [Tr. 631] Gulf Power analyzed demand-side renewable energy systems as part of its overall DSM goals evaluation process. Specifically, Gulf Power evaluated residential and commercial solar thermal water heating, residential PV powered pool pumps, residential and commercial rooftop PV and PV mounted on commercial parking lot shade structures. [Hearing Exhibit 162, Gulf Power response to FSC Interrogatory No. 8] None of these measures passed the E-TRC test or the combination E-RIM/Participant cost tests. [Id.] Section 366.82 does not require separate goals for demand-side renewables and Gulf does not believe it is desirable or appropriate to establish separate goals for admittedly non cost-effective renewable measures. Gulf Power rejects GDS Witness Spellman's proposal to impose arbitrary expenditure requirements for renewables for the same reason. Mr. Spellman's proposal is directly contrary to years of Commission precedent and the requirement of Rule 25-17.0021(1) that goals be cost-effective. [Tr. 1882-83]

Importantly, the fact that no demand-side renewables were found to be cost-effective in this goals proceeding does not necessarily mean that renewable measures will be excluded from Gulf Power's upcoming DSM Plan. As explained by Gulf Power witness Floyd, Gulf Power is currently evaluating solar thermal water heating as part of a one-year pilot program which commenced in January 2009. [Tr. 714] Gulf Power is in the process of collecting data for use in additional cost-effectiveness analyses. Depending on the results of those analyses, Gulf Power will determine whether solar thermal technologies can be included in the Company's DSM Plan going forward. [Id.] Gulf will also continue to explore other innovative opportunities and approaches for promoting demand-side renewables such as PV in its DSM Plan.

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?

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SUMMARY: Not at this time. This matter should be considered in a separate proceeding following the conclusion of the current goal-setting process.

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DISCUSSION:

Gulf Power has not conducted an assessment of supply-side conservation and energy efficiency measures in connection with this proceeding. [Tr. 629] Gulf does recognize that these opportunities may exist and, in fact, already considers energy efficiency in all generation, transmission and distribution functions. [Id.] However, guidelines have not been developed that would provide a methodical approach to identifying, quantifying and proposing goals for supply-side conservation and energy efficiency measures. [Id.] For this reason, Gulf Power recommends addressing these issues in a separate proceeding. [Id.] SACE/NRDC and GDS are in agreement with Gulf and the remaining FEECA utilities in this regard. [Tr. 1123, 1546]

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?

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SUMMARY: No. Energy audits are an important component of achieving the proposed goals through customer education regarding both general and program-specific actions customers can take to reduce energy usage and, therefore, should be included as part of the overall DSM goals.

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DISCUSSION:

The Commission should not establish separate goals for residential or commercial/industrial audits. Gulf Power utilizes customer audits to gain enrollment in specific measure-related programs and to raise awareness of other energy savings opportunities which are not captured in a separate program. Such "other energy savings opportunities" might include savings from measures that are included in Gulf's achievable potential that don't lend themselves to inclusion in a specific program, as well as savings from low-cost, and even no-cost measures which can be promoted more cost-effectively through educational efforts. To the extent that savings associated with these other opportunities can be quantified, Gulf should be permitted to count them as part of its overall goal achievement.

SACE/NRDC Witness Steinhurst advocates establishing separate goals for energy audits. Witness Steinhurst bases this recommendation on language in section 366.82(11), Florida Statutes, requiring the investor-owned utilities to report estimated and actual expenditures associated with audits and implementation of conservation programs. [Tr. 1126] The language identified by Witness Steinhurst relates to the projection and true-up testimony filed by the investor-owned utilities for the purpose of obtaining cost recovery through the Energy and Conservation Cost Recovery clause ("ECCR") and has no bearing on goals for energy audits. Given that Witness Steinhurst's recommendation is based solely on misinterpretation of section 366.82(11), the Commission should reject this recommendation out of hand.

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

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SUMMARY: No such action is necessary.

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DISCUSSION:

Gulf does not believe any additional action is needed to encourage the efficient use of cogeneration. Indeed, the amendments to FEECA, specifically the removal of references to cogeneration in sections 366.81 and 366.82, Florida Statutes, evidence a legislative intent to de-emphasize cogeneration in the FEECA statute.

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

RESPONSE: Gulf Power takes no position on this issue.

<u>ISSUE 16</u>: Should this docket be closed?

RESPONSE: Yes.

Respectfully submitted this 28th day of August, 2009.

/s/ Steven R. Griffin
JEFFREY A. STONE
Florida Bar No. 325953
RUSSELL A. BADDERS
Florida Bar No. 007455
STEVEN R. GRIFFIN
Florida Bar No. 0627569
Beggs & Lane
P. O. Box 12950
Pensacola, FL 32591
(850) 432-2451
Attorneys for Gulf Power Company