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PLACE: Betty Easley Conference Center
Room 148
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23

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RICHARD J. VENTO
and **DONALD P. WUCKER**

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CHAIRMAN GRAHAM: Good afternoon, everybody.

I want to welcome you all here to the Public Service Commission hearing chambers. I'm glad y'all made it here safely today. I'm glad the weather has held out for us a little bit. Of course, we do need the rain, so, you know, I guess God's will is what it is.

Before we get the hearing started, we have an elected official that's with us that wants to address the panel. So out of respect for Representative Dudley, we're going to give him a couple of minutes to come talk to us. Representative, welcome.

(Applause.)

REPRESENTATIVE DUDLEY: Hi, I'm Dwight Dudley, District 68, St. Petersburg/Pinellas Park. You may not want to clap just too much yet. Sadly, I think I'm here to largely complain in that I understand these are evidentiary hearings; I'm an attorney, I understand that part. It's shocking to me and disappointing that evidence of the impact of what is being attempted here is not allowed to a greater degree, and that, to me that is a very sad and pitiful thing.

You know, last time I was here I complained about the same thing, and that was that the PSC has a travel budget, even though someone indicated last time

1 that it had been slashed by the Legislature, which was
2 completely false and wrong and incorrect. And that the
3 PSC has the ability to go around the state to take
4 evidence, to allow the public to be heard -- reminding
5 you that the name Public Service Commission includes the
6 public.

7 (Applause.)

8 This is not that complicated. I know there
9 are many forces that are here to make it sound more
10 complicated, but in the last ten years electricity use
11 has fallen about 12 percent. Power companies are here
12 today seeking to slash their energy conservation
13 programs. Duke wants to reduce theirs from
14 333 gigawatts for 2019 to 21 gigawatts, an over
15 90 percent drop in conservation; Tampa Electric, from 39
16 gigawatts to 17; Florida Power & Light, 229 to
17 4 gigawatts, a 98 percent decrease. This is not in the
18 interest of the public. This is not in the interest of
19 the people.

20 You know, building additional generating
21 capacity does not appear to be needed, and that cost is
22 billions upon billions to consumers. It's outrageous.
23 And this is very much similar -- I don't want to
24 oversimplify -- but I worked as a waiter and a
25 bartender, and, you know, building a check seems to be

1 what this is largely premised on. So we build these
2 very expensive power plants, we have a fixed rate of
3 return, we're a monopoly, we get a fixed rate of return,
4 and we're a for-profit private corporation, and the
5 bigger the check is built, the bigger the return there
6 is. That's not necessarily in the benefit of ratepayers
7 in the state.

8 And the utility company shouldn't be -- have
9 full control over energy policy in the State of Florida.
10 The people of the State of Florida should be heard on
11 this -- not hurt, heard -- and right now they're just
12 about to get hurt.

13 The people like my mother, who's 85 years old,
14 you know, income is not great. There are plenty of
15 people, they're seniors, they're veterans, middle class
16 and working people, small businesses, this is no benefit
17 or help whatsoever to most Floridians. This hurt
18 Floridians.

19 Many here in this room that have come to
20 testify today have value and crucial testimony. I ask
21 that you reconsider not taking evidence from the public
22 because you are the Public Service Commission. I ask
23 that you reconsider that decision not to take public
24 testimony here from the public today. Thank you very
25 much.

1 (Applause.)

2 **CHAIRMAN GRAHAM:** Thank you, Representative
3 Dudley.

4 Okay. So now we are going to open the
5 hearing. This is Docket Number 130199-EI, 130202-EI,
6 130203-EM. Also, let the record show it is July 21st,
7 and I guess if I can get staff to read the notice.

8 **MS. TAN:** Pursuant to notice issued by the
9 Commission Clerk, this time and place has been set for a
10 hearing conference in Docket Numbers 130199, 130200,
11 130201, and 130203-EM.

12 **CHAIRMAN GRAHAM:** Okay. We need to take
13 appearances. Who do we have here?

14 **MR. BUTLER:** John Butler appearing on behalf
15 of Florida Power & Light Company. Also with me are
16 Jessica Cano and Kevin Donaldson.

17 **MS. TRIPLETT:** Good afternoon. Dianne
18 Triplett on behalf of Duke Energy Florida, and also with
19 me are John Burnett and Matthew Bernier.

20 **MR. BEASLEY:** Good afternoon, Commissioners.
21 James D. Beasley appearing with J. Jeffry Wahlen and
22 Ashley M. Daniels, all of the law firm of Ausley
23 McMullen, representing Tampa Electric Company.

24 **MR. GRIFFIN:** Good afternoon, Commissioners.
25 Steven Griffin here on behalf of Gulf Power Company.

1 Also with me is Russell Badders.

2 **MR. PERKO:** Good afternoon, Commissioners.
3 Gary Perko of the Hopping, Green & Sams Law Firm on
4 behalf of JEA.

5 **MR. GUEST:** David Guest representing --

6 **CHAIRMAN GRAHAM:** I need the microphone so we
7 get you on the record.

8 **MR. GUEST:** David Guest representing Southern
9 Alliance for Clean Energy from EarthJustice. With me
10 from EarthJustice are Jill Tauber from Washington;
11 Bradley Marshall, our associate; and Alisha Coe; and
12 George Cavros from Southern Alliance for Clean Energy.

13 **MR. FINNIGAN:** Good afternoon, Your Honors.
14 I'm John Finnigan for Environmental Defense Fund.

15 **MS. CSANK:** Good afternoon, Commissioners.
16 Diana Csank appearing on behalf of the Sierra Club.

17 **MR. MOYLE:** Jon Moyle with the Moyle Law Firm
18 appearing on behalf of the Florida Industrial Power
19 Users Group, FIPUG. I'd also like to enter an
20 appearance for Karen Putnal, who's with our firm.

21 **MR. DREW:** Good afternoon, Commissioners. My
22 name is Alton Drew, appearing on behalf of the Florida
23 State Conference of the NAACP.

24 **MR. SAYLER:** Good afternoon, Commissioners.
25 Erik Sayler with the Office of Public Counsel. I would

1 also like to enter an appearance for the Public Counsel,
2 Mr. J. R. Kelly.

3 **MR. BREW:** Good afternoon, Commissioners. I'm
4 James Brew for White Springs Agricultural Chemicals/PCS
5 Phosphate.

6 **MR. WRIGHT:** Good afternoon, Mr. Chairman,
7 Commissioners. Robert Scheffel Wright appearing on
8 behalf of Wal-Mart Stores East and Sam's Club East. I
9 would also like to enter an appearance for my law
10 partner John T. LaVia, III. Thank you.

11 **MR. HALL:** Good afternoon, Commissioners. My
12 name is Steven Hall for the Florida Department of
13 Agriculture and Consumer Services.

14 **CHAIRMAN GRAHAM:** Staff.

15 **MS. TAN:** Charlie Murphy on behalf of Dockets
16 Numbers 130201 and 130202, Lee Eng Tan on behalf of
17 Dockets Number 130199 through 130203, and Kelley Corbari
18 on behalf of Dockets Number 130203.

19 **MS. HELTON:** Mary Anne Helton, advisor to the
20 Commission. And I'd also like to make an appearance for
21 your General Counsel, Curt Kiser.

22 **CHAIRMAN GRAHAM:** All right. Well, I think we
23 got --

24 **MS. TAN:** Chairman, we should have an
25 appearance by Thad Culley for the Alliance of Solar

1 Choice, if he's here today.

2 **CHAIRMAN GRAHAM:** I don't know.

3 **MS. TAN:** Okay. Thank you.

4 **CHAIRMAN GRAHAM:** Does that mean that they're
5 no longer part of this hearing?

6 **MS. TAN:** You will still have to address the
7 motion for reconsideration.

8 **CHAIRMAN GRAHAM:** Okay. All right. So
9 welcome all the attorneys and for your clients that you
10 represent.

11 So that brings us to preliminary matters.

12 **MS. TAN:** Chairman, there's a motion for
13 reconsideration from the Alliance of Solar Choice.

14 **CHAIRMAN GRAHAM:** Okay. Do I -- there's a
15 motion to reconsider. So if we do not want to
16 reconsider, we need to move to --

17 **MS. TAN:** Deny the motion for reconsideration.

18 **CHAIRMAN GRAHAM:** Can I get a motion?
19 Commissioner Edgar.

20 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.
21 I have reviewed all the documentation and discussed this
22 matter with staff. I do not believe that the standard
23 for reconsideration is met, and, therefore, I move that
24 we deny the request for reconsideration.

25 **COMMISSIONER BROWN:** Second.

1 **CHAIRMAN GRAHAM:** It's been moved and seconded
2 to deny the request for reconsideration. Any further
3 discussion? Seeing none, all in favor, say aye.

4 (Vote taken.)

5 Any opposed? By your action, the motion
6 passes.

7 All right. Staff.

8 **MS. TAN:** Chairman, it is our understanding
9 that there's a proposed stipulation for all JEA issues.
10 However, at this time I think we're waiting for one
11 final position, and if you could ask JEA to speak on the
12 matter.

13 **CHAIRMAN GRAHAM:** JEA.

14 **MR. PERKO:** Thank you, Mr. Chairman. I
15 believe that's correct. We're waiting on one party to
16 get final sign-off from, from the client.

17 In light of that, I think all parties are
18 agreeable to stipulating JEA's witnesses and exhibits
19 into the record. And if it's convenient for the
20 Commission at this time, we would, we would request that
21 be done. And if possible, if, if it turns out we get
22 final sign-off on the stipulations, if we could indulge
23 the Commission to take a vote first thing in the morning
24 so that JEA could be excused from the hearing
25 altogether, we would appreciate that.

1 **CHAIRMAN GRAHAM:** Commissioners, any questions
2 of JEA and what they're proposing?

3 So right now we're going to stipulate all your
4 witnesses, and then we're going to take the -- we're,
5 going to excuse all your witnesses, and then we'll take
6 up the stipulation in the morning; is that correct?

7 **MR. PERKO:** Yes, Chairman. It also, if we
8 could have JEA's exhibits entered into the record as
9 well. I believe those numbers are Exhibit Numbers 47
10 through 60. And then I'm not exactly sure of what the
11 exhibit numbers would be for the JEA discovery, but we
12 would move that into the record at this time.

13 **MS. TAN:** The stipulation, when it would go
14 in, could be the next available hearing exhibit number.

15 **CHAIRMAN GRAHAM:** All right. So we'll take
16 care of that in the morning. But we will go ahead and
17 enter those exhibits, Exhibits 47 through 60, we'll
18 enter those into the record.

19 (Exhibits 47 through 60 admitted into the
20 record.)

21 **MS. TAN:** And staff would suggest that the
22 witnesses' testimony should be entered into the record
23 as though read.

24 **CHAIRMAN GRAHAM:** We will, we will enter those
25 witnesses' testimony into the record as though read.

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MR. PERKO: Thank you, Mr. Chairman.

CHAIRMAN GRAHAM: Thank you.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DIRECT TESTIMONY OF

RICHARD J. VENTO and DONALD P. WUCKER

ON BEHALF OF

JEA

DOCKET NO. 130203-EM

APRIL 2, 2014

REVISED – MAY 23, 2014

Q. Mr. Vento, please state your name and business address.

A. My name is Richard J. Vento. My business address is 21 West Church Street,
Jacksonville, Florida 32202.

Q. By whom are you employed and in what capacity?

A. I am employed by JEA. My current position is Director of Customer Solutions and
Market Development.

Q. Please summarize your educational background and professional experience.

A. I hold a Bachelor of Science in Business Administration from the University of
Florida. With more than 30 years in the utility industry, my experience includes
electric production operations and maintenance, water and wastewater operations
and maintenance, technology integration, load research and demand-side
management (DSM).

COM 5
AFD 1
APA _____
ECO 1
ENG 4
GCL 2
IDM 1
TEL _____
CLK 1-Court Reporter

1 **Q. Mr. Wucker, please state your name and business address.**

2 A. My name is Donald P. Wucker. My business address is 21 West Church Street,
3 Jacksonville, Florida 32202.

4

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by JEA. My current responsibility is DSM Portfolio Management.

7

8 **Q. Please summarize your educational background and professional experience.**

9 A. I hold a Bachelor of Science in Mechanical Engineering from the University of
10 Florida. I am an actively licensed Professional Engineer (PE) in the State of
11 Florida. I have also held a PE license in the states of Louisiana and Alabama, which
12 are currently inactive. With more than 30 years in the energy industry, my
13 experience includes the design of building mechanical systems such as heating,
14 ventilation, air conditioning, refrigeration and plumbing systems for domestic,
15 commercial and industrial applications. I have also been involved with a wide
16 variety of energy retrofits including both as an engineer and as a contractor. My
17 last 10 years of experience has been involved with the development and
18 implementation of JEA's DSM programs.

19

20 **Q. What is the purpose of your testimony in this proceeding?**

21 A. The purpose of our testimony is to discuss: (1) how JEA is governed; (2) recent
22 trends in JEA's system load growth; (3) JEA's proposed DSM goals and the
23 process used to develop them; and (4) other issues identified in the Order

1 Consolidating Dockets and Establishing Procedure (OEP), Order No. PSC-13-
2 0386-PCO-EU.

3

4 **Q. Are you sponsoring any exhibits to your testimony?**

5 A. Yes. Exhibit No. __ [RJV-1] is a copy of Richard Vento’s resumé. Exhibit No. __
6 [DPW-1] is a copy of Donald Wucker’s resumé. Exhibit No. __ [JEA-1] presents
7 JEA’s existing Florida Energy Efficiency and Conservation Act (FEECA) goals.
8 Exhibit No. __[JEA-2] presents a list of the DSM and conservation programs
9 included in JEA’s existing DSM Plan as approved in Order No. PSC-10-0647-CO-
10 EG. Exhibit No. __[JEA-3] presents the fuel price projections considered in the
11 cost-effectiveness evaluations. Exhibit No. __[JEA-4] presents the economic and
12 achievable potential for the base case evaluations as requested in the OEP. Exhibit
13 No. __ [JEA-5] presents analysis of estimated bill impact to as required in the OEP.
14 Exhibit No. __[JEA-6] presents the economic potential for the sensitivity
15 evaluations as requested in the OEP.

16

17 **Q. How is JEA governed?**

18 A. JEA is a municipal electric utility governed by a Board of Directors consisting of
19 seven members appointed by the Mayor of the City of Jacksonville and approved
20 by the City Council. The Board of Directors sets the rates and policies governing
21 JEA’s operations. The JEA operating budget requires City Council approval.
22 JEA’s board meetings are open to the general public and ratepayers are permitted to
23 participate in board meetings. JEA’s Board of Directors sets policies consistent
24 with the best interests of JEA’s customers and community.

1 **Q. Please describe JEA's service territory.**

2 A. JEA's service territory includes the City of Jacksonville and portions of St. Johns
3 and Nassau Counties.

4

5 **Q. Please describe the demographics of JEA's customer base.**

6 A. JEA serves approximately 425,000 customers. JEA's customers are approximately
7 88 percent residential. Approximately 36 percent of Jacksonville's population lives
8 in households whose income is less than twice the Federal Poverty Level (\$31,460
9 for a family of two). For this reason, any impacts on rates resulting from
10 implementation of DSM measures would have a disproportionate impact on low
11 income customers. Furthermore, rental customers have less control over energy
12 conservation efforts than homeowners.

13

14 **Q. Please discuss how JEA's loads have changed since the last goal setting in
15 2009.**

16 A. JEA's load growth has reduced significantly over the last 5 year period. JEA
17 experienced a decline of approximately 6.6 percent in net energy for load (NEL)
18 and approximately 16.5 percent in winter peak demand over the 2009 through 2013
19 period. JEA's average annual growth rates over the next 10 years are projected to
20 be low at approximately 0.5 percent (NEL) and approximately 1.0 percent (winter
21 peak demand).

22

1 **Q. What are JEA's existing FEECA goals based on?**

2 A. JEA's existing FFECA goals are based on continuation of the DSM and
3 conservation programs that had been approved by JEA's Board at the time of the
4 last goal-setting proceeding. JEA proposed goals of zero, but committed to
5 continue current DSM program offerings. The Commission set goals for JEA
6 based on its then-existing programs so as not to unduly increase rates. *See* Order
7 No. PSC-10-0647-CO-EG. JEA's existing FEECA goals are presented in Exhibit
8 No. __ [JEA-1]. The current program offerings in JEA's Commission-approved
9 DSM Plan are summarized in Exhibit No. __ [JEA-2].
10

11 **Q. What cost-effectiveness test or tests are appropriate for setting JEA's goals
12 under FEECA?**

13 A. Section 366.82, Florida Statutes, requires the Commission to consider, among other
14 things, the costs and benefits to the participating ratepayers as well as the general
15 body of ratepayers as a whole, including utility incentives and participant
16 contributions. However, Section 366.82 does not dictate which cost-effectiveness
17 test must be used to establish DSM goals. JEA believes the Commission should
18 use both the Rate Impact Measure (RIM) and Participant test in setting DSM
19 goals. When used in conjunction with each other, these tests fulfill the
20 Commission's statutory obligations. Specifically, the Participant test includes all
21 of the relevant benefits and costs that a customer who is considering participating
22 in a DSM measure would consider; whereas the RIM test includes all of the
23 relevant benefits and costs that all of the utility's customers as a whole would incur
24 if the utility implements a particular measure.

1 Because the RIM test ensures no impact to customers' rates, it is particularly
2 appropriate in establishing DSM goals for municipal utilities, such as JEA. Local
3 governing is a fundamental aspect of public power. It provides the necessary
4 latitude to make local decisions regarding the community's investment in energy
5 efficiency that best suit our local needs and values. Local decisions are based on
6 input from citizens who can speak out on electric power issues at governing board
7 meetings. Accordingly, as the Commission has recognized in prior proceedings, it
8 is appropriate to set goals based on RIM, but to defer to the municipal utilities'
9 governing bodies to determine the level of investment in any non-RIM based
10 measures. *See, In re: Adoption of Numeric Conservation Goals and Consideration*
11 *of National Energy Policy Act Standards (Section 111)*, Order No. PSC-95-0461-
12 FOF-EG (April 10, 1995).

13

14 **Q. How did JEA evaluate DSM measures for this proceeding?**

15 A. JEA evaluated DSM measures for this proceeding in accordance with the direction
16 provided in the Commission Staff's June 17, 2013 workshop on the 2014
17 Conservation Goals and the minimum testimony requirements set forth in the OEP.

18

19 **Q. Based on the results of the evaluation, what is JEA proposing as its FEECA**
20 **goals?**

21 A. As further discussed later in this testimony, the evaluations demonstrated that no
22 residential DSM measures passed the RIM test. Although some commercial/
23 industrial measures passed the RIM test, the potential energy savings are so small
24 (0.7 to 0.9 MW) and spread over so many measures (49) that it would be

1 impractical from a design standpoint to develop a DSM plan to cost-effectively
2 achieve such *de minimus* levels of potential. Accordingly, JEA is proposing goals
3 of 0 MW (summer and winter) and 0 MWh (annual energy) for both the residential
4 and commercial/industrial classes.

5

6 **Q. Would it be appropriate to establish goals in this proceeding based on JEA’s**
7 **current conservation programs?**

8 A. No. For the 2009 goals, the rate impact associated with JEA’s then-existing
9 conservation programs was acceptable to JEA’s Board of Directors. Since that
10 time, however, several market factors have changed, including much lower load
11 growth as discussed above, as well as other factors that influence the cost-
12 effectiveness of DSM measures (such as codes and standards). Taken together,
13 these market factors have placed continued upward pressure on rates. Accordingly,
14 JEA is in the process of revising its conservation programs based upon JEA Board
15 policy. Because that effort is ongoing, it would not be appropriate to establish
16 goals based on JEA’s current conservation programs.

17

18 **Q. Please explain the process used to update the 2009 Technical Potential Study.**

19 A. The 2009 Technical Potential Study (TPS) was updated using the following three
20 step process:

21

22 Step 1: Adjust existing measures by removing from the 2009 TPS those baseline
23 measures rendered obsolete by changes to codes and standards, establishing new

1 baseline measures to replace those that became obsolete, and reducing the demand
2 and energy of all dependent measures related to the new baseline measure.

3

4 Step 2: Add new measures that are commercially-viable competing and
5 complimentary measures that were not included in the 2009 TPS, and calculate the
6 respective demand and energy impacts of those new measures relative to the
7 appropriate baseline measure.

8

9 Step 3: Adjust for marketplace changes by incorporating the effect of overall
10 service area growth for 2007 (the last year of actual data reflected in the 2009 TPS)
11 through 2012, and reducing overall demand and energy potential to reflect the
12 impact of JEA's DSM programs from 2007 through 2012.

13

14 **Q. Ultimately, how many DSM measures were identified for analysis?**

15 A. The study considered 275 unique energy efficiency (EE) measures (including 60
16 residential measures, 91 commercial measures, and 124 industrial measures), seven
17 (7) unique DR measures (five (5) residential measures and two (2)
18 commercial/industrial measures), and three (3) unique PV measures (two (2)
19 residential and one (1) commercial).

20

21 **Q. How was the timing of avoidable capacity additions determined?**

22 A. The timing of avoidable capacity additions was determined by analyzing the
23 balance of JEA's existing generating resources (including owned generating units
24 as well as power purchases) and JEA's firm peak demand projections to determine

1 when additional capacity is required to maintain a 15 percent reserve margin. The
2 balance of loads and resources was analyzed over the 2014 through 2043 period
3 and indicated additional capacity will initially be required to maintain reserve
4 margins in the year 2036. All avoided capacity additions were modeled as simple
5 cycle combustion turbines. Avoided capacity additions were projected to occur in
6 the years 2036, 2038, 2040, and 2043.

7

8 **Q. Please discuss how the total avoided costs per kW were calculated.**

9 A. Total avoided costs per kW were calculated by adding the avoided capital costs per
10 kW to the avoided fixed O&M costs per kW for each unit addition. The total
11 annual avoided costs were calculated by multiplying the costs per kW by the kW
12 output of the combustion turbines, and the resulting total costs for each unit
13 addition were aggregated for all unit additions. The resulting total annual avoided
14 costs were then divided by the total annual avoided capacity, and the annual total
15 avoided costs per kW for all avoided units were used to develop economic potential
16 and achievable potential estimates.

17

18 **Q. Please discuss the base case fuel price forecast.**

19 A. Exhibit No. __ [JEA-3] provides a summary of JEA's current fuel price projections
20 for natural gas, coal (including a blend of petroleum coke for JEA's Northside solid
21 fuel units), uranium, residual fuel oil and diesel fuel. These projections were
22 developed utilizing information obtained from a variety of sources routinely
23 utilized in the utility industry, including U.S. Energy Information Administration

1 (natural gas, residual oil, and diesel fuel), PIRA Energy Group (coal and
2 petroleum coke), and the IntercontinentalExchange (coal).

3

4 **Q. Did JEA consider high and low fuel price sensitivities?**

5 A. Yes. In addition to the base case fuel price forecasts, JEA considered the high and
6 low fuel price sensitivities. The high and low fuel price projections provide a band
7 of plus/minus 25 percent around the base case fuel price projections. Exhibit No.
8 ___ [JEA-3] includes the base, high, and low fuel price projections.

9

10 **Q. How were marginal energy costs developed?**

11 A. JEA performed detailed production cost modeling using the PROSYM production
12 cost model, which is recognized as an industry standard production model and was
13 used in JEA's 2009 FEECA goal setting docket. Marginal energy costs were
14 extracted from the model for each year for the base, high, and low fuel price
15 sensitivities. These costs were used in developing the economic and achievable
16 DSM potential.

17

18 **Q. How was economic potential defined and estimated for this study?**

19 A. We utilized the same methodology used for the 2009 conservation goals to
20 determine economic potential for this proceeding. Economic potential was defined
21 as the technical potential of all measures determined to be cost-effective according
22 to two different cost-effectiveness tests, the RIM test and the TRC test. In the RIM
23 "portfolio" case, measures were defined as being cost-effective if the calculated
24 RIM value was greater than or equal to 1.01. Measures with RIM values less than

1 1.01 were excluded from the RIM “portfolio” and screened from the achievable
2 potential analysis. Likewise, in the TRC “portfolio” case, measures were defined as
3 being cost-effective if the calculated TRC value was greater than or equal to 1.01.
4 Measures with TRC values less than 1.01 were excluded from the TRC “portfolio”
5 and screened from the achievable potential analysis.

6
7 It is important to note that for the purpose of evaluating cost-effectiveness to
8 estimate economic potential, the measure-specific RIM values were calculated
9 without administrative costs or incentive costs in the denominator. Similarly, the
10 measure-specific TRC values were calculated without administrative costs in the
11 denominator. Incentives are not considered in the TRC test.

12

13 **Q. How did the analysis account for free-riders?**

14 A. In addition to the economic screening based on the RIM and TRC tests, measures
15 that demonstrated simple payback periods of less than 2 years with no incentive
16 applications were excluded from the RIM and TRC “portfolios” and screened from
17 the achievable potential analyses. Sensitivity evaluations were performed in order
18 to evaluate the impact of shorter (1 year payback) and longer (3 year payback) free-
19 ridership exclusion periods in accordance with the minimum testimony
20 requirements set forth in the OEP.

21

22 **Q. What incentive scenarios were defined for this study?**

23 A. Three measure incentive scenarios were considered – low (up to 33 percent), mid
24 (up to 50 percent), and high (up to 100 percent), but not to the extent that incentives

1 resulted in less than a 2 year payback period – for the TRC and RIM portfolios,
2 respectively.

3
4 For the RIM portfolio, the measure incentives in the high incentive cases were
5 defined as the lesser of the incentive level that produces a simple payback period to
6 the customer of two years or the maximum incentive allowable that produces a
7 RIM ratio of 1.01 (max RIM). The measure incentives in the mid case were defined
8 as the lesser of 50 percent of incremental measure cost, max RIM, or the incentive
9 level that produces a simple payback period to the customer of two years. The
10 measure incentives in the low case were defined as the lesser of 33 percent of
11 incremental measure cost, max RIM, or the incentive level that produces a simple
12 payback period to the customer of two years..

13
14 For the TRC portfolio, the measure incentives in the high case were defined as the
15 lesser of the incentive level that produces a simple payback period to the customer
16 of two years or 100 percent incremental measure cost (max TRC). The measure
17 incentives in the mid case were defined as the lesser of 50 percent of incremental
18 cost or the incentive level that produces a simple payback period to the customer of
19 two years. The measure incentives in the low case were defined as the lesser of 33
20 percent of incremental cost or the incentive level that produces a simple payback
21 period to the customer of two years.

22

1 **Q. What was the next step in the development of achievable potential?**

2 A. After cost-effectiveness screenings and incentive level estimation was complete,
3 the next step in the study was to forecast customer adoption of all passing measures
4 and estimate the energy and peak demand savings impacts of utility-funded
5 incentive programs for the period 2015-2024.

6

7 **Q. How was achievable potential estimated for the cost-effective measures?**

8 A. JEA contracted with Itron to estimate achievable potential using the same model
9 (DSM ASSYST) and methodology as was utilized in JEA's 2009 goals docket
10 (Docket No. 080413). The DSM ASSYST model was developed in the mid-1990s
11 and has been used on a wide variety of EE potential and goals-setting related
12 projects over the past decade. The model has a number of important features and
13 characteristics that make it one of the leading, if not the leading, model of this type
14 in the industry. These features include:

- 15 • Incorporation of both program information and incentive effects on measure
16 adoption;
- 17 • Stock accounting of both physical stock and the fraction of the remaining
18 market that is aware and knowledgeable of each measure;
- 19 • Measure adoption curves that reflect both direct and indirect economic factors;
- 20 • Internal methodological consistency between forecasts of program adoptions
21 and naturally-occurring adoptions; and
- 22 • The ability to assign and calibrate adoption curves to individual measures.

23

1 Itron used a method of estimating adoption of EE measures that applies to both
2 program and naturally-occurring analyses. The naturally occurring analysis
3 includes “free riders” and is an estimate of the amount of efficiency adoptions
4 predicted to occur without further program interventions. Whether as a result of
5 natural market forces or aided by a program intervention, the rate at which
6 measures are adopted is modeled in the method as a function of the following
7 factors:

- 8 • The availability of the adoption opportunity as a function of capital equipment
9 turnover rates and changes in building stock over time;
- 10 • Customer awareness and knowledge of the efficiency measure;
- 11 • The cost-effectiveness of the efficiency measure; and
- 12 • The relative importance of indirect costs and benefits associated with the
13 efficiency measure.

14

15 Only measures that pass the measure screening criteria were put into the
16 penetration model for estimation of customer adoption.

17

18 **Q. Are the methodology and models used to develop achievable potential**
19 **estimates analytically sound?**

20 A. Yes. The methods and models used have a history of success because they
21 appropriately blend theory and practice. The models use advanced stock and
22 awareness accounting along with measure-specific adoption curves that reflect real-
23 world differences in end user adoption of efficiency measures as a function of
24 direct and indirect measure attributes.

1 **Q. Have these methodologies and models been relied upon by other commissions**
2 **or governmental agencies?**

3 A. Yes, these methods and models have been used to develop potential estimates and
4 goals in a variety of jurisdictions in addition to being used in Florida's FEECA goal
5 setting process in 2009. For example, the methods and models were used to
6 conduct the potential studies in California that were used by the California Public
7 Utilities Commission (CPUC) to set energy efficiency goals for 2004-2011. The
8 methods and models were also used to complete a report on energy efficiency goals
9 for the Texas Legislature pursuant to a contract with the PUCT. The methods and
10 models have been used for many other related projects including those for Xcel
11 Energy (Colorado), PNM, Idaho Power, Los Angeles Department of Water &
12 Power, and Northwestern Energy.

13
14 **Q. Do JEA's proposed goals adequately reflect the costs and benefits to customers**
15 **participating in the measure, pursuant to Section 366.82(3)(a), F.S?**

16 A. Yes. JEA's proposed goals are based on forecasts of achievable potential that are
17 driven primarily by measure-level assessments of cost-effectiveness to customers.
18 Specifically, customer cost-effectiveness is assessed using the Participant Test,
19 where benefits are calculated based on customer bill savings and costs are based on
20 participant costs of acquiring and installing the energy efficiency measure (net of
21 utility program incentives). Both the participant benefits and participant costs are
22 assessed on present value basis over the life of the measure.

23

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

4 A. Yes. JEA's proposed goals are based on achievable potential that included
5 consideration of the costs and benefits to the general body of ratepayers as a whole,
6 including utility incentives and participant contributions, through use of the RIM
7 and Participant tests.

8
9 **Q. Do JEA's proposed goals adequately reflect the need for incentives to promote**
10 **both customer-owned and utility-owned energy efficiency and demand-side**
11 **renewable energy systems, pursuant to Section 366.82, F.S.?**

12 A. Yes. We have comprehensively analyzed customer-owned energy efficiency
13 measures and none were found to be cost-effective. JEA's load forecast reflects the
14 impacts of net metering associated with customer-owned rooftop solar photovoltaic
15 (PV) systems, and this load forecast was used as the basis for the cost-effectiveness
16 analysis performed for this Docket. As such, incentives to promote customer-
17 owned demand-side renewable energy systems are adequately reflected in JEA's
18 proposed goals. Utility-owned energy efficiency and renewable energy systems are
19 supply-side issues.

20
21 **Q. Do JEA's proposed goals adequately reflect the costs imposed by State and**
22 **Federal regulations on the emission of greenhouse gases, pursuant to Section**
23 **366.82(3)(d), F.S.?**

1 A. There currently are no costs imposed by State and Federal regulations on the
2 emissions of greenhouse gases (GHG). Although the US Environmental Protection
3 Agency (EPA) is expected to propose GHG emissions guidelines for existing
4 power plants later this year, there is no clear indication of what those guidelines
5 may ultimately require or associated costs. EPA has proposed GHG new source
6 performance standards for new units, but JEA does not forecast any new units until
7 well beyond the 2015 through 2024 goal setting period. While there is much
8 speculation on the potential for greenhouse gas emissions regulation, it would be
9 inappropriate to establish DSM goals that would increase customer rates based on
10 speculation related to yet-to-be defined potential regulations of emissions of
11 greenhouse gases.

12

13 **Q. Do the Company's proposed goals use an appropriate methodology in the**
14 **consideration of free riders?**

15 A. Yes. The screening criteria based on simple payback to the customer (2 years or
16 less) were designed to remove measures from the achievable potential forecasts that
17 exhibit the key characteristic most associated with high levels of free-ridership in
18 utility rebate programs, i.e. measures with naturally high levels of cost-
19 effectiveness to the customer. The sensitivity of total achievable potential to this
20 particular screening criterion was tested using alternative simple payback screening
21 values (1 year and 3 years). In addition to this screening step, the naturally
22 occurring analysis performed in estimating achievable potential represents an
23 estimate of the amount of "free riders" that are reasonably expected to participate in
24 the particular program offerings simulated. In this sense, the payback-based

1 screening criteria were implemented to develop portfolios with necessarily low
2 free-ridership levels, and within the achievable potential forecasts for those
3 portfolios, the forecasting methodology produces explicit estimates of the expected
4 level of free-ridership within those programs.

5

6 **Q. Please discuss the economic and achievable potential for residential and**
7 **commercial/industrial demand and energy reductions for the base fuel**
8 **forecast, including the effects of free-ridership, for both RIM-based and TRC-**
9 **based evaluations.**

10 A. Exhibit No. __ [JEA-4] summarizes the mathematical results of the cost effective
11 analysis. The analysis results indicate no achievable potential for the residential and
12 commercial classes when utilizing the RIM test while indicating minimal
13 achievable potential for the industrial class. A review of the measures that make
14 up the industrial class's RIM test based achievable potential reveals the following:

- 15 • The 0.1 MW (summer), 0.1 MW (winter), and 1.2 GWh (annual energy)
16 values represent the sum of potential across 49 measures, resulting in an
17 average potential of 0.02 GWh and 0.002 MW savings per measure.
- 18 • The incentive levels available to these measures average less than 2% of the
19 incremental cost of the measure.

20 Given these characteristics, the minimal achievable results for the industrial class
21 represent the cost effectiveness model's mathematical result. While correct, they
22 are impractical from both a goal-setting and a program design point of view. It is
23 impractical to establish programs to acquire *di minimus* levels of potential. It is
24 doubtful that customer would respond significantly to incentives equivalent to two

1 (2) percent of incremental cost and such minor rebate levels would be difficult to
2 market effectively. Together, these characteristics would result in programs with
3 high implementation costs relative to the size of efficiency resource being acquired.
4 Furthermore, it is reasonable to expect high levels of participant free ridership in
5 such industrial programs (compared to residential or commercial programs), as has
6 been the history of such programs administered by utilities across North America.
7

8 **Q. Please provide an estimate of the average residential customer bill impact for**
9 **the RIM-based and TRC-based achievable portfolios.**

10 A. There is no incremental impact based on the RIM achievable portfolio, as there are
11 no DSM measures that pass the RIM test for JEA. However, Exhibit No. __ [JEA-
12 5] presents analysis of the estimated bill impacts on residential customers for the
13 TRC achievable portfolio. As shown in Exhibit No. __ [JEA-5], the estimated bill
14 impact of the TRC achievable portfolio would be approximately 18.5 percent by
15 2024.
16

17 **Q. Please provide the economic potential for residential and**
18 **commercial/industrial winter and summer demand and annual energy savings**
19 **for the following sensitivities, for both a RIM-based evaluation and a TRC-**
20 **based evaluation: (1) higher fuel prices, (2) lower fuel prices, (3) shorter free-**
21 **ridership exclusion period, and (4) longer free-ridership exclusion periods.**

22 A. That information is presented in Exhibit No. __ [JEA-6].
23

1 **Q. How are supply-side efficiencies incorporated into JEA's planning process and**
2 **how do they impact DSM programs?**

3 A. JEA continually monitors the operation of its generating units and determines
4 methods to utilize the system in the most efficient manner. Improvements to the
5 efficiency of supply-side resources (i.e. lower operating costs) should reduce the
6 cost-effectiveness of DSM programs, all else being equal.

7

8 **Q. What goals should be established for increasing the development of demand-**
9 **side renewable energy systems, pursuant to Section 366.82(2), F.S.?**

10 A. The cost-effectiveness analysis of demand-side renewable energy systems shows
11 that they are not cost-effective. Therefore, no goals should be established.

12

13 **Q. Should the Company's existing Solar Pilot Programs be extended and, if so,**
14 **should any modifications be made to them?**

15 A. JEA was not required under the 2009 FEECA goals to offer Solar Pilot Programs.

16

17 **Q. Does this conclude your testimony?**

18 A. Yes it does.

19

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 REBUTTAL TESTIMONY OF

3 P. G. "BUD" PARA

4 ON BEHALF OF

5 JEA

6 DOCKET NO. 130203-EM

7 JUNE 10, 2014

8

9 **Q. Please state your name and business address.**10 A. My name is P. G. "Bud" Para. My business address is 21 West Church Street,
11 Jacksonville, Florida 32202.

12

13 **Q. By whom are you employed and in what capacity?**

14 A. I am employed by JEA as Chief Public Affairs Officer.

15

16 **Q. Please describe your responsibilities in that position.**17 A. I am responsible for managing state and federal legislative and regulatory issues that
18 may have an impact on JEA operations. My team is the primary contact between JEA
19 and federal and state government bodies in the development of public policy affecting
20 JEA interests.

21

22 **Q. Please state your educational background and professional experience.**23 A. I graduated from Georgia Tech in 1972 with a Bachelors degree in Industrial
24 Engineering and from the University of North Florida in 1985 with a Master of

1 Business Administration. I am a Registered Professional Engineer in the State of
2 Florida.

3

4 I have been with JEA since 1981, serving in load forecasting, as an engineer in
5 generation, transmission and distribution planning, as manager of Electric System
6 Planning, director of Fuels Management, director of Legislative Affairs and currently
7 as JEA's Chief Public Affairs Officer. I also serve on the Florida Municipal Electric
8 Association Board of Directors and represent JEA on the American Public Power
9 Association and the Large Public Power Council.

10

11 While manager of System Planning for JEA, I was responsible for generation,
12 transmission and distribution planning and load and energy forecasting. In addition, I
13 was responsible for planning DSM programs and working with the Commission in
14 JEA's conservation goals docket. I have testified before the Commission on several
15 occasions including in JEA's conservation goals docket.

16

17 **Q. Have you reviewed the pre-filed testimony of Tim Woolf that was filed on May**
18 **19, 2014?**

19 A. Yes, I have.

20

21 **Q. What is the purpose of your testimony?**

22 A. While Mr. Woolf's testimony does not address JEA specifically, it paints all the
23 Florida Energy Efficiency and Conservation Act (FEECA) utilities with the same
24 brush. The purpose of my testimony is to rebut a few of Mr. Woolf's assertions that

1 have the greatest impact on the conservation goals and specifically those assertions
2 that are inappropriate for JEA as a municipal utility. Specifically I will rebut the
3 following assertions made by Mr. Wolfe:

- 4 • The RIM test should not be used for screening DSM programs; and
- 5 • DSM goals should be set such that each of the FEECA utilities will achieve
6 annual efficiency savings equal to one percent of annual retail sales by 2019.

7
8 **RIM Test**

9 **Q. Are you familiar with the Commission's practice in assessing how JEA and other
10 electric utilities evaluate DSM cost-effectiveness?**

11 A. Yes. From 1993 through 1995, I was involved in the consolidated proceedings in
12 which the Commission approved DSM goals for municipal and cooperative electric
13 utilities that are subject to FEECA, Sections 366.80-366.85 and 403.519, Florida
14 Statutes. At the conclusion of those proceedings, in Order No. PSC-95-0461-FOF-EG, at
15 page 2 (Apr. 10, 1995), the Commission determined that the Rate Impact (RIM) test is
16 appropriate for evaluating the cost-effectiveness of DSM measures. This conclusion was
17 consistent with the Commission's earlier finding in Order No. PSC-94-1313-FOF-EG, at
18 page 22 (Oct. 25, 1994), that the RIM test was appropriate for use in evaluating the cost-
19 effectiveness of DSM measures for investor-owned utilities because the RIM test results
20 in no upward pressure on rates and ensures that customers who participate in a utility
21 DSM measure are not subsidized by customers who do not participate.

22

1 When JEA's DSM plan was approved in 2004, the Commission specifically found that
2 "JEA appropriately evaluated the cost-effectiveness of measures using the RIM test."
3 Order No. PSC-04-0768-PAA-EG, at p.2 (Aug. 9, 2004).

4
5 **Q. How did the Commission set goals for JEA in the 2009 goal docket?**

6 A. In Order No. PSC-09-0855-FOF-EG, the Commission set goals for the municipal
7 utilities, JEA and Orlando Utilities Commission (OUC) based on JEA and OUC's
8 existing programs. At page 16 of its 2009 Order, the Commission again recognized
9 the importance of not impacting rates for municipal utilities when it explained: "We
10 are setting goals for OUC and JEA based on their current programs so as not to unduly
11 increase rates."

12
13 **Q. Why is RIM important for evaluating DSM measures for municipal utilities?**

14 A. Because the RIM test ensures no DSM related upward pressure on customers' rates, it
15 is particularly appropriate in establishing DSM goals for municipal utilities, such as
16 JEA. Local governing is a fundamental aspect of public power. It provides the
17 necessary latitude to make local decisions regarding the community's investment in
18 energy efficiency that best suit our local needs and values. Accordingly, as the
19 Commission has recognized in prior proceedings, it is appropriate to set goals based
20 on RIM, but to defer to the municipal utilities' governing bodies to determine the level
21 of investment in any non-RIM based measures. *See, In re: Adoption of Numeric*
22 *Conservation Goals and Consideration of National Energy Policy Act Standards*
23 *(Section 111)*, Order No. PSC-95-0461-FOF-EG (April 10, 1995).

24

1 **Q. Does this RIM test consider lost revenues?**

2 A. Yes. The RIM test is the only test that considers lost revenues.

3

4 **Q. What does Mr. Woolf say in his testimony about lost revenues?**

5 A. Mr. Woolf states:

6 “The recovery of lost revenues does not result in “additional
7 costs to the utility or to customers. Lost revenues are recovered
8 to help the utility pay for existing fixed costs.”

9 Mr. Woolf goes on to state:

10 “the Utilities’ methodology for estimating rate impacts is inconsistent
11 with the way that rates are set in Florida. Base rates are only increased
12 at the time of a rate case. Between rate cases, *DSM will not increase rates*
13 because the Utilities’ rates will not be adjusted to collect lost revenues of
14 any kind. Eventually with the next rate case, rates will be adjusted based
15 on the most recent sales levels, including savings from DSM up to that
16 point in time. However, the lost revenues that may occur between rate
17 cases are not recovered by the utility even at the next rate case.”

18

19 **Q. With respect to municipal utilities, do you agree with Mr. Woolf?**

20 A. No. JEA is a not-for-profit, community-owned utility, which means it does not earn
21 profits for or obtain funding from third party equity investors. Because we do not
22 have stockholders all costs including existing fixed costs and new expenditures must
23 be recovered from the customer. The recovery of these existing fixed costs from
24 fewer energy sales increases rates for municipal utilities. The use of the RIM test

1 assures that rates for municipal utilities do not increase due to mandated conservation
2 programs. If rates go up, the non-participant bills go up as well, including low-income
3 customers who are most affected by higher bills. As a municipal utility, JEA is
4 especially sensitive to the needs of all our customer classes and sectors.

5
6 **Q. Has JEA every had conservation programs that included measures that did not
7 pass the RIM test?**

8 A. Yes.

9
10 **Q. Isn't that inconsistent with your position on the RIM test stated above?**

11 A. No. JEA's overriding concern is for all sectors of customers in the community. In
12 prior years, when JEA offered measures that did not pass RIM, they were carefully
13 managed in order to balance rate impacts with benefits to customers. There is a
14 significant benefit in being allowed the flexibility to use and manage non-RIM
15 measures to create conservation programs for the good of the community based on
16 local needs and values. This benefit can easily be lost if goals are set that require the
17 use of non-RIM measures.

18

19 **Sierra Club's Proposed "1 Percent" Goals**

20 **Q. Mr. Woolf recommends that the Commission set DSM goals for each of the
21 FEECA utilities which will achieve annual efficiency savings equal to one percent
22 of annual retail sales by 2019. Do you agree?**

1 A. No. A one percent goal is completely arbitrary. Some utilities may be able to cost
2 effectively achieve one percent and some may not. Some may be able to cost
3 effectively achieve more. It depends upon the specific utility.
4

5 **Q. If the Commission grants JEA's zero goals proposal, will JEA cease its**
6 **conservation efforts?**

7 A. No. JEA will continue to offer conservation programs that are in the best interest of
8 the community. JEA will carefully balance rate impacts and the needs of all of its
9 customers. By establishing JEA's FEECA goals based on RIM rather than some
10 arbitrary sales percentage, the Commission would enable JEA, as a municipal utility,
11 the flexibility to determine the level of investment in energy efficiency that best suit
12 our community's needs and values.
13

14 **Q. Has the Commission granted zero goals in previous dockets?**

15 A. Yes, several times for municipal utilities. In the 1995 goals in Order No. PSC-95-
16 0461-FOF-EG, the Commission granted zero goals to Kissimmee Utility Authority,
17 Ocala, and Vero Beach. In the 1999 goals, the Commission granted zero goals to JEA
18 in Order No. PSC-00-0588-FOF-EG and OUC in Order No. PSC-00-0587-FOF-EG.
19 In the 2004 goals, the Commission granted zero goals to JEA in Order No. PSC-04-
20 0768-PAA-EG and OUC in Order No. PSC-04-0767-PAA-EG. In each case, the zero
21 goals were based on the evaluation of the RIM test. In the 2004 goals, JEA had two
22 measures that passed the RIM test, but the Commission deemed it inappropriate to
23 develop conservation programs for them.
24

1 **Q. Does this conclude your rebuttal testimony?**

2 **A. Yes.**

3

1 **CHAIRMAN GRAHAM:** Okay. We're marking
2 exhibits now.

3 **MS. TAN:** Yes. Chairman, staff has compiled a
4 stipulated Comprehensive Exhibit List, which includes
5 the prefiled exhibits attached to the witnesses'
6 testimony in this case. The list has been provided to
7 the parties, the Commissioners, and the court reporter.
8 The list is marked as the first hearing exhibit, and the
9 other exhibits should be marked as set forth in the
10 chart.

11 (Exhibits 1 through 150 marked for
12 identification.)

13 **CHAIRMAN GRAHAM:** Okay.

14 **MS. TAN:** And at this time staff would like to
15 move in staff's stipulated exhibits, Exhibit numbers
16 94 through 141, into the record as set forth in the
17 Comprehensive Exhibit List.

18 **CHAIRMAN GRAHAM:** All right.

19 (Exhibits 94 through 141 admitted into the
20 record.)

21 All right. Now next we're going to have --
22 well, a couple, some more preliminary things. Number
23 one, just to let the crowd know, I know there's going to
24 be a lot of testimony that's going to go on here.
25 There's going to be some testimony that you like what

1 you're hearing and you're going to have that urge to
2 clap. Don't do that. There's going to be some
3 testimony here that you're going to have that urge to
4 boo and hiss. Don't do that. But you can sit back, you
5 can listen. I can understand there is going to be
6 strong emotions both ways, but we can't run a good,
7 clean, efficient hearing if we have to deal with that
8 every single time something happens. So I will not
9 allow that here in the hearing chambers, number one.

10 Number two, we're going to go today probably
11 until about 7:00 or so, so you guys can plan
12 accordingly. We'll probably take a break every two to
13 two and a half hours for our court reporter to rest her
14 little fingers. We'll start tomorrow at 9:30. We'll
15 probably take a break for lunch sometime around 1:00 or
16 1:30. We have to end tomorrow at about 5:30. Then
17 again on Wednesday we'll start again at 9:30, we'll take
18 a break for lunch around 1:00 or 1:30. And we'll try to
19 make a determination if we can be done with the hearing
20 on Wednesday. If we can, we'll probably go until we
21 finish. If we can't get it done, we'll probably end
22 about 7:00 and reconvene next week as scheduled. Okay?

23 We have opening statements coming next. I put
24 a list together of the order I want to take the opening
25 statements, and we're going to handle cross-examination

1 the same way. Because I know there's not enough mikes
2 here, so you guys know when you're coming up so you can
3 juggle accordingly. And so as one person moves out, the
4 other person can move in and we can be as efficient as
5 possible. The Prehearing Officer, I believe, granted
6 each party seven and a half minutes, so you will be
7 given or allotted your seven and a half minutes. Don't
8 feel like you have to use the entire seven and a half
9 minutes, but you do have that amount of time.

10 Staff, am I forgetting anything before we
11 start with opening statements?

12 **MS. TAN:** No.

13 **CHAIRMAN GRAHAM:** All right.

14 **MR. MOYLE:** Mr. Chairman.

15 **CHAIRMAN GRAHAM:** Yes, sir.

16 **MR. MOYLE:** FIPUG had a, just a minor
17 preliminary matter, if we could bring to your attention,
18 and this was recognized in the Prehearing Order. We
19 have obtained stipulations on standing from a number of
20 parties, and it was recognized that we were going to try
21 to work out standing stipulations with the remaining
22 parties. I wanted to report that we've agreed with TECO
23 to a standing stipulation that's the same as the
24 stipulation with Florida Power & Light and with Duke.
25 And we've reached an agreement with Gulf Power that is

1 set forth in the order. And I just wanted to bring that
2 to your attention and seek their confirmation that
3 there's a stipulation going both ways. It's just set
4 forth in the order that it's a FIPUG stipulation, but
5 we've been able to agree to those stipulations. So if
6 we can handle that, I'd appreciate it.

7 **CHAIRMAN GRAHAM:** And if I can get an oral
8 yes.

9 **MR. BEASLEY:** I can confirm for Tampa Electric
10 Company, yes.

11 **MR. GRIFFIN:** Yes for Gulf Power as well.

12 **MR. BUTLER:** And for FPL.

13 **MS. TRIPLETT:** I think we were already in it,
14 but, yes, for Duke Energy.

15 **CHAIRMAN GRAHAM:** Okay.

16 **MR. MOYLE:** Thank you, Mr. Chairman.

17 **CHAIRMAN GRAHAM:** Not a problem.

18 Any other preliminary matters?

19 **MR. SAYLER:** Mr. Chairman.

20 **CHAIRMAN GRAHAM:** Mr. Sayler.

21 **MR. SAYLER:** Erik Sayler with Office of Public
22 Counsel. Before opening statements actually commence,
23 we prepared a demonstrative exhibit for passing out. So
24 at whatever appropriate time -- probably before opening
25 statements start -- it would be helpful if that's just

1 passed out so that when it comes to our turn, we don't
2 take up any of the time in the opening statements.

3 **CHAIRMAN GRAHAM:** Let's hear from the
4 utilities first. And we'll pass out your statement, and
5 you can go from there. Because you're going to fall
6 right after the utilities.

7 **MR. SAYLER:** Yes, sir.

8 **CHAIRMAN GRAHAM:** I will not count that time.
9 Thank you.

10 Okay. Let's start at the top of the list:
11 Florida Power & Light.

12 **MR. BUTLER:** Thank you, Mr. Chairman. Good
13 afternoon, Commissioners.

14 FEECA has been in effect for the past 35
15 years. With the Commission's guidance and oversight,
16 FPL has been extremely successful in achieving FEECA's
17 stated goals. FPL has reduced its consumption of oil by
18 99 percent since 2001 largely by modernizing its
19 generating fleet to operate far more efficiently on
20 domestically produced natural gas.

21 FPL's DSM programs have reduced electric
22 consumption by almost 67,000 gigawatt hours since the
23 late 1970s. This has avoided more than 50 million tons
24 of CO2 emissions -- the equivalent of taking nearly
25 10 million passenger cars off the road.

1 FPL's DSM programs have also reduced peak
2 demand by nearly 4800 megawatts, avoiding the equivalent
3 of about 14 400-megawatt power plants. FPL's DSM
4 achievements have consistently ranked it near the top of
5 the nation's IOUs. And FPL is especially proud that its
6 DSM programs have accomplished these exceptional results
7 without raising electric rates.

8 FPL's constant attention to rate impacts has
9 helped keep its typical residential bill the lowest in
10 Florida and approximately 25 percent below the national
11 average.

12 Now ironically, but not surprisingly, FPL's
13 success in promoting DSM has reduced the potential for
14 future cost-effective DSM. This makes sense. Think of
15 how a vigorous budget review in one year leaves fewer
16 cost-cutting opportunities for the future.

17 Recently, two other factors have also reduced
18 the opportunities for future cost-effective DSM. First,
19 the dramatic efficiency improvements in FPL's generating
20 fleet, coupled with steep declines in natural gas
21 prices, have drastically reduced both fuel cost and air
22 emissions. This efficiency makes the value of reducing
23 consumption with DSM much lower than before.

24 Second, continued tightening of state and
25 federal energy efficiency standards and building codes

1 have increased the demand-side savings that will occur
2 without the need for DSM programs and, thus, ironically
3 reduce what counts toward FPL's DSM achievements, which
4 brings me to a point emphasized by former Commission
5 Deason in his testimony.

6 The Commission should not focus exclusively on
7 ever-increasing goals for utility-sponsored DSM, but
8 rather should look to the totality of circumstances that
9 result in demand-side savings.

10 As a consequence of the factors I just
11 described, the amount of DSM that FPL can
12 cost-effectively achieve has been reduced in comparison
13 to past years. This is evidenced by the results of
14 FPL's recent DSM goal setting process. FPL has used
15 essentially the same process this year as in the past,
16 yet the result of applying that process to the new
17 realities of increasing DSM saturation, a more efficient
18 generating fleet, lower fuel prices, and tighter codes
19 and standards is that less FPL-sponsored DSM is
20 cost-effective than before.

21 This isn't a negative. To the contrary, every
22 single factor driving the reduction is a boon to both
23 FPL customers and the State of Florida. The only ones
24 left out are Intervenors who insist on measuring success
25 solely by how much they can inflate DSM goals.

1 The Intervenors offer no meaningful
2 alternative view of how much utility-sponsored DSM can
3 be achieved without raising rates and forcing
4 cross-subsidies. They quibble about the determination
5 of technical potential without providing any evidence of
6 specific additional measures that should have been
7 included with the impact of doing so.

8 They attack the tried and true two-year
9 payback to limit free ridership without offering any
10 alternative that could be applied in this proceeding.

11 FPL's testimony will show that DSM measures
12 with a two-year payback offer an extremely attractive
13 investment for customers without any rebates, so it
14 would be unreasonable and unfair to ask the general body
15 of customers to fund rebates for them.

16 The Intervenors assert that FPL has
17 undercounted the benefits of DSM, yet offer no
18 alternative other than ladling on externalities that
19 would force customers to pay higher electric rates to
20 address ill-defined costs.

21 They criticize the RIM cost-effectiveness test
22 without suggesting any alternative that takes into
23 account the impact of utility-sponsored DSM on rates.

24 And, finally, after page upon page of
25 criticizing FPL's goal setting process, the Intervenors

1 abandon analysis altogether when it comes time for them
2 to propose goals. All propose some variance on a
3 completely arbitrary goal of reducing electric
4 consumption by 1 percent of sales with no attempt to
5 connect their proposal with how much DSM can be used or
6 what it would cost customers.

7 In fact, the cost to customers would be large.
8 Adopting a 1 percent of sales goal would force a
9 customer who uses 1200 kilowatt hours per month to pay
10 an extra \$500 over the goal setting horizon.

11 Simply put, the Intervenors are asking this
12 Commission to abandon its traditional and laudable
13 discipline in ensuring that DSM goals don't raise rates.
14 FPL urges the Commission to reject their proposal as
15 contrary to the interests of FPL's customers.

16 Finally, let me comment briefly on the solar
17 pilot programs. FPL was directed to offer the solar
18 pilots for five years, until 2014. The primary
19 rationale for the solar pilots was to determine whether
20 rebates are a cost-effective way to cultivate a
21 sustainable market for solar.

22 FPL's data show that the answer is a
23 resounding no. The solar pilot programs aren't
24 cost-effective by any of the conventional tests -- RIM,
25 TRC, or Participant -- nor have rebates helped foster a

1 more competitive market for solar. In fact, some of the
2 solar pilots seem to have done the opposite, increasing
3 vendor prices because they're offset in part by the
4 rebates.

5 **CHAIRMAN GRAHAM:** You've got two minutes.

6 **MR. BUTLER:** Okay. I'm getting there fast.

7 In short, the solar pilots have demonstrated
8 only that offering a limited pool of rebates will create
9 a stampede of the fortunate few, looking to make the
10 rest of our customers subsidize their rooftop systems.

11 For these reasons, FPL recommends that the
12 Commission allow the solar pilot programs to expire at
13 the end of 2014. FPL does not believe that the solar
14 pilots need to be replaced. But if the Commission feels
15 otherwise, then FPL recommends a limited solar R&D
16 project to help gain better insight into the operational
17 impacts of distributed solar. FPL's witnesses have laid
18 out the broad outlines for such a project, and if the
19 Commission directs FPL to pursue it, we will provide
20 implementation details when we file our DSM plan.

21 Our witnesses also point out that if the
22 Commission is looking for the most bang for the buck,
23 utility scale solar is clearly the way to go because the
24 cost per megawatt is small compared to the cost for
25 rooftop solar.

1 In summary, FPL has proposed reasonable,
2 cost-effective goals that will appropriately promote DSM
3 without increasing the rates that our customers pay. We
4 urge you to approve them. Thank you.

5 **CHAIRMAN GRAHAM:** Duke.

6 **MS. TRIPLETT:** Thank you, sir.

7 Commissioners, there are two main issues in
8 this proceeding: One is the process for setting DSM
9 energy efficiency goals, and the second is the level of
10 goals for solar or renewable energy systems.

11 With respect to each issue you have testimony
12 and other evidence from DEF that presents a measured
13 analytic method to evaluate the merits of the particular
14 issue, and then you have the environmental Intervenors
15 who ask the Commission to disregard years of reasoned
16 process in favor of unprincipled methods to get a result
17 that they feel is correct.

18 After the Commission considers all the
19 evidence before it, it will be clear that the only
20 proper way to resolve these issues is to follow the
21 process that has been set out for years, the process
22 that balances all interests fairly and reasonable. This
23 process has, in fact, been fully vetted in this
24 proceeding. DEF alone has answered 542 interrogatories
25 and requests for production and has produced more than

1 7,000 pages of documents.

2 So regarding the first issue, the process for
3 setting DSM and EE goals, it bears mentioning that DEF,
4 with the guidance from this Commission and the FEECA
5 statute, has been implementing DSM and EE measures for
6 more than 30 years. FEECA works. It's a thoughtful,
7 appropriate consideration of information and analysis
8 used to develop reasonable goals that achieve savings in
9 a way that does not harm those who cannot participate,
10 like low income customers. DEF followed this process
11 and it has proposed goals under the Rate Impact Measure
12 or RIM test, cost-effectiveness test.

13 Are these goals lower than current goals?

14 Yes. But this does not make them good or bad, right or
15 wrong. There are just a number of factors that have
16 changed the inputs and outputs of the cost-effectiveness
17 test.

18 First, people are taking steps on their own to
19 reduce their electricity usage. This is largely due to
20 the economy and their great understanding of efficiency
21 and conservation opportunities. At the same time,
22 however, because DEF has been implementing DSM programs
23 for so long, the amount of new EE that is achieved is
24 naturally reduced. The low-hanging fruit, so to speak,
25 is not available. It costs more to move the market and

1 achieve a greater penetration for the EE measures.

2 Another factor impacting the level of EE is
3 the change in building codes and standards. When the
4 government imposes higher standards for AC units or new
5 houses, it impacts the level of utility-sponsored EE
6 that can be offered.

7 So what will you hear from some of the
8 Intervenor groups as to the process for setting EE
9 goals? Practically nothing because their proposal for
10 the level of goals lacks any process at all.

11 SACE and the Sierra Club argue that the
12 Commission should abandon traditional cost-effectiveness
13 tests and simply assign an arbitrary percentage of sales
14 goal to DSM and EE in this proceeding. In other words,
15 SACE and Sierra Club argue that so long as utilities are
16 achieving a certain percentage of energy savings based
17 on a percentage number that sounds right to them, it
18 should not matter whether or not the programs used to
19 achieve that percentage make any economic sense for our
20 customers. This proposal does not make sense and it
21 sets bad policy and precedent. Simply picking an
22 arbitrary percentage of energy savings out of thin air
23 and asking utilities to meet that percentage by using,
24 if necessary, programs that are not economic under any
25 rational test is not and cannot be a sound way to

1 achieve demand and energy savings.

2 You will also hear SACE and the Sierra Club
3 point to other jurisdictions, suggesting that because
4 others are setting percentages of energy savings goal,
5 then Florida should too. Not only are such comparisons
6 misleading, because one has to consider all the
7 differences in jurisdictions, but they also support the
8 very reason why Florida should not implement such
9 arbitrary standards.

10 Specifically, you will likely hear SACE and
11 the Sierra Club argue and point to Indiana where the
12 Legislature set aggressive energy efficiency goals that
13 ramp up to 2 percent of sales annual savings. What they
14 may not tell you is that the Legislature just a couple
15 of years later passed legislation to stop the initiative
16 because of questions related to its feasibility and
17 because it would cost customers too much to implement.

18 Regarding the second issue, the level of goals
19 for solar or renewable energy systems, DEF ran the
20 cost-effectiveness test on its existing solar pilot
21 programs and they simply are not cost-effective. Even
22 if you change the amount of the incentive, they still
23 are not cost-effective.

24 You may hear SACE and the Sierra Club argue
25 that the utilities do not appreciate the full value of

1 solar and that Florida is the Sunshine State so we
2 should lead the country in solar applications. But
3 these soundbites have to be grounded by facts, real
4 data, and solid regulatory policy.

5 We agree that solar can be and is an important
6 resource in Florida, but customer dollars that are spent
7 to subsidize solar must be spent wisely and prudently,
8 if they are to be spent at all. And the real-life
9 limitations that solar has in Florida must also be
10 acknowledged and recognized. If the Commission wishes
11 to continue the solar set-aside dollars, DEF submits
12 that a better solution is to implement the conceptual
13 pilots that it sets forth in its testimony, which will
14 provide real solar on a larger scale that would benefit
15 all DEF's customers, not just those customers who can
16 afford to participate in a solar program.

17 So we request that the Commission approve
18 DEF's goals as set forth in its testimony because those
19 goals were developed using a sound and principled
20 methodology. Thank you.

21 **CHAIRMAN GRAHAM:** Thank you.

22 TECO.

23 **MR. BEASLEY:** Thank you, Mr. Chairman.

24 Commissioners, this has been a lengthy process
25 that started out with a staff workshop on June 17th of

1 last year where all stakeholders received general
2 direction on how to proceed. That meeting and the Order
3 Establishing Procedure that followed it gave all
4 affected parties a guideline and a path to follow. And
5 your staff has performed admirably in keeping us all on
6 course, and we're all beneficiaries from their efforts
7 in that regard.

8 Tampa Electric will demonstrate to you that
9 the company's proposed DSM goals are fair and reasonable
10 and will achieve the dual objectives of providing
11 significant accomplishments in the deployment of DSM
12 measures, while placing the least amount of upward
13 pressure on rates. Our witnesses will describe for you
14 the care that they took to ensure that the goals the
15 company is proposing were developed in a manner fully
16 consistent with your rule governing the DSM goal setting
17 process. Our evidence will show that Tampa Electric has
18 taken into consideration all of the factors that must be
19 considered to ensure the accuracy of our projections.
20 We'll also establish that the company's goals are based
21 on Tampa Electric's most recent planning process as your
22 rule requires. That ensures that the amount of
23 cost-effective demand-side management Tampa Electric is
24 proposing is actually needed.

25 The cost-effectiveness basis that we have

1 utilized is the RIM test used in conjunction with the
2 Participants test. Our witness will explain that the
3 use of these two tests in tandem provides a fair and
4 reasonable result. The RIM test in particular puts the
5 least amount of upward pressure on rates, while allowing
6 for a significant level of DSM measure deployment. The
7 RIM test has the added benefit of preventing the unfair
8 cross-subsidization of program participants by
9 non-participants.

10 Our witness will also describe Tampa
11 Electric's thorough analysis of the results of its solar
12 pilot programs. That analysis reveals that those
13 programs have not been cost-effective and, as a result,
14 have continued to place upward pressure on rates and
15 caused cross-subsidization. Accordingly, Tampa Electric
16 does not propose that those programs continue, but will
17 certainly pursue them and embrace them at such time as
18 they become cost-effective.

19 As the bottom line, Commissioners, Tampa
20 Electric believes that the resulting goals that it is
21 proposing are based upon carefully performed analytical
22 work and represent the appropriate goals for
23 implementing beginning next year.

24 Now as against the foregoing, as my colleagues
25 have already pointed out, you will hear testimony from

1 some of the Intervenors that is critical of the process
2 that we have utilized in setting the DSM goals.
3 However, that criticism principally relies on literally
4 reams of documentation and numerous hyperlinks to other
5 web publications from around the country, much of it
6 hearsay and none of which is really specific to the goal
7 at hand, which is setting the DSM goals for the FEECA
8 utilities for the 2015 through 2024 time period.

9 When it comes to provide input as to what
10 those goals should be, as has been pointed out, we have
11 Intervenor witnesses pursuing simple, arbitrary
12 percentage formulas. And when it comes time to say how
13 that would impact customers, their witnesses do not do
14 that. Our witness, Mr. Bryant, makes an examination in
15 his rebuttal testimony of the impact of those percentage
16 goals, and the impact is severe.

17 Contrary to the position of the Intervenor
18 witnesses, the Commission and the FEECA utilities have
19 not gotten it all wrong. To the contrary, the FEECA
20 utilities collectively and Tampa Electric standing alone
21 have made and continue to make significant achievements
22 in the area of DSM under the guidance of this
23 Commission.

24 We submit to you that the goals Tampa Electric
25 proposes are fair and reflective of all of the

1 considerations in your rule. If approved, they will
2 enable Tampa Electric to pursue all reasonably
3 achievable DSM measures that are cost-effective for all
4 customers, both participants and non-participants alike,
5 without placing undue upward pressure on conservation
6 cost recovery factors. Thank you.

7 **CHAIRMAN GRAHAM:** Thank you very much.
8 Gulf.

9 **MR. GRIFFIN:** Thank you, Mr. Chairman.

10 And Gulf Power certainly shares many of the
11 positions and concerns that have been articulated by our
12 fellow FEECA utilities. In the interest of time, we're
13 not going to restate all of those here. We would ask,
14 however, that as we move through this process, the
15 Commission simply remain mindful of the impact that your
16 decisions will have on all our customers, and
17 particularly with regard to rate impact. It seems that
18 several of the Intervenors in the proceeding here today
19 have lost sight of that. We don't, we don't believe
20 that's appropriate.

21 We also believe that our proposals in this,
22 this proceeding are going to enable significant DSM
23 achievements, while also limiting upward pressure on
24 rates and minimizing cross-subsidies, and the same
25 cannot be said for their competing proposals. And so

1 for that reason, we would ask that you reject those
2 competing proposals and approve Gulf Power's goals.
3 Thank you.

4 **CHAIRMAN GRAHAM:** 45 seconds. You are my
5 number one.

6 (Laughter.)

7 JEA.

8 **MR. PERKO:** I think I'm going to beat that,
9 Your Honor.

10 Given where we are in terms of the proposed
11 stipulation and in the interest of time, I'll spare you
12 my opening remarks and rely on the positions stated for
13 JEA in the Prehearing Order. Thank you.

14 **CHAIRMAN GRAHAM:** Thank you, sir.

15 Mr. Sayler, your exhibits.

16 **MR. SAYLER:** I provided them to staff already.
17 I'll give them a moment while they get passed out.

18 (Pause.)

19 **CHAIRMAN GRAHAM:** Mr. Sayler, the floor is
20 yours.

21 **MR. SAYLER:** Thank you, Mr. Chairman. Good
22 afternoon, Commissioners.

23 The Office of Public Counsel is very mindful
24 of the rate impact of achieving the goals, not only the
25 goals of companies but also that of the Intervenors.

1 OPC has taken a limited role in this DSM goal setting
2 proceeding because we represent all customers and all
3 rate classes. The ratepayers we represent each have
4 differing opinions about DSM and the relative value and
5 merit of it. They assign differing values to the energy
6 efficiency goals, and they also assign different values
7 to the rate impacts for achieving those goals.

8 Ultimately, you, the Commission, must decide
9 whether the companies or the Intervenors or somewhere in
10 between these, those proposed goals, whether those
11 proposed goals achieve the intent of FEECA, all the
12 while while being cognizant of the rate impact of
13 achieving those goals this Commission establishes.

14 As you know, we passed out an exhibit. I'd
15 like to draw your attention to that. This exhibit was
16 developed from many prior Commission orders going back
17 to 1999, orders approving DSM goals. It provides a
18 historical snapshot of the DSM goals established for the
19 four regulated utilities, and it also provides a
20 snapshot of the DSM goals the utilities are currently
21 proposing for approval in this year's DSM goal setting
22 proceeding.

23 The Office of Public Counsel takes no position
24 on which DSM cost-effectiveness test achieves the intent
25 of FEECA; however, we do take the position that there

1 should be no rewards or incentives for exceeding DSM
2 goals based upon the RIM cost-effectiveness test. If
3 the Commission approves DSM goals based upon the RIM
4 test, OPC respectfully requests that the Commission
5 state in its final order in this docket that it will not
6 entertain rewarding the companies for exceeding those
7 goals. Thank you very much.

8 **CHAIRMAN GRAHAM:** Thank you, Mr. Sayler.

9 Next is Department of Agriculture.

10 **MR. HALL:** Thank you, Commissioner.

11 The Florida Legislature has declared that it
12 is critical to utilize the most efficient and
13 cost-effective demand-side renewable energy systems and
14 conservation systems in order to protect the health,
15 prosperity, and general welfare of Florida and its
16 citizens.

17 The goal of Florida's energy policy should be
18 to secure a stable, reliable, and diverse energy supply
19 in order to meet the demands of Florida's growing
20 population. An all-of-the-above, an all-of-the-above
21 approach that includes energy efficiency and
22 conservation measures must be employed in order to meet
23 this objective.

24 During this proceeding, the Commission should
25 consider the effects of non-utility programs that target

1 the reduction and control of the per capita use of
2 electricity, the impact of state and local building
3 codes, and appliance efficiency standards. These
4 factors may increase energy efficiency and reduce or
5 control the per capita use of electricity in the state
6 and thus reduce the level of appropriate goals and need
7 for utility-sponsored programs.

8 The Commission should also consider various
9 policy options to achieve a least-cost strategy and
10 employ market-based technologies to yield greater
11 efficiencies in the statewide, statewide electric
12 conservation. And, most importantly, the Commission
13 should balance the importance of pursuing energy
14 efficiency and conservation programs against the cost of
15 the programs and the impact on all ratepayers. Thank
16 you.

17 **CHAIRMAN GRAHAM:** Thank you, sir.

18 Next is Alton Drew.

19 **MR. DREW:** Good afternoon, Mr. Chairman and
20 Commissioners. My name is Alton Drew.

21 Once upon a time, I served on your staff, and
22 I'm honored to be here today as the attorney appearing
23 on behalf of the NAACP. The NAACP is a historical
24 organization with a rich tradition representing those
25 Americans who do not have the means to represent

1 themselves.

2 As a civil rights organization, we bring to
3 this proceeding an increasing awareness and involvement
4 on energy policy issues. The NAACP intervened in this
5 proceeding because the energy policy decisions and the
6 factual determinations that you make in this case will
7 have a great impact on consumers, particularly the
8 roughly 3 million Florida consumers living below the
9 poverty level. So we bring to this proceeding the
10 perspective of the consumer, consumers like Vera
11 McIntire, Dale Landry, Keandra Brooks, Lisa Jones, Jay
12 McLean, and Jermaine Chen, the perspective of the low
13 income consumers.

14 As far as electric service goes, low income
15 consumers are simply trying to keep the lights on.
16 Their fundamental needs are reliable service and the
17 lowest rates possible. They live in more energy
18 inefficient homes, and energy is one of their highest
19 household expenditures. They often need emergency
20 assistance just to keep the lights on, yet the Low
21 Income Home Energy Assistance Program that serves this
22 need is underfunded, and its funding is being reduced
23 year to year. The energy needs of the poor need to be
24 our highest priority.

25 Like all informed and socially conscious

1 citizens, we recognize and appreciate good environmental
2 policy -- reducing carbon emissions and the growing
3 opportunities for renewables in our society -- as long
4 as it is not achieved on the backs of low income
5 customers.

6 And so our main goals, our main positions in
7 this case are essentially threefold. They are laid out
8 in our prehearing statement. I would like to summarize
9 them for you now.

10 First, you are the experts. We ask you to
11 evaluate the evidence and establish conservation goals
12 that help keep rates affordable and as low as possible.
13 We want this to be accomplished by analyzing the impacts
14 on both participants in conservation programs and
15 non-participants. The record indicates that building
16 codes and federal appliance standards are accounting for
17 an increasing level of conservation without the
18 intervention of this Commission or the support of the
19 general body of utility ratepayers. We ask that you
20 embrace this emerging trend, as it represents what we
21 see to be part of an evolving energy industry where
22 codes and standards are accomplishing more and more
23 conservation without subsidies or support from those who
24 do not have the means or resources to invest in
25 conservation equipment or appliances.

1 Second, we believe sound environmental policy
2 and encouragement of conservation must not result in
3 regressive pricing. Implementation of conservation
4 goals and programs should not require those who can
5 least afford to invest in highly efficient air
6 conditioner or solar rooftop panels to support those who
7 do have the financial means and resources to do so and
8 wish to do so.

9 Finally, our third point concerns the solar
10 photovoltaic pilot program. Our review of the prefiled
11 testimony leaves us to be unsure whether this program
12 should be extended, reformed, or terminated. Solar
13 rooftop panels may be a very good thing. They certainly
14 have the potential to lower electricity bills for those
15 who have the resources to make the upfront investment.
16 Those individuals, those customers already benefit from
17 a federal tax investment credit and other benefits like
18 a property tax exemption. So there are plenty of
19 incentives already there for those who have the means to
20 make these investments. We submit that there's no need
21 to require low income customers to provide further
22 financial support to the customers who do have the means
23 to undertake these investments.

24 There's already extensive testimony under
25 consideration that tends to show that these programs are

1 not cost-effective. We have an open mind and are eager
2 to review the entire record as it develops, including
3 both the views of the environmental Intervenors and the
4 utility companies. I thank you.

5 **CHAIRMAN GRAHAM:** Sir, thank you very much.

6 Mr. Brew.

7 **MR. BREW:** Thank you. Good afternoon,
8 Chairman, Commissioners.

9 PCS Phosphate is an Intervenor, although not
10 necessarily in the same context as some of the utilities
11 we're referring.

12 As you know, PCS is a very large
13 energy-intensive customer of Duke Energy. Intense
14 global competition imposes strong internal pressures on
15 us to be efficient. We're also very concerned about
16 overall rate levels because it affects our ability to
17 compete.

18 In this docket, PCS supports Duke's proposal
19 to use the RIM test for the implementation of its DSM
20 goals, but there is one aspect of the filing that is
21 baffling, and that's that Duke's plan seems remarkably
22 unresponsive to the abrupt divergence of Duke Energy's
23 growth in energy use with its growth in peak demand.
24 And it's seeing its average use of its residential and
25 commercial customers drop significantly, which is

1 discussed in this testimony, while the peaks continue to
2 grow. For us, that suggests there is a hole in the
3 program at least with respect to peak load management.
4 We are not suggesting that the solution is to require
5 the utility to spend more money on administratively
6 administered programs for this, but we do want to bring
7 it to your attention.

8 Ultimately, the most cost-effective peak load
9 management tool is in the form of the consumer making
10 rational energy consumption decisions. This will
11 require better pricing signals in the rates that are
12 set. From a cost-effectiveness standpoint, there's no
13 single thing the Commission can do better than to help
14 customers be informed as to the costs they are imposing
15 on the system when they consume electricity. And now
16 obviously we will get to that in other dockets, in the
17 clause dockets and the base rate cases, and the two
18 other pending dockets regarding requests for new assets.
19 But we raise it here because it does come up in the
20 context of exactly what is being done, what can be done
21 most cost-effectively to reduce peak load growth, which
22 is one of the core objectives of the FEECA statute.

23 Finally, there is woven throughout the debate
24 and the testimony an assertion that utility rates are
25 less important to customers than their overall bills.

1 Now I'm, I'm a pretty young fellow, but I've been doing
2 this for about 20 years for large industrials, and I can
3 tell you that I've never heard a large customer say that
4 rates are not important. To the contrary, we have
5 debates all the time about what the level of rates are
6 expected to be in developing power budgets. So to the
7 extent that there's an assertion that rates do not
8 matter, we could not disagree more strongly. Thank you.

9 **CHAIRMAN GRAHAM:** Thank you.

10 Mr. Moyle.

11 **MR. MOYLE:** Thank you, Mr. Chairman.

12 At the outset let me just state that FIPUG
13 supports energy efficiency, load management measures,
14 and conservation efforts. FIPUG members practice energy
15 efficiency and invest when it's appropriate to do so.
16 There's been a little discussion, Mr. Beasley brought up
17 the history of this docket, and FIPUG, early in the
18 proceeding, sought to have an issue for your
19 consideration in this docket that a number of other
20 states have contemplated where large industrial and
21 commercial customers who invest regularly and routinely
22 in energy efficiency and can demonstrate that are given
23 the ability to opt out of, of charges in the FEECA
24 program. And the issue was, was not allowed to proceed.
25 It was suggested that the Commission has jurisdiction

1 over that issue, and it probably will be before you in
2 another context. So we are, we are proceeding on, but I
3 wanted to make you aware that the FIPUG members are very
4 supportive of, of energy efficiency and practice it.
5 And we think that, given the right opportunity, we can
6 make a good case on that issue that was not allowed here
7 but will likely come before you later.

8 The key points in this docket, and I hear a
9 lot of people making, making the same point, which is to
10 remain cognizant and mindful of the costs that your
11 decisions impose on ratepayers, and we would underscore
12 and echo that point. That is a very important point as
13 you move, move forward. In this regard, I wanted to
14 make one, one point clear, that FIPUG supports RIM-based
15 cost goals since these goals result in lower cost rates
16 for FIPUG members and other utility customers while
17 appropriately advancing energy efficiency efforts. So
18 you'll hear about different tests: TRC, RIM. FIPUG
19 supports RIM because we think it strikes a good balance
20 with respect to the cost-benefit analysis that
21 ultimately you have to, you have to, to make.

22 There was discussion about government
23 programs. FPL just said, well, energy efficiency
24 mandates are really advanced; therefore, there's not as
25 much opportunity for this Commission to do things. One

1 of the points that we're going to explore in this
2 proceeding relates to the appropriate level of
3 government involvement in this proceeding, particularly
4 as it relates to the, what they call the free ridership
5 issue. And there's a payback screen that is used. Your
6 staff in one of these -- in the preliminary meeting
7 asked the utilities to put together sensitivities on a
8 one-year payback screen, a two-year payback screen, and
9 a three-year payback screen. And respectfully we think
10 that a three-year payback screen is something you should
11 seriously consider and adopt because, like a lot of
12 issues that you all consider, it's an economic analysis.
13 Mr. Deason has testimony on it. It's kind of like,
14 well, when -- if you're acting in your economic
15 interest, what's a reasonable expectation that you will
16 make an investment in a particular device based on how
17 quickly you'll get your money back? And, you know, you
18 don't want to set the bar too low -- and we think two
19 years is too low -- so that people are being rewarded
20 for actions that they would have taken otherwise.

21 Somebody told me a story where they went and
22 bought an air conditioning unit, they needed a new air
23 conditioning unit, and they went into the store and they
24 were going to buy it. And the salesperson said, "Oh,
25 well, this is great. You also get a rebate of X hundred

1 dollars if you fill out this paperwork." And they were
2 kind of like, "Well, great." I mean, not that they
3 needed that rebate to make the decision, they were going
4 to make it anyway, but that, but that the rebate was, in
5 effect, found money or free money. And we think that,
6 that the appropriate payback screen, that you all should
7 consider elevating it from a two-year payback screen,
8 which has been used for about ten years, to a three-,
9 maybe even a four-year payback screen.

10 So I wanted to let you all know that FIPUG is
11 going to spend time during this hearing talking to
12 witnesses about free ridership and the payback screen
13 that is used, and our position would be that you should
14 seriously consider and adopt a three-year screen
15 vis-a-vis a two-year screen. So I wanted to, wanted to
16 preview that with you.

17 We look forward to the hearing. Thank you for
18 your attention, and that's all. That's all. Thank you.

19 **CHAIRMAN GRAHAM:** Thank you, Mr. Moyle.

20 Mr. Wright.

21 **MR. WRIGHT:** Thank you, Mr. Chairman,
22 Commissioners. Good afternoon again. On behalf of
23 Wal-Mart and Sam's, I thank you for the opportunity to
24 address you this afternoon and to participate in these
25 very important proceedings.

1 Wal-Mart supports setting goals to achieve the
2 Legislature's intent articulated in FEECA to utilize the
3 most cost-effective demand-side renewable energy systems
4 and conservation systems in order to protect the health,
5 prosperity, and welfare of the state and its citizens.
6 This is rock solid public policy. The efficient use of
7 energy and all resources is critical to the health of
8 our wonderful state's economy.

9 Specifically, Wal-Mart supports the
10 continuation of the utilities' solar programs, and we
11 believe that the concept of developing an alternate
12 methodology or methodologies for evaluating the
13 cost-effectiveness of solar photovoltaic and other
14 demand-side renewable energy measures has merit and
15 should be pursued.

16 Thank you very much for the opportunity to
17 address you. We look forward to participating.

18 **CHAIRMAN GRAHAM:** Thank you.

19 Sierra Club.

20 **MS. CSANK:** Thank you, Mr. Chairman,
21 Commissioners.

22 I'm Diana Csank and, on behalf of Sierra Club,
23 submit that this is a case about money and risk.
24 Resource decisions and goals set this year will decide
25 how much energy efficiency, the lowest cost, lowest risk

1 resource we will have to protect Florida's consumers
2 from the rising cost and risk of power plants. Let's
3 take these resources in turn.

4 First, energy efficiency. The record is
5 replete with evidence that efficiency is a very low cost
6 resource and a safe investment. It is cheaper than any
7 form of conventional generation by a factor of two or
8 more. Nowhere does the record say that new power plants
9 are cheaper or that any power plants are cheaper, and
10 nowhere do the utilities suggest that energy efficiency
11 cannot defer or avoid those power plants. Indeed, the
12 record shows efficiency can drive down the cost for
13 Florida's electric system like no other resource.
14 Efficiency spurs local economic growth and job creation
15 more than power plants, and it's safe and it helps
16 safeguard Florida's public health and the environment
17 without breaking the bank. Indeed, energy efficiency is
18 a leading tool for curbing power sector pollution
19 including carbon pollution, as we'll see here.

20 In other words, efficiency is and will remain
21 a great deal for Floridians over the next ten years, and
22 we'll go through over the next few days about the
23 methodology for determining just how much energy
24 efficiency Florida can capture.

25 In contrast, power plants are a souring deal.

1 The problem with under investing in energy efficiency is
2 it forces Florida families to rely more on risky,
3 expensive power plants. Case in point, nuclear power.
4 Floridian families are already paying much higher bills
5 because of Florida's ongoing gamble with nuclear power.
6 Recent news from Turkey Point with the cooling canals
7 emphasizes the volatility of nuclear power. And the new
8 units proposed at Turkey Point, those are expected to
9 cost between 12 and \$18 billion -- billion with a B --
10 and that's before those units have even gone through
11 federal safety review.

12 Let's turn to coal. Coal is no longer cheap.
13 This is true here in Florida and across the country.
14 Utilities are phasing out coal plants because they're
15 uneconomic.

16 That leaves natural gas. Florida's sharp turn
17 towards natural gas is for the worst. This is a fuel
18 with a notoriously volatile price, as the utilities have
19 admitted in various filings before the Commission. And
20 this past winter we saw natural gas prices skyrocket in
21 the north, and here in Florida we are vulnerable to
22 price shocks. And so Floridian families are exposed
23 already to that risk, and on top of that they stand to
24 pay billions of dollars for pipeline projects and
25 out-of-state natural gas fracking projects to feed

1 Florida's reliance on natural gas. In other words,
2 billion dollar projects on top of billion dollar natural
3 gas plants -- what does that leave us with?

4 Compare energy efficiency and it's a bargain.
5 As the record shows, it is less than half as much per
6 kilowatt hour, and, unlike natural gas imports,
7 investments in energy efficiency stay here in Florida.
8 They help grow the local economy.

9 And so that brings back, that brings us back
10 to, to the heart of this case, which is about money and
11 risk -- Floridians' money and their exposure to the
12 risks from the power sector.

13 This year's goal setting is the best chance to
14 manage that money and to manage that risk by setting
15 strong goals and policy support for energy efficiency to
16 protect Florida families. Deferring to the next round
17 of goal setting in 2019 will be too late. There are
18 expensive power plant proposals before this Commission
19 now and more will come, unless the Commission plans
20 ahead and boosts energy efficiency.

21 Slashing goals and nixing efficiency programs
22 as the utilities are proposing is a terrible idea. It
23 will put Florida on a course headed straight for those
24 expensive risky power plants, and it will jeopardize
25 Florida's competitiveness. Across the region in the

1 southeast -- in Arkansas, in Georgia, in the Carolinas,
2 even in Mississippi -- energy efficiency goals and
3 programs are advancing rapidly and profitably and for
4 good reason. Let's be clear, officials and utilities in
5 those states are investing more and more in energy
6 efficiency because it's the lowest cost, lowest risk
7 resource, and it's cost-effective. And so we'll see
8 this borne out by the record in the days ahead, that
9 it's time to grow Florida's energy efficiency economy
10 rather than cut it back to protect Florida consumers by
11 keeping their bills down and by keeping the cost of
12 Florida's electric system down. Thank you.

13 **CHAIRMAN GRAHAM:** Thank you.

14 SACE.

15 **MR. GUEST:** Good afternoon, Mr. Chairman and
16 Commissioners.

17 We agree totally that you must look at the
18 totality of the circumstances. And what those
19 circumstances are is that we are on the edge of an era
20 of change. Visible in the future is the age when the
21 majority of Florida's power will not be generated by
22 burning carbon anymore, and you can see that in what the
23 EPA just recently did. Sixteen years from now we need
24 to be 38 percent down in carbon emissions, and you can
25 see why and you can see what they say. You've got to do

1 more efficiency and more solar. In the face of that
2 time of change, what we see is the utilities saying
3 99 percent of the technically available measures are off
4 the table, and for FP&L it's 99.9. And solar is
5 completely off the table. There's a statutory mandate
6 for solar goals, and it's zero.

7 How they get there is a catch-22. You've got
8 two standards. One is the two-year payback. Everything
9 that's highly efficient and very inexpensive, that's off
10 the table. But what they say is if it's over two years,
11 it's not cost-effective unless a huge fraction of people
12 do it, and 90 percent are eliminated that way.

13 And what is shown from that when you look at
14 what these guys have done, some of the measures that are
15 said to be so cost-effective, that pay back so quickly
16 that they fail the two-year test are found by other
17 utilities to be not cost-effective at all. That's the
18 catch-22 and that's how you get to such low numbers.

19 I refer you to this report, 2014 from the
20 NAACP. They say 2 percent, we should have 2 percent a
21 year, and they explain why. The minority communities
22 are disproportionately victimized by the pollution from
23 power plants and they are disproportionately victimized
24 by climate change. We think you should take a hard look
25 at that.

1 The way this thing is all set up is that
2 underserved communities, impoverished communities, they
3 take the short end of the stick here because all the
4 measures that are inexpensive and highly effective are
5 taken off the table. What we're going to show you is
6 that the measures that they're actually proposing in
7 their goals are all measures that folks that can write
8 big checks can do, and that's unfair.

9 So let me offer now a simple explanation on
10 how we see the two tests that are in play, the rates
11 test and the TRC test. Let's say what happens is the
12 president of Florida Power & Light is on a radio show.
13 The caller calls in and says, "What can I do to reduce
14 my electric bill?" First he says, "Turn your
15 thermostats up at night in the summer." Well, what
16 happens? Some people turn them, turn them up, their
17 bill goes down, the share of fixed costs that they have
18 goes down, and that puts upward pressure on rates. So
19 the president's first answer fails the RIM test.

20 But then if he said, "Well, turn your
21 thermostats up in the hottest part of the day," that, of
22 course, reduces, reduces peak costs and offsets that
23 loss of fixed costs.

24 So what happens then is you get this result
25 under the RIM test where something easy, obvious,

1 logical, and free ends up failing but the other one
2 passes. And that's why you should look at both.

3 Now I turned to the statute here and that is
4 visible in the statute itself. If you look at the
5 statute, it says you're supposed to set goals
6 considering rates of consumption -- that's, that's the
7 nighttime raising the thermostat -- and the rates of
8 weather-sensitive peak demand. That's why there's two
9 in the statute and that's why you should use both; that
10 is, either one that gets you something. And also, as
11 you can plainly see, there's a specific mandate for
12 solar.

13 And we get this argument about statutory
14 intent, that the statutory intent requires application
15 of the rates test. And what they say, it's based on a
16 prohibition on a rate structure which discriminates
17 against customers on account of use of such facilities.
18 But that's not what they want it to say. They want it
19 to say "or non-use," but that word isn't in the statute.
20 In order for them to use that, you have to rewrite the
21 statute, and you shouldn't.

22 So what we want you to do is four things.
23 One, we want you to reject the two-year standard. It's
24 unfair to low income communities. Two, we want you to
25 use both the RIM test and the TRC test; and what I mean

1 by that is if it passes either one. Three, what we want
2 you to do is accept 1 to 1.5 percent across the years
3 for ten-year goals. And, four, comply with the
4 ambiguous statutory mandate. You must have goals for
5 renewables.

6 And I submit, Commissioners, that, in so
7 doing, you can and you must be faithful to the letter
8 and the spirit of the statute, faithful to minority
9 communities, and faithful to future generations. Thank
10 you.

11 **CHAIRMAN GRAHAM:** All right. I hate to do
12 this to you, but what was number two again?

13 **MR. GUEST:** Number 2 is, is the rates, the
14 rates test versus the TRC.

15 **CHAIRMAN GRAHAM:** Thank you.

16 EDF.

17 **MR. FINNIGAN:** Your Honor, we waive opening
18 statement.

19 **CHAIRMAN GRAHAM:** Thank you.

20 Okay. That's everybody's opening statements,
21 so we are going to witnesses.

22 Just a reminder to let you know that there is
23 no friendly cross. And I guess at this point, unless
24 staff's got something else, it's time to administer the
25 oath.

1 **MS. TAN:** No. We may administer the oath.

2 **CHAIRMAN GRAHAM:** If you are one of the, one
3 of the witnesses giving direct or rebuttal testimony in
4 the audience, if I can get you to stand and raise your
5 right hand, please.

6 (Witnesses collectively sworn.)

7 Thank you. And if -- as the different groups
8 call up your witnesses, if you would also confirm that
9 they've been sworn for the record so we have that as
10 well.

11 And we have a list of witnesses, and I know
12 there's going to be some juggling around, so let's take
13 a five-minute break so we can get everybody situated.
14 And I do want to thank all the Intervenors and utilities
15 for dealing with the fact that we don't have enough
16 mikes, enough space, but I think we'll all get through
17 this. Thank you. We'll be back at 2:20.

18 (Recess taken.)

19 Florida Power & Light, you have the first
20 witness.

21 **MR. DONALDSON:** Thank you, Mr. Chairman.

22 Whereupon,

23 **TERRY DEASON**

24 was called as a witness on behalf of Florida Power &
25 Light Company and, having first been duly sworn,

1 testified as follows:

2 **BY MR. DONALDSON:**

3 Q Mr. Deason, have you been sworn?

4 A Yes, I have.

5 Q Would you please state your name and your
6 business address.

7 A My name is Terry Deason. My business address
8 is 301 South Bronough Street, Suite 200, Tallahassee,
9 Florida.

10 Q By whom are you employed and in what capacity?

11 A I'm a special consultant with the Radey law
12 firm.

13 Q Have you prepared to be caused and filed
14 34 pages of prefiled direct testimony in this proceeding
15 on April 2nd, 2014?

16 A Yes.

17 Q Do you have any changes or revisions to your
18 prefiled direct testimony to make at this time?

19 A No.

20 Q If I were to ask you the same questions
21 contained within your prefiled direct testimony today,
22 would your answers be the same?

23 A Yes.

24 **MR. DONALDSON:** Mr. Chairman, FPL asks that
25 the prefiled direct testimony of Terry Deason be

1 inserted into the record as though read.

2 **CHAIRMAN GRAHAM:** We will insert his prefiled
3 direct testimony into the record as though read.

4 **MR. DONALDSON:** Thank you.

5 **BY MR. DONALDSON:**

6 **Q** Are you sponsoring any exhibits to your
7 testimony?

8 **A** Yes.

9 **Q** And do those exhibits consist of Exhibits
10 JTD-1 and JTD-2?

11 **A** Yes.

12 **Q** Are those exhibits true and correct to the
13 best of your knowledge?

14 **A** Yes.

15 **MR. DONALDSON:** I would note that these
16 exhibits have been premarked for identification on
17 staff's Comprehensive Exhibit List Numbers 26 and 27.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
FLORIDA POWER & LIGHT COMPANY
DIRECT TESTIMONY OF J. TERRY DEASON
DOCKET NO. 130199-EI
APRIL 2, 2014

Q. Please state your name and business address.

A. My name is Terry Deason. My business address is 301 S. Bronough Street, Suite 200, Tallahassee, FL 32301.

Q. By whom are you employed and what position do you hold?

A. I am a Special Consultant for the Radey Law Firm, specializing in the fields of energy, telecommunications, water and wastewater, and public utilities generally.

Q. Please describe your educational background and professional experience.

A. I have thirty-seven years of experience in the field of public utility regulation spanning a wide range of responsibilities and roles. I served a total of seven years as a consumer advocate in the Florida Office of Public Counsel (OPC) on two separate occasions. In that role, I testified as an expert witness in numerous rate proceedings before the Florida Public Service Commission (Commission). My tenure of service at OPC was interrupted by six years as Chief Advisor to Florida Public Service Commissioner Gerald L. Gunter. I left OPC as its Chief Regulatory Analyst when I was first appointed to the Commission in 1991. I served as Commissioner on the Commission for sixteen years, serving as its Chairman on two separate occasions. Since retiring from the Commission at the end of 2006, I have been providing consulting services and expert testimony on behalf of various clients. These clients have included public service commission advocacy staff and

1 regulated utility companies, before commissions in Arkansas, Florida, Montana,
2 New York and North Dakota. I have also testified before various legislative
3 committees on regulatory policy matters. I hold a Bachelor of Science Degree in
4 Accounting, summa cum laude, and a Master of Accounting, both from Florida
5 State University.

6 **Q. For whom are you appearing as a witness?**

7 A. I am appearing as a witness for Florida Power & Light Company (FPL or the
8 Company).

9 **Q. What is the purpose of your testimony?**

10 A. The purpose of my testimony is to discuss the history and rationale used by the
11 Commission in implementing the Florida Energy Efficiency and Conservation Act
12 (FEECA) and to provide my perspective on certain policy issues in the current
13 goals-setting docket.

14 **Q. Are you sponsoring any exhibits?**

15 A: Yes. I am sponsoring Exhibit JTD-1, which is my curriculum vitae I am also
16 sponsoring Exhibit JTD-2, which analyzes the economics for participating
17 customers of DSM measures that pass a two-year payback criterion but would fail a
18 three-year criterion. Both exhibits were prepared under my direction and control,
19 and the information contained therein is true and correct to the best of my
20 knowledge and belief.

21 **Q. Please summarize your testimony.**

22 A. The Commission has a long and consistent history of implementing FEECA in a
23 manner that works to minimize rate impacts on all customers, does not ask
24 customers to pay incentives to “free rider” participants, and does not ask customers
25 to pay for more Demand Side Management (DSM) than can be used beneficially

1 within each respective utility's recent resource planning process. It has relied
2 primarily on the Rate Impact Measure (RIM) test in order to help ensure these
3 results. This approach has served FPL's customers well for decades -- FPL has
4 achieved significant cumulative DSM savings while keeping customer electric rates
5 low.

6
7 In 2009, the Commission tested another approach: it used the Total Resource Cost
8 (TRC) test to set FPL's goals; it set goals that were "unconstrained" by FPL's
9 recent planning process; and it further increased FPL's goals by including measures
10 that customers could be expected to adopt on their own. When the electric rate
11 impact to customer cost from this approach was recognized in the course of
12 reviewing FPL's DSM Plan for implementation of the goals, however, the
13 Commission ultimately decided the impact was too great. Rather than continuing
14 down the path set by the 2009 DSM goals docket, the Commission required FPL to
15 implement DSM programs that had been determined to be cost-effective under the
16 RIM test in a previous DSM proceeding.

17
18 The 2009 DSM experience supports the return to prior FEECA practices and policy
19 considerations. FPL's proposed DSM goals minimize rate impacts to its customers
20 and avoid cross subsidies between non-participants and participants because they
21 are based on measures that passed the RIM economic screening test and reflect
22 FPL's resource planning process. Additionally, in compliance with the DSM goals
23 Rule, FPL's proposed DSM goals account for free riders by applying a two-year
24 payback criterion. In my opinion, the DSM goals proposed by FPL should be
25 approved by the Commission.

1 While FPL's DSM goals are lower than previous years' goals, there is nothing
2 wrong or inappropriate about this. FEECA goals are not required – nor should they
3 be expected – to increase year over year. The Goals are not an end in and of
4 themselves. FEECA goals are a means to the end of meeting the Commission's
5 overall responsibility to have customers served reliably and cost-effectively. Their
6 absolute level will and should change as considerations of cost-effectiveness,
7 technology, and other economic factors change with time. The end objective is
8 certainly not to have ever increasing conservation goal levels without regard to cost
9 and electric rates. Rather, the objective is to have appropriate goals, regardless of
10 their absolute value.

11
12 **I. HISTORY OF THE COMMISSION'S IMPLEMENTATION OF FEECA**

13
14 **Q. When was FEECA first enacted in Florida and what was its purpose?**

15 A. FEECA was enacted in 1980, primarily in response to concerns over the availability
16 and pricing of crude oil. The purpose of FEECA was to increase the overall
17 efficiency and cost effectiveness of electrical production and use. In the early years
18 after its enactment, there was a particular emphasis on reducing the growth rate of
19 weather-sensitive peak demands and conserving expensive resources, particularly
20 petroleum fuels. FEECA and the Commission's implementation of it laid the
21 foundation for Florida being on the leading edge of energy conservation and set in
22 motion a supportive regulatory environment where cost-effective conservation that
23 benefits all utility customers is pursued.

1 **Q. What were the principles used by the Commission that resulted in a supportive**
2 **regulatory environment and the successful implementation of FEECA?**

3 A. There are many principles that were adopted and adhered to by the Commission as
4 it implemented FEECA. First, the Commission recognized that FEECA and the
5 goals established pursuant to FEECA were not an end result unto themselves, but
6 rather were part of a larger regulatory scheme in Florida. Hence, the Commission
7 implemented FEECA in a manner consistent with and complimentary to the other
8 regulatory requirements in Chapter 366, Florida Statutes. Second, the Commission
9 and consequently the utilities subject to FEECA embraced the principle of
10 conserving resources for the benefit of all utility customers, both participants and
11 non-participants in FEECA programs. This was consistent with the Commission's
12 overall responsibility to regulate utilities in the public interest and was consistent
13 with the regulated utilities' desire to provide quality service in a cost-effective
14 manner. Third, the Commission utilized a "three legs of the stool" approach,
15 wherein conservation measures should be: cost-effective, measurable, and
16 contribute to the attainment of conservation goals. Fourth, the Commission
17 recognized that for conservation measures to be truly effective and in the public
18 interest, the measures needed to compete on an even playing field with supply side
19 alternatives. Hence, the Commission implemented a policy of having DSM
20 evaluated against the costs and attributes of the most cost-effective supply side
21 alternative available, with all of the cost impacts that affect electric rates reflected
22 in the evaluation of both DSM and supply-side alternatives. And fifth, the
23 Commission recognized that the benefits of DSM came with costs and that those
24 costs should be recognized for cost recovery. Hence, the Commission implemented
25 and effectively administered the Energy Conservation Cost Recovery Clause

1 (ECCR).

2 **Q. Did the Commission adopt rules to implement FEECA?**

3 A. Yes, the Commission adopted a number of rules to implement FEECA. The early
4 rules laid the foundation and addressed a number of specific topics such as energy
5 audits, conservation end use data, cost effectiveness data reporting, and the ECCR.
6 However, it was not until 1993 that the Commission adopted a rule addressing the
7 establishment of utility-specific numerical conservation goals for the utilities
8 subject to FEECA, which is the subject of this proceeding. The rule to which I refer
9 is Rule 25-17.0021, F.A.C. Some twenty-one years after its adoption, it remains in
10 place and is the foundation upon which numeric conservation goals have been
11 established in Florida. At the time the Commission was considering the adoption of
12 Rule 25-17.0021, it was described as being a critical “crossroads” in Florida’s
13 continued implementation of FEECA.

14 **Q. What was meant by referring to this time as a critical “crossroads”?**

15 A. The early 1990s was a critical time in the evolution of energy conservation in the
16 nation generally and Florida was squarely at the forefront in the debate. In addition,
17 the Florida Legislature conducted a sunset review of FEECA during the 1989
18 regular session. The major changes made to FEECA were the addition of language
19 to encourage cogeneration and a provision limiting FEECA’s application to only
20 those electric utilities with annual retail sales in excess of 500 gigawatt-hours
21 (GWh). Subsequently, the Commission directed staff to develop a rule to provide
22 for utility- specific numerical goals. The staff conducted a workshop on June 24,
23 1992, followed by a three-day rulemaking hearing which concluded in January,
24 1993. I was a Commissioner at the time and actively involved in this rulemaking
25 proceeding.

1 **Q. Was the setting of utility-specific conservation goals the only matter that was**
2 **the subject of the hearing?**

3 A. No. The hearing on the rule also addressed placing equal emphasis on reducing
4 energy consumption and the cost-effective reduction of weather-sensitive peak
5 demand. This was a material change from the emphasis of the earlier rules, which
6 had focused on the reduction of peak demand. The new emphasis on reducing
7 energy consumption had the potential to significantly reduce revenues and thus
8 highlighted the critical need for more clarity in the use of cost-effectiveness tests in
9 order to address the lost revenues.

10 **Q. Did the issue of which cost-effectiveness tests to use receive attention at the**
11 **rule hearings?**

12 A. Yes. The question of which cost-effectiveness test(s) should be used was front and
13 center during the rule hearings. The Legal Environmental Assistance Foundation
14 (LEAF) intervened and stridently advocated for the exclusive use of the TRC test.
15 LEAF was very clear in its advocacy of TRC that more measures would be found to
16 be cost-effective and that higher goals would be the result. In its advocacy for
17 TRC, LEAF denounced the use of the RIM test, claiming it eliminated programs
18 that should be implemented thus resulting in goals that were set too low. The
19 utilities subject to FEECA took the opposite position and maintained that RIM was
20 the appropriate test because unlike the TRC test it considered lost revenue and all of
21 the program costs that ultimately are recovered from customers, thus ensuring that
22 non-participating customers would not have to pay higher rates due to the
23 conservation goals.

24 **Q. What did the Commission do?**

25 A. The Commission adopted Rule 25-17.0021 without declaring one cost-effectiveness

1 test to be superior to another. The Commission was aware of the mechanics and
2 attributes of the various tests and decided to require the filing of cost-effectiveness
3 data based on three tests: TRC, RIM, and the Participant Test. This essentially
4 teed-up the issue for even greater scrutiny in the first round of goal-setting dockets
5 pursuant to Rule 25-17.0021.

6 **Q. Were there other notable matters addressed by the Commission in its adoption**
7 **of Rule 25-17.0021?**

8 A. Yes, there were at least three notable areas. First, there was a concern for the
9 accuracy of conservation projections (regardless of the cost-effectiveness test used)
10 and how to ensure efficiency in actually achieving the projected savings attributable
11 to the specific programs proposed by utilities. This led to inclusion in the Rule of
12 the following provision: "Each utility's projection shall reflect consideration of
13 over-lapping measures, rebound effects, free riders, interactions with building codes
14 and appliance efficiency standards, and the utility's latest monitoring and
15 evaluation of conservation programs and measures."

16
17 Second, there was a concern that the amount of conservation should be consistent
18 with the real world resource needs of the utility in question. This led to the
19 inclusion in the Rule of the following provision: "In a proceeding to establish or
20 modify goals, each utility shall propose numerical goals for the ten year period and
21 provide ten year projections, based upon the utility's most recent planning
22 process..." This language was included to ensure that the amount of cost-effective
23 DSM being proposed was actually needed consistent with each utility's planning
24 process. In other words, the Commission wanted to be sure that the utilities'
25 customers were not asked to pay for more DSM than could be productively

1 deployed on each utility's system. This had the added benefit of providing
2 consistency with the amount of cost-effective DSM that is available to evaluate
3 supply-side alternatives in need determination proceedings. And third, in crafting
4 Rule 25-17.0021, the Commission was cognizant of the need for consistency
5 between its authority to set just and reasonable rates and its responsibility to
6 implement FEECA in a cost-effective manner. This consistency was attained by
7 approving DSM goals and measures that decreased customer rates or held them no
8 higher than they would be had the most cost-effective supply-side resource been
9 pursued instead of the DSM.

10 **Q. What was the next round of goal-setting dockets to which you refer?**

11 A. Docket Nos. 930548-EG through 930551-EG were opened to implement Rules 25-
12 17.001-.005, F.A.C., and to set utility-specific DSM goals for the utilities subject to
13 FEECA. These dockets, which I will refer to collectively as the "Mega Docket,"
14 also considered the implementation of standards set forth in federal legislation: the
15 Public Utility Regulatory Policies Act of 1978, commonly referred to as PURPA,
16 and the Energy Policy Act of 1992, commonly referred to as EPACT. The Mega
17 Docket is the seminal case implementing the framework established by Rule 25-
18 17.0021. The decisions made in the Mega Docket established goal-setting policy in
19 Florida that would be consistently applied for at least the next fifteen years. As with
20 the rulemaking proceeding for Rule 25-17.0021, I actively participated in the Mega
21 Docket as a Commissioner.

22 **Q. Please describe the nature and scope of the hearing in the Mega Docket.**

23 A. Simply put, it was a case of massive proportions. It had twenty separate intervenors
24 and, in addition to regulated utilities, included parties such as LEAF, Florida
25 Department of Community Affairs, United States Department of Energy, Florida

1 Client Council, Competitive Energy Producers Association, Florida Solar Energy
2 Industry Association, and the Center for Energy and Economic Development. The
3 hearings went on for 17 long and contentious days that spanned almost the entire
4 month of June 1994 and continued for one day into July 1994. The Commission
5 heard testimony from some sixty direct and rebuttal witnesses who were subjected
6 to extensive cross examination. From this large expenditure of time and resources
7 on the part of the utilities, intervenors, and the Commission, some very specific and
8 important policies emerged.

9 **Q. Did the Commission finally resolve the issue of the appropriate cost-**
10 **effectiveness test to use to set goals?**

11 A. Yes. While acknowledging that useful information is derived from all three of the
12 cost-effectiveness tests (TRC, RIM and Participant), the Commission determined
13 that goals should be based upon those measures that pass the Participant and RIM
14 tests. The Commission rejected the use of TRC as a primary test.

15 **Q. Why did the Commission reach this conclusion?**

16 A. As I stated previously, the Commission felt it was important to always implement
17 FEECA consistent with its overarching responsibility to regulate in the public
18 interest and with other provisions in Chapter 366. This is the primary reason that
19 the Commission chose to rely primarily on the Participant test and the RIM test (as
20 opposed to the TRC test).

21 **Q. Please explain why the Commission felt it was important to focus on the RIM**
22 **rather than the TRC test.**

23 A. The RIM test accounts both for the cost of incentives paid to program participants
24 and the upward pressure on rates from lost revenues. Incentives paid to program
25 participants are a cost of administering the program and are passed on to the general

1 body of customers through the ECCR. Lost revenues reduce contributions toward
2 covering fixed costs and therefore can also have significant adverse impacts on a
3 regulated utility's ability to earn a reasonable return, which in turn puts upward
4 pressure on rates for the general body of customers. Both of these extremely
5 important considerations/ramifications are ignored by the TRC test. The
6 Commission also recognized that the use of TRC could result in cross subsidies
7 between customers and could disproportionately impact low-income customers. In
8 its Order No. PSC-94-1313-FOF-EG, the Commission stated:

9 We will set overall conservation goals for each utility based on
10 measures that pass both the Participant and RIM tests... We find
11 that goals based on measures that pass TRC but not RIM would
12 result in increased rates and would cause customers who do not
13 participate in a utility DSM measure to subsidize customers who
14 do participate.

15 ***

16 All customers, including low-income customers, should benefit
17 from RIM-based DSM programs. This is because RIM-based
18 programs ensure that both participating and non-participating
19 customers benefit from utility-sponsored conservation programs.
20 Additional generating capacity is deferred and the rates paid by
21 low-income customers are less than they otherwise would be.

22 **Q. Did the Commission foreclose consideration of the TRC test?**

23 A. No. The Commission encouraged utilities to evaluate the implementation of TRC
24 passing measures "when it is found that the savings are large and the rate impacts
25 are small." However, the Commission reiterated that the overall goals would still

1 be based upon RIM-passing measures to help insure that non-participating
2 customers do not have to subsidize the participants. The Commission further
3 acknowledged that a means for lost revenue recovery may be necessary and would
4 be evaluated on a case-by-case basis for measures that passed TRC but not RIM.

5 **Q. Was there a motion for reconsideration of Order No. PSC-94-1313-FOF-EG?**

6 A. Yes, LEAF filed for reconsideration of a number of issues and the motion was
7 joined by the Department of Community Affairs.

8 **Q. Was the issue of the appropriate cost-effectiveness test raised by LEAF on**
9 **reconsideration?**

10 A. Yes, LEAF argued that the Commission made an error in adopting the RIM test and
11 rejecting the TRC test. In its Order No. PSC-95-0075-FOF-EG, the Commission
12 denied LEAF's motion and reaffirmed its use of the RIM test stating:

13 LEAF's argument that Rule 25-17.001(7), Florida Administrative
14 Code, uses the term "cost" in a fashion that mandates the use of the
15 TRC test to the exclusion of the Participant and RIM tests in
16 setting goals is at odds with the flexibility given under FEECA and
17 preserved in our conservation goals and conservation cost-
18 effectiveness rules. LEAF construes the term "cost" as meaning
19 "bills" when the more plausible contextual interpretation is that
20 "cost" means "rates". There has been no Commission failure to
21 consider bill impact. We have chosen to keep rates lower for all
22 customers, lowering bills for non-participants and participants.

23 **Q. Did LEAF appeal the Commission's decision to the Florida Supreme Court?**

24 A. Yes, LEAF raised three issues with the Court. LEAF raised a procedural due
25 process issue, an issue with the Commission's use of a pass/fail goal policy, and the

1 amount of savings attributable to different cost-effectiveness tests. The Court
2 rejected all three arguments and reaffirmed the manner in which the Commission
3 used its discretion to set conservation goals. In relation to the cost-effectiveness
4 question, the Court stated:

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

15 Legal Environmental Assistance Foundation Inc. v. Clark, 668 So.2d 982 (Fla.
16 1996).

17 **Q. Were there any other significant policy determinations in the Mega Docket?**

18 A. Yes, there is a notable one dealing with the question of free riders.

19 **Q. What is the meaning and significance of the term free riders?**

20 A. The term free riders refers to the fact that many cost-effective conservation
21 measures will be undertaken on a customer's own volition, without the need for
22 promotion or incentive provided by the customer's utility company. It simply
23 recognizes that rational customers will act in their own economic interest and take
24 measures to reduce energy consumption, if it is sufficiently attractive economically
25 for them to do so. It is an example of a free market economy working as it should –

1 rational economic decisions being made in one's best interest without government
2 intervention through mandates or provision of incentives. A good example would
3 be a customer deciding to install more efficient lighting or a blanket on their hot
4 water heater. They make the economic decision to invest in such measures because
5 it quickly benefits them economically. However, if such a customer also receives a
6 utility incentive, that customer becomes a free rider.

7 **Q. How is this relevant to the setting of conservation goals?**

8 A. There are two important reasons why free ridership is relevant. First, Rule 25-
9 17.0021, F.A.C., requires it to be considered. Second, and more fundamentally, its
10 recognition is necessary for setting appropriate goals and making the most efficient
11 use of resources to achieve those goals. It would be paradoxical to achieve
12 efficiency goals in an inefficient manner.

13 **Q. What do you mean by achieving goals in an inefficient manner?**

14 A. The achievement of FEECA goals comes at a cost, a cost which is partially passed
15 through to the general body of customers through the ECCR and which also
16 manifests itself in upward pressure on electric rates due to lost revenues. It is in the
17 public interest to achieve goals in the most efficient manner. This results in a lesser
18 burden on the general body of customers. If costs are incurred to incentivize
19 customers to take action that they would have otherwise taken in their own
20 economic interest, rates for the general body of customers will be higher than they
21 need to be to achieve the same level of conservation. It should be emphasized that
22 the ultimate goal is to achieve the maximum amount of cost-effective conservation
23 by the most efficient means. The objective is not to set conservation goals higher
24 than they should be simply for the sake of having higher goals. A proper
25 recognition of free riders is necessary to achieve the appropriate goals.

1 **Q. How did the Commission deal with free riders in the Mega Docket?**

2 A. The question of free riders did not receive the same level of attention as did the
3 overriding policy question of cost-effectiveness tests. However, free ridership was
4 important and was evaluated in the context of each utility's numerical goals.

5 **Q. What did the Commission decide and why?**

6 A. Two investor-owned utilities proposed a blanket percentage reduction to their goals
7 to account for free riders. The Commission rejected the blanket approach as being
8 arbitrary and unsupported by competent and substantial evidence and noted that
9 different demand-side measures have different free rider impacts. FPL took a
10 different approach and proposed a two-year payback criterion to screen specific
11 DSM measures. FPL's approach was premised on the expectation that customers
12 will take action on their own volition when paybacks for those actions are two years
13 or less. The Commission did not take exception to FPL's approach to account for
14 free riders. The most important take away from these decisions is that free ridership
15 is a phenomenon which must be recognized and evaluated as part of specific DSM
16 measures. A further take away is that free ridership is best evaluated in terms of
17 payback periods as opposed to overall blanket percentage adjustments.

18 **Q. Did the Commission have the opportunity to affirm its policy position on the
19 use of the RIM cost-effectiveness test following the Mega Docket and the
20 Supreme Court's decision?**

21 A. Yes. In the next round of conservation goal-setting dockets, Docket Nos. 971004-
22 EG through 971007-EG, LEAF once again raised the "RIM v. TRC" issue. LEAF
23 asserted that a RIM-only screen is improper and that Commission policy is to
24 require TRC portfolios. The Commission rejected LEAF's attempt to reargue the
25 same matters that had been considered and rejected by the Commission in the Mega

1 Docket decision affirmed by the Florida Supreme Court. Order No. PSC-98-1435-
2 PCO-EG stated that:

3 It is not our policy to require TRC portfolios on the broad range of
4 measures suggested by LEAF... In sum, LEAF’s argument that we
5 have a policy of requiring TRC portfolios in these goals dockets is
6 incorrect and merely attempts to reargue matters which are stare
7 decisis.

8 **Q. Have there been any other cases in which the Commission has used the RIM**
9 **cost-effectiveness test?**

10 A. Yes, all subsequent goal-setting cases consistently used the RIM cost-effectiveness
11 test, with the exception of the most recent round of cases, Docket Nos. 080407-EG
12 through 080413-EG. In addition, the Commission has consistently used RIM-based
13 DSM plans to evaluate the need for new supply-side resources in numerous need
14 determination cases.

15 **Q. In the Mega Docket, did the Commission address the cost standard by which**
16 **DSM measures were to be evaluated and numeric goals established?**

17 A. Yes, consistent with Rule 25-17.0021, the Commission used the avoided cost
18 standard to evaluate the benefits attributable to DSM measures. In its Order No.
19 PSC-94-1313-FOF-EG, the Commission stated:

20 “Avoided Cost” for use in evaluation of DSM measures and the
21 establishment of numeric conservation goals is that cost which the
22 utility could reasonably expect to incur in the form of some other
23 supply-side resource in the absence of DSM conservation
24 measures.

25 (Emphasis added). The Commission recognized and reiterated the critical link

1 between the setting of goals and the real world planning of supply-side resources.
2 The goal is to achieve the most cost-effective combination of both DSM and
3 supply-side resources.
4

5 II. 2008 AMENDMENTS TO FEECA

6

7 **Q. Have there been any changes to statute or rule pertinent to conservation goal-**
8 **setting in Florida since the Mega Docket?**

9 A. Yes, Sections 366.81 and 366.82, F.S., were amended in 2008. However, there
10 have been no changes to Rule 25-17.0021 since its adoption in 1993 just prior to the
11 Mega Docket.

12 **Q. How would you characterize the changes made to Sections 366.81 and 366.82,**
13 **F.S., in 2008?**

14 A. There were no major changes to the overall scope, purpose, or approach to goal-
15 setting in Florida. The amendments simply added some refinements and
16 clarifications. One notable clarification was that the costs of complying with
17 greenhouse gas regulations are to be considered in setting goals. Other notable
18 clarifications provided that the Commission may change goals for reasonable cause
19 and that the Commission shall have the flexibility to modify or deny plans or
20 programs that would have an undue impact on customer rates. Finally, it clarified
21 how the Commission may authorize financial rewards for those utilities over which
22 it has rate setting authority when they exceed their conservation goals. The only
23 new area dealt with demand side renewable energy systems. It is notable that the
24 Legislature's fundamental finding that it is critical to utilize the most efficient and
25 cost-effective conservation systems did not change. Neither did the Legislature's

1 charge to avoid any rate or rate structure which discriminates against any class of
2 customers.

3 **Q. Did any of these changes direct which cost-effectiveness test is to be used to set**
4 **goals?**

5 A. No. Just as Rule 25-17.0021 does not prescribe a specific cost-effectiveness test,
6 the Florida Statutes do not either. However, there was some clarifying language
7 added which gives some insight into the question. Section 366.82(3)(b) requires the
8 Commission to consider: "The costs and benefits to the general body of ratepayers
9 as a whole, including utility incentives and participant contributions." While this is
10 new language, the concept is certainly not new. This is precisely what the
11 Commission has consistently considered in setting goals, at least since the Mega
12 Docket, until the recent departure from this approach in the 2009 DSM goal-setting
13 dockets. The Commission's use of the RIM test (coupled with the Participant Test)
14 has been firmly rooted in its concern for the general body of customers. This is
15 evidenced by the fact that the RIM test is best suited to account for the cost of
16 incentives, to minimize rate impacts, and to avoid subsidies between participating
17 and nonparticipating customers. While the new statutory language certainly
18 reinforces the use of RIM coupled with the Participant Test, I do not believe that it
19 prescribes one cost-effectiveness test to the exclusion of another.

1 **III. 2009 FEECA GOALS AND PLANS DOCKETS**

2

3 **Q. You earlier stated that the RIM test had been consistently applied by the**
4 **Commission since the Mega Docket, with the exception of the last round of**
5 **goal-setting dockets. Please explain.**

6 A. In a break from the long-established policy of the Commission, the Commission in
7 2009 set goals based on the TRC test (as enhanced for consideration of emission
8 costs and referred to as E-TRC). Additionally, the 2009 goals as ordered by the
9 Commission did not reflect FPL's resource planning process and were increased by
10 a partial rejection of the two-year pay back criterion. Consequently, the
11 Commission then rejected a plan filed by FPL to implement those 2009 goals as
12 having an undue adverse impact on the costs passed on to consumers. In its Order
13 No. PSC-11-0346-PAA-EG, the Commission stated that the plan filed by FPL was
14 "projected to meet the goals we previously established, but at a significant increase
15 in the rates paid by FPL customers." (page 4). It went on to find that the plan filed
16 to meet the 2009 Goals would "have an undue impact on the costs passed on to
17 consumers" (pages 4-5). Out of concern over the cost impact, the Commission
18 instead approved the continued use of FPL's current DSM programs that were the
19 result of the Commission's 2004 goal-setting proceeding and some additional
20 programs proposed and approved in 2006. All the programs then in effect had
21 earlier been determined to be cost-effective under the RIM economic screening test.

22 **Q. Was the Commission's decision rejecting FPL's 2009 DSM plan a**
23 **reaffirmation of the use of RIM?**

24 A. Yes, that is the practical consequence of the Commission's decision approving the
25 continued use of FPL's 2004 conservation plan. It is clear that the adverse cost

1 impacts to customers resulting from the 2009 goals were unacceptable to the
2 Commission. This appears to have been a significant step toward acknowledging
3 the successful policies of the past. I should note that, in its Order No. PSC-11-
4 0590-FOF-EG denying a protest to Order No. PSC-11-0346-PAA-EG, the
5 Commission reiterated that the goals based on E-TRC were not being changed:

6 Based upon the hearing record, briefs in opposition, and oral
7 argument, we find that the plain language of Section 366.82(7),
8 F.S., specifically and unequivocally grants us authority to modify a
9 company's DSM plans "at any time it is in the public interest
10 consistent with this act" or when plans or programs "would have
11 an undue impact on the costs passed on to customers." Further, we
12 reiterate that we did not in any way change the DSM goals as set
13 by the goal-setting order, Order No. PSC-09-0855-FOF-EG.

14 (Emphasis added). This apparent inconsistency in the Commission's policy on goal-
15 setting and program approval left an area of potential confusion that emphasizes the
16 need for clarity in the Commission's DSM goal-setting policies in this proceeding.

17 **Q. Please explain why it is important for the Commission to bring clarity to its**
18 **DSM goal-setting policies in this proceeding.**

19 A. As I discussed earlier, in the early 1990s new legislation had passed, the
20 Commission had a rulemaking, and the Mega Docket was opened to set goals and to
21 chart a course on how FEECA was to be implemented. After much effort and due
22 consideration of all the issues, the Commission set a course that served the State
23 and its utility customers extremely well for the remainder of the 1990s and almost
24 the entire first decade of the new millennium. This period of time was marked by
25 consistency in the setting of goals and the approval of programs, as well as

1 consistency in the setting of goals and the planning of new cost-effective, supply-
2 side alternatives to maintain cost-effective service and system reliability. Now, as a
3 result of the decisions in the last round of conservation goal and plan approval
4 dockets, a degree of uncertainty has arisen that threatens the Commission's long-
5 standing commitment to set goals consistent with the larger regulatory scheme laid
6 out in Chapter 366, F.S.

7 **Q. Does it concern you that this consistency was lost in the last round of goal-**
8 **setting dockets?**

9 A. Yes. I am not here to criticize, but I do want to emphasize the importance of clarity
10 and consistency in the Commission's policy on a going forward basis. And
11 nowhere is this clarity and consistency needed more than in clearly specifying the
12 appropriate cost-effectiveness test to be used, the use of the utility's resource
13 planning process, and how to account for free riders.

14 **Q. Taken as a whole, do you believe that the Commission's 2009 DSM order is**
15 **consistent with continued reliance on the RIM test?**

16 A. Yes. There are several points made in Order No. PSC-09-0855-FOF-EG that
17 support the continued use of RIM:

- 18 • **The Commission has a responsibility to regulate utilities and**
19 **set conservation goals in the overall public interest:** "As
20 specified in Section 366.01, F.S., the regulation of public utilities
21 is declared to be in the public interest. Chapter 366 is to be
22 liberally construed for the protection of the public welfare. Several
23 sections within the Chapter, specifically Sections 366.03, 366.041,
24 and 366.05, F.S., refer to the powers of the Commission and
25 setting rates that are fair, just, and reasonable. The 2008 legislative

- 1 changes to FEECA did not change our responsibility to set such
2 rates.” (page 25)
- 3 • **The statute does not prescribe a cost-effectiveness test:** “We
4 would note that the language added in 2008 did not explicitly
5 identify a particular test that must be used to set goals.” (page 15)
 - 6 • **The statute requires rate impacts to be considered:** “The 2008
7 legislative changes to FEECA did not diminish the importance of
8 rate impact when establishing goals for the utilities.” (page 26)
 - 9 • **The RIM test should be part of the evaluation of rate impacts:**
10 “By having RIM and TRC results, we can evaluate the most cost-
11 effective way to balance the goals of deferring capacity and
12 capturing energy savings while minimizing rate impacts to all
13 customers.” (page 15)
 - 14 • **There are two different components of rate impact:** “When
15 setting conservation goals there are two basic components to a rate
16 impact: Energy Conservation Cost Recovery and base rates.” (page
17 25)
 - 18 • **Rate impacts are affected by the cost of incentives that are**
19 **passed through to the general body of customers:** “Utility
20 offered incentives are recovered through the Energy Conservation
21 Cost Recovery clause and are a cost borne by all ratepayers.” (page
22 14)
 - 23 • **The RIM test considers the cost of incentives:** “As illustrated
24 above, the RIM Test considers utility offered incentives which are
25 specifically required in Section 366.82(3)(b), F.S.” (page 14)

- 1 • **The TRC test does not consider the cost of incentives:** “The
2 TRC Test does not consider costs associated with utility
3 incentives.” (page 14)
- 4 • **Base rate impacts can result if lower earnings precipitated by
5 reduced (lost) revenues necessitate a rate increase:** “Energy
6 saving DSM programs can have an impact on a utility’s base rates.
7 Utilities have a fixed cost of providing safe, reliable service.
8 When revenues go down because fewer kWh were consumed, the
9 utility may have to make up the difference by requesting an
10 increase in rates in order to maintain a reasonable ROE.” (page 25)
- 11 • **The RIM test specifically considers lost revenues.** (See table
12 entitled “Difference Between RIM and TRC Tests” on page 14)
- 13 • **The TRC test does not consider lost revenues:** “Because the
14 TRC Test excludes lost revenues, a measure that is cost-effective
15 under the TRC Test would be less revenue intensive than a utility’s
16 next planned supply-side resource addition. However, the rate
17 impact may be greater due to reduced sales.” (page 15)
- 18 • **The Commission must consider the relative impact between
19 participating and non-participating customers:** “FEECA makes
20 it clear that we must consider the economic impact to all, both
21 participants and non-participants.” (page 25)
- 22 • **Because the TRC test does not consider all costs, TRC-based
23 goals and programs can result in cross subsidies between
24 participants and non-participants:** “Those who do not or cannot
25 participate in an incentive program will not see their monthly

1 utility bill go down unless they directly decrease their consumption
2 of electricity. If that is not possible, non-participants could
3 actually see an increase in the monthly utility bill.” (page 26)

- 4 • **To minimize impacts and cross subsidies, the lowest possible**
5 **rates should be ensured:** “Since participation in DSM programs
6 is voluntary and this Commission is unable to control the amount
7 of electricity each household consumes, we should ensure the
8 lowest possible overall rates to meet the needs of all consumers.”
9 (page 26)

10 **Q. In basing its DSM goals decision on the TRC test, did the Commission achieve**
11 **its objective of “ensur[ing] the lowest possible overall rates to meet the needs of**
12 **all consumers”?**

13 A. No.

14 **Q. Does the Commission’s discussion in the 2009 order on its policy for setting**
15 **DSM goals support the Commission’s decision to abandon RIM and utilize the**
16 **TRC test to set goals?**

17 A. No. To the contrary, after reviewing all of the reasoning and rationale espoused in
18 Order No. PSC-09-0855-FOF-EG, especially the language describing the various
19 attributes of several cost-effectiveness tests and the Commission’s stated objective
20 of keeping customer rates low, one could have reasonably anticipated that the
21 Commission would have approved the continued use of RIM.

22 **Q. What reason did the Commission offer for basing goals on the TRC test**
23 **instead of RIM?**

24 A. In Order No. PSC-09-0855-FOF-EG the Commission stated:

25 The goals proposed by each utility rely upon the E-RIM Test. Our

1 intention is to approve conservation goals for each utility that are
2 more robust than what each utility proposed. Therefore, we
3 approve goals based on the unconstrained E-TRC Test for FPL,
4 PEF, TECO, Gulf, and FPUC.

5 Thus, the Commission's decision was result-driven, out of a desire to set goals that
6 "are more robust than what each utility proposed." While the Commission did not
7 say what it meant by "robust," it appears from the order that it essentially meant
8 "higher." I do not believe that FEECA or Rule 25-17.0021 directs or even
9 encourages the Commission to adopt higher goals without regard to the impact on
10 customers. And the Commission itself appeared to recognize that focusing only on
11 making goals higher was a dead-end when it came time to approve real programs,
12 with real costs to customers, in order to implement those higher goals for FPL. As I
13 have explained previously, the Commission did not approve DSM plans that would
14 implement the higher goals but rather directed FPL to continue implementing
15 programs that had been approved previously.

16 **Q. What factors in the Commission's 2009 goal-setting process do you believe**
17 **were primarily responsible for the cost of the goals to customers being**
18 **unacceptably high?**

19 A. I believe that there were three. First and most obvious, the TRC goals, as reflected
20 in a DSM plan designed to meet those goals, would have resulted in a significant
21 adverse impact on customer rates, in disregard of a consideration mandated by
22 Chapter 366, F.S.

23

24 Second, the goals were based on measures that were inefficient to achieve the stated
25 level of goals. The goals contained a level of savings that could be more efficiently

1 achieved by customers acting in their own best economic interest, instead of
2 through additional costs being imposed on the general body of customers. I am
3 referring to the Commission's decision to include a level of savings in residential
4 goals based on measures that had been previously screened out because of the issue
5 of free riders. The impact of this decision was very significant. While most of the
6 attention was given to the question of using E-TRC versus E-RIM, the decision to
7 partially reject the traditional two-year payback criterion was equally as significant.
8 In fact, for the total residential GWh goal of 1,695.3 set by the Commission for
9 FPL, 905.0 or 53% was attributable to the partial rejection of the traditional two-
10 year payback criterion that is used to avoid free riders.

11
12 Finally, the level of goals approved by the Commission broke from the
13 Commission's long-held policy of having DSM compete with supply-side
14 alternatives on an even playing field. The Commission did this by using an
15 "unconstrained" TRC test, in which it set goals that did not reflect FPL's actual
16 resource need, as determined in its most recent planning process. There are several
17 adverse consequences of removing that constraint. First, it is inconsistent with Rule
18 25-17.001(6), F.A.C., which requires the Commission to continuously review the
19 present and anticipated needs for demand and energy and to recognize that DSM
20 goals are not to be exclusively relied upon to meet customer needs. In other words,
21 the Commission has an overriding responsibility to see that utilities plan for future
22 needs and that those real world needs are met by the most cost-effective means,
23 whether supply side alternatives or DSM measures. There is also the responsibility
24 to monitor and ensure that the DSM programs instituted to defer needed supply-side
25 alternatives do in fact achieve enough savings to validate the deferral. Second, the

1 “unconstrained” test is inconsistent with Rule 25-17.0021 that was adopted in 1993.
2 As I described earlier, this rule specifically requires that goals be proposed for a
3 ten-year period based on the utility’s most recent planning process. Third, the
4 unconstrained test is inconsistent with the manner in which DSM is considered in
5 need-determination proceedings. And fourth, the unconstrained test can result in
6 the incurrence of unnecessary costs to deploy resources that are not needed in the
7 planning horizon.

8 **Q. Should the Commission return to using the two-year payback criterion as a**
9 **measure of the potential for free-ridership?**

10 A. Yes. Fundamentally, there must be some measure of the economic trade-off
11 between higher initial cost and savings over time that would induce any rational
12 customer to invest. It seems implausible to me that customers who can cover the
13 cost of a DSM measure with the savings on their electric bill over a period as short
14 as two years and then enjoy continued savings over the entire remaining life of the
15 DSM measure would not implement that measure without the need for further
16 incentives. If anything, the two-year payback criterion is conservative because I
17 expect that many customers would be happy to implement a DSM measure that has
18 a significantly longer payback period.

19
20 To put the financial significance of a two-year payback into perspective, I asked
21 FPL’s Finance Department to evaluate the implicit return on investment to
22 participating customers for a sample of DSM measures from the RIM test
23 preliminary economic screening summarized on FPL witness Sim’s Exhibit SRS-5
24 that pass the existing two-year payback criterion but would not pass a three-year
25 payback criterion. The five selected measures reflect a wide range of useful lives,

1 customer rate classes and equipment costs. They are designated in the Technical
2 Potential Study as “Premium T8, Electronic Ballast,” “LED High Bay 83W,”
3 “Centrifugal Chiller, 0.51 kW/ton, 500 Tons,” “Proper Refrigerant Charging and
4 Air Flow – SS AC” and “High Bay T5.” I will refer to them collectively as
5 “Illustrative Measures.” These measures are of interest because they illustrate how
6 favorable the economics can be for customers who implement measures that pass
7 the two-year payback criterion.

8
9 As shown on my Exhibit JTD-2, the useful lives of the Illustrative Measures range
10 from five to twenty-five years. For each measure, even with no utility incentive
11 payment, the initial cost to the participating customer is paid off with the measure’s
12 annual customer savings by the third year. Thereafter, the participating customer
13 continues to receive the annual savings for the measure’s remaining useful life –
14 anywhere from two to twenty-two years -- with no further offsetting cost. Exhibit
15 JTD-2 shows that the annual savings for the Illustrative Measures result in a return
16 on a participating customer’s initial investment that ranges from a low of 39.4% to a
17 high of 67.4%, depending on the measure. This is far in excess of what customers
18 could realistically expect to earn on any other low-risk investment.

19
20 Looked at another way, if the participating customer needed to finance the entire
21 cost of an Illustrative Measure using a home equity loan at 7%, Exhibit JTD-2
22 shows that the customer would be able to pay off the loan – interest and principal –
23 in three to four years with monthly payments that were fully covered by the
24 measure’s annual savings and then would enjoy the full benefit of the savings for
25 the measure’s remaining useful life. Even if the measure were financed at a credit-

1 card interest rate of 20%, the customer still would be able to pay off the loan in
2 three to five years with the annual savings and then enjoy those savings for the rest
3 of the measure's useful life as "money in the bank."
4

5 Clearly, the Illustrative Measures are so financially attractive that, if a customer
6 were unwilling to implement them, the reasons would have to be other than rational
7 economic ones. While those other reasons might be quite valid for individual
8 customers, they are not ones that are likely to be overcome by throwing money at
9 them in the form of rebates or incentives. In short, I believe that it would be both
10 unnecessary and ineffective to offer rebates or incentives for measures that have a
11 payback of two years or better.

12 **Q. The Order Establishing Procedure for this docket directs utilities to consider**
13 **shorter and longer free-ridership periods as sensitivity cases. In response to**
14 **that direction, FPL has included analyses with one-year and three-year**
15 **payback periods. Please comment on those sensitivity cases.**

16 A. Exhibit JTD-2 shows that even measures with three-year paybacks would be
17 extremely attractive financial investments for participating customers. An even
18 shorter payback period (such as one year) would be clearly inappropriate, because it
19 would just increase the number of DSM measures for which the general body of
20 customers provide unwarranted and unnecessary subsidies thereby exposing these
21 customers to unwarranted and unnecessary rate increases. On the other hand,
22 longer payback periods of five or even seven years would offer what should be
23 more than adequate investment returns for participating customers. In simple terms,
24 as a matter of policy, the Commission should not be incenting customers to
25 implement conservation programs that they should be doing anyway and placing the

1 financial burden of such incentives on the general body of customers. For these
2 reasons, I recommend that, at minimum, the Commission return to the use of a two-
3 year payback period.

4 **Q. Has the Commission's commitment to the goal-setting principles originally set**
5 **forth by the Commission in the Mega Docket resulted in the appropriate level**
6 **of DSM being implemented in Florida?**

7 A. Yes. By applying these principles, the Commission has approved DSM goals and
8 plans that have resulted in substantial levels of DSM being implemented, while at
9 the same time avoiding the large rate impacts that would come from setting goals
10 based on the TRC test or some arbitrary percentage of the FEECA utility's electric
11 production. For example, FPL witness Koch reports that through 2013 FPL's
12 Commission-approved DSM plans have reduced summer peak demand by 4,753
13 MW, eliminating the need to construct the equivalent of more than 14 new 400 MW
14 generating units and have reduced annual energy consumption by 66,782 GWh,
15 equal to the consumption of all of FPL's residential customers for more than a year.
16 This is an impressive level of conservation, but even more important is that by
17 operating within the Commission's goal-setting principles, FPL has achieved this
18 conservation without raising rates. FPL is justifiably proud that its bills are well
19 below the national average, but it likely would not be able to make that claim if the
20 Commission had directed FPL to implement DSM measures without regard for the
21 discipline of the Commission's goal-setting principles.

1 **Q. If the Commission reaffirms the principles it established in the Mega Docket**
2 **and consistently used to set goals prior to the last round of goal-setting**
3 **dockets, should the Commission be concerned if the resulting goals are lower**
4 **than the goals previously established?**

5 A. No. As I stated very early in my testimony, one of the early principles established
6 and adhered to by the Commission in implementing FEECA was an understanding
7 that FEECA goals are not an end in and of themselves. FEECA goals are a means
8 to the end of meeting the Commission's overall responsibility to have customers
9 served reliably and cost effectively. The absolute level of the goals will and should
10 change as considerations of cost-effectiveness, technology, and other economic
11 factors change with time. The regulatory objective is certainly not to have ever
12 increasing conservation goal levels. Rather, the regulatory objective is to have
13 appropriate conservation goals, regardless of their absolute value.

14

15 **IV. ECONOMIC DEVELOPMENT CONSIDERATIONS**

16

17 **Q. Is economic development a proper consideration in the setting of conservation**
18 **goals?**

19 A. Yes, economic development has been a consideration since the adoption of FEECA.
20 Rule 25-17.001(7), F.A.C., states:

21 Rules 25-17.001 through 25-17.005, F.A.C., shall not be construed
22 to restrict growth in the supply of electric power or natural gas
23 necessary to support economic development by industrial or

1 commercial enterprises. Rather, these rules should be construed so
2 as to enhance job-producing economic growth by lowering energy
3 costs from what they otherwise would be if these goals were not
4 achieved.

5 **Q. Has the Commission taken action to enhance economic development in**
6 **Florida?**

7 A. Yes, the Commission has approved a number of rate riders for several utilities in
8 Florida, which are designed to encourage economic development by new and
9 existing customers. Most recently, the Commission approved FPL's
10 Commercial/Industrial Service Rider in Docket No. 130286-EI. The basis for these
11 economic development rate riders goes to the very heart of the conservation goal-
12 setting policies that I have discussed throughout my testimony.

13 **Q. What connection do you see between the Commission's policy of promoting**
14 **economic development and its policy of focusing on customer impacts when it**
15 **sets DSM goals?**

16 A. While the specifics of each utility's economic development initiatives appropriately
17 vary based on each utility's facts and circumstances, they all share two basic
18 principles. The first principle is that the level of rates matters to customers and
19 impacts their personal and/or business decisions. The second principle is that
20 utilities have fixed costs and additional sales (which at least cover variable costs
21 and hopefully make contributions to fixed costs) benefit the general body of
22 customers. These two principles are entirely consistent with the RIM cost-
23 effectiveness test. RIM-passing DSM measures have the effect of minimizing rate
24 impacts. RIM further recognizes that a utility has fixed costs and that reducing
25 sales can result in insufficient revenues to cover fixed costs, perhaps resulting in the

1 need to increase rates. Establishing utility-specific conservation goals based on
2 RIM would be consistent with the utilities' economic development initiatives.

3 **Q. Would conservation goals based on TRC be inconsistent with the utilities'**
4 **economic development initiatives?**

5 A. Not only would they be inconsistent, they would be diametrically opposed to each
6 other.

7 **Q. Please explain.**

8 A. The TRC cost-effectiveness test is unconcerned with rate levels and whether
9 utilities can cover their fixed costs. TRC would result in increased costs being
10 passed through the ECCR with the goal of reducing sales and by so doing reducing
11 their contribution to cover fixed costs. In contrast, the economic development
12 initiatives have the goal of keeping rates low and to increase sales that make
13 contributions in excess of variable costs. In addition, it should be recognized that
14 the higher rates resulting from TRC would be at cross purposes with economic
15 development initiatives and would make the job of economic development that
16 much more difficult. The mere fact that rates will be higher with TRC will serve as
17 a hindrance to efforts to recruit new customers and have existing customers stay in
18 the service territory and hopefully expand their economic activities. In short,
19 existing and potential new customers rationally take energy costs into consideration
20 in making such decisions and higher rates are not conducive to achieving the
21 desired outcome.

V. CONCLUSION

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Q. What is your recommendation to the Commission?

A. I recommend that the Commission set appropriate DSM goals that are in the public interest and consistent with the Commission’s overarching regulatory responsibilities as required by the entirety of Chapter 366, F.S. The appropriate level should be primarily based on the RIM cost-effectiveness test which will minimize rate impacts and cross subsidies between participants and non-participants. Doing so would also be consistent with long-held Commission policy and Commission-approved efforts to promote economic development. Along with the use of RIM, the Commission should give appropriate consideration of free riders. I submit that the two-year payback criterion is appropriate and consistent with past practice. It should once again be used, absent compelling evidence that a different criterion is more accurate and effective in estimating the impact of free riders. Additionally, the Commission should set goals that reflect FPL’s most recent resource planning process to avoid the purchase of unneeded DSM resources by FPL’s customers. In doing so, the Commission will reconfirm its policies and provide greater clarity and certainty in the setting of utility-specific DSM goals.

Q. Does this conclude your testimony?

A. Yes, it does.

1 **BY MR. DONALDSON:**

2 **Q** Have you prepared a summary of your prefiled
3 direct testimony?

4 **A** Yes.

5 **Q** Would you please provide that summary to the
6 Commission at this time.

7 **A** Yes.

8 Good afternoon, Commissioners. The Commission
9 has a long and consistent history of implementing FEECA
10 in a manner that works to minimize rate impacts on all
11 customers, does not ask customers to pay incentives to
12 free rider participants, and does not ask customers to
13 pay for more demand-side management -- or DSM -- than
14 can be used within each respective utility's resource
15 planning process.

16 The Commission has relied primarily upon the
17 Rate Impact Measure -- or RIM test -- in order to help
18 ensure these results. This approach has served FPL's
19 customers well for decades, as FPL has achieved
20 significant, cumulative DSM savings, while keeping
21 customers' electric rates low.

22 In 2009, the Commission tested another
23 approach. It used the Total Resource Cost -- or TRC
24 test -- to set FPL's goals. It set goals that were
25 unconstrained by FPL's planning process, and it further

1 increased FPL's goals by including some measures that
2 customers could be expected to adopt on their own.
3 However, when the electric rate impact of this approach
4 was fully recognized, the Commission ultimately decided
5 the impact was too great. Rather than continuing down
6 the path set by the 2009 DSM goal docket, the Commission
7 required FPL to implement DSM programs that had
8 previously been determined to be cost-effective under
9 the RIM test.

10 The 2009 DSM experience supports the return to
11 prior FEECA practices and policy considerations. Based
12 on these considerations, FPL's proposed DSM goals,
13 first, minimize rate impacts to customers; second,
14 avoids cross-subsidies between non-participants and
15 participants as required by *Florida Statutes*; three,
16 avoid the incurrence of unnecessary cost by utilizing a
17 two-year payback screen took out for free riders; four,
18 reflect FPL's resource planning process; and, lastly,
19 are consistent with Commission efforts to promote
20 economic development.

21 While FPL's DSM goals are lower than previous
22 years' goals, there's nothing wrong or inappropriate
23 about this. FEECA goals are not required nor should
24 they necessarily be expected to increase year over year.
25 The goals are not an end in and of themselves. FEECA

1 goals are a means to the end of meeting the Commission's
2 overall responsibility to have customers served reliably
3 and cost-effectively. Their absolute value will and
4 should change as considerations of cost-effectiveness,
5 technology, and other economic factors change with time.

6 The end objective is certainly not to have
7 ever-increasing conservation goal levels without regard
8 to cost; rather, the objective is to have appropriate
9 goals that can be achieved without raising rates.

10 I recommend that the Commission set DSM goals
11 that are in the public interest and consistent with the
12 Commission's overarching regulatory responsibility as
13 required by the entirety of Chapter 366, *Florida*
14 *Statutes*. The appropriate level should be primarily
15 based on the RIM cost-effectiveness test, which will
16 minimize rate impacts and cross-subsidies between
17 participants and non-participants. Doing so would also
18 be consistent with long-held Commission policy and
19 Commission-approved efforts to promote economic
20 development.

21 Along with the use of RIM, the Commission
22 should give appropriate consideration of free riders.
23 The two-year payback criterion is appropriate and
24 consistent with past practice. Additionally, the
25 Commission should set goals that reflect FPL's most

1 recent planning process. In doing so, the Commission
2 will reconfirm its policies and provide greater clarity
3 and certainty in the setting of goals for utilities in
4 the State of Florida. This concludes my summary.

5 **MR. DONALDSON:** Thank you, Mr. Deason.

6 FPL tenders Mr. Deason for cross-examination.

7 **CHAIRMAN GRAHAM:** Thank you.

8 All right. So we're going to do
9 cross-examination, and we'll start with OPC.

10 **MR. SAYLER:** No questions for the witness.

11 **CHAIRMAN GRAHAM:** Okay. Agriculture.

12 **MR. HALL:** No questions.

13 **CHAIRMAN GRAHAM:** NAACP.

14 **MR. DREW:** No questions, Your Honor.

15 **CHAIRMAN GRAHAM:** PCS Phosphate.

16 **MR. BREW:** Commissioner, only for Duke, not
17 for FPL.

18 **CHAIRMAN GRAHAM:** Okey-doke.

19 FIPUG.

20 **MR. MOYLE:** We have some questions.

21 **CHAIRMAN GRAHAM:** All right. The floor is
22 yours, Mr. Moyle.

23 **MR. MOYLE:** Thank you.

24 **EXAMINATION**

25 **BY MR. MOYLE:**

1 **Q** Good afternoon, Mr. Deason.

2 **A** Good afternoon.

3 **Q** FIPUG is interested in exploring the free
4 ridership issue and the appropriate screen, the payback
5 screen, and I want to spend some time discussing that
6 with you. I think that maybe the best way to do that is
7 look at your Exhibit JTD-2. And are you there?

8 **A** I am.

9 **Q** Okay. And I, I think I understand that, but
10 I'm not 100 percent sure. So I want to, I want to ask
11 you what -- let's just focus on the first page, page
12 1 of 6. What is this exhibit communicating?

13 **A** Well, the short answer is that it communicates
14 that there is a high internal rate of return associated
15 with paybacks as high as three years.

16 **Q** And so if I'm looking at the column that says
17 "Unlevered IRR," are those numbers the return that a
18 customer would see if they invested in the energy
19 efficiency measure to the left?

20 **A** Yes. That analysis looks at the cash flows,
21 the upfront investment, and the benefits achieved over
22 the life of the, of the measure that's being taken. And
23 the unlevered internal rate of return is basically that
24 rate which is necessary to bring that, those cash flows
25 to zero on a net present value basis. But in walking

1 around language, it's the rate of return earned on that
2 investment.

3 **Q** Okay. And is that for a two-year screen or a
4 three-year screen, those numbers?

5 **A** These are measures that are -- these are
6 measures that have passed the two-year screen, and these
7 are measures that are up to a three-year payback. So,
8 in other words, these are measures that would have been
9 screened out under the two-year payback but would be
10 remaining in the achievable potential and would not be
11 screened out unless there were a change to a three-year
12 payback.

13 **Q** In your testimony, page 29, you make the
14 following comment, and this is page 29, line 21. And I
15 guess, I guess up at the, up at line 16 you say,
16 "Exhibit JTD-2 shows that even measures with three-year
17 paybacks would be extremely attractive financial
18 investments for participating customers."

19 So to just back up, you're saying that this
20 exhibit supports a three-year payback; is that right?

21 **A** It was not the purpose to support a three-year
22 payback because it's my position that the two-year
23 payback should be continued to be used by the
24 Commission. In a sense it's a sensitivity analysis to
25 show that even at a three-year payback the returns are

1 quite high and very attractive to customers to make that
2 investment.

3 Q And when you say the returns, you're
4 referencing the returns on JTD-2, page 1 of 6?

5 A Yes. As that exhibit shows, those returns for
6 those five example measures range from a low of
7 39.4 percent to a high of 67.4 percent.

8 Q Are you aware of any other investments that
9 get those kind of returns in today's market?

10 A No. I wish I were achieving those returns.
11 I'm not.

12 Q That's kind of what I was thinking.

13 Let me draw your attention to your statement
14 that's found on line 21. Quote, on the other hand,
15 longer payback periods of five or even seven years would
16 offer what should be more than adequate investment
17 returns for participating customers. What is the basis
18 for that statement?

19 A It would, it would take a payback as long as
20 five or seven years, depending upon the measure and the
21 particular facts of that measure, to get returns down
22 into, I guess, what people more generally consider to be
23 reasonable returns on an investment. But I did not do a
24 specific analysis of those. Again, my analysis, my
25 exhibit was just to show the reasonableness of the

1 two-year payback.

2 **CHAIRMAN GRAHAM:** Mr. Moyle.

3 **MR. MOYLE:** Yes, sir.

4 **CHAIRMAN GRAHAM:** This is sounding a little
5 bit like friendly cross to me. Are there any other
6 questions you have?

7 **MR. MOYLE:** Well, a couple more. I'll try to
8 get to it. But we do have a difference of opinion in
9 that FPL is proposing two; FIPUG is proposing three, you
10 know, or four. So, you know, we're not, we're not
11 aligned, but I'll try to get to, to the heart of the
12 matter.

13 **CHAIRMAN GRAHAM:** Thank you.

14 **BY MR. MOYLE:**

15 **Q** One more, one more section in your testimony.
16 This is on page 27. You talk about it seems implausible
17 that customers who can cover the cost of a DSM measure
18 with the savings of electric bill as short as two
19 years -- the way I read that, you're saying that, that
20 it's almost a no-brainer that you should make an
21 investment if you have a two-year payback. Is that
22 fair?

23 **A** Yes, that's fair.

24 **Q** Okay. And your two-year -- you recommend two
25 years, right, the two-year screen be used?

1 **A** My recommendation is a continuation of the
2 two-year.

3 **Q** Right. But you acknowledge also that that's
4 conservative; right?

5 **A** I do agree it's conservative.

6 **Q** And if, you know, if the Commission were to
7 adopt an economic screen that's, say, more consistent
8 with how it looks at return on equity in utility rate
9 cases, that would suggest that they consider a longer
10 period of time as the economic screen; correct?

11 **A** Yes.

12 **Q** Okay. And then final question, Mr. Chair --
13 I'll get there -- but while you're recommending two
14 years, you would agree that this Commission, in
15 exercising its judgment, that it wouldn't be
16 unreasonable for the Commission in making a decision to,
17 to settle on a three-year screen or even a four-year
18 screen based on your testimony; is that correct?

19 **A** I believe the Commission has discretion. The
20 question is how you exercise that discretion, and I
21 wouldn't recommend a change from policy unless the
22 Commission had adequate evidence, strong evidence to
23 make a change.

24 **Q** And with respect to testimony that you've
25 provided such as, you know, a 5- to 7-year issue or it

1 being implausible that customers wouldn't act on a
2 two-year screen, you would agree that that could be used
3 or seen as evidence that would support a three-year
4 screen; correct?

5 **A** It could be. It was not the purpose of those
6 statements to change from a two-year, but I could see
7 where it could be interpreted that way. Yes.

8 **MR. MOYLE:** Okay. That's all I have. Thank
9 you.

10 **CHAIRMAN GRAHAM:** Thank you.

11 Wal-Mart.

12 **MR. WRIGHT:** No cross, Mr. Chairman.

13 **CHAIRMAN GRAHAM:** Sierra Club.

14 **MS. CSANK:** No cross, Mr. Chairman.

15 **CHAIRMAN GRAHAM:** SACE.

16 **MR. CAVROS:** Mr. Chairman, we do have cross,
17 and I can assure you it will not be friendly.

18 **CHAIRMAN GRAHAM:** Sir, the floor is yours.

19 **THE WITNESS:** Mr. Chairman, I would
20 disappointed if it were.

21 (Laughter.)

22 **EXAMINATION**

23 **BY MR. CAVROS:**

24 **Q** Good afternoon, Mr. Deason. How are you?

25 **A** I'm fine. Thank you.

1 **Q** Good. Good. I'm going to ask you a series of
2 questions delving into your testimony. Most of them
3 will be yes or no questions. Consistent with the
4 Prehearing Order, if you could answer them yes or no.
5 You know, certainly you can feel free to, to qualify
6 them afterwards, but I would appreciate it if you could
7 answer them with a yes or no answer.

8 **A** I will endeavor to do so.

9 **Q** Thank you. I'm looking at page 1 of your
10 testimony, and it's going through your background.
11 You've been a Commissioner here at this Commission for
12 16 years; is that right?

13 **A** Yes.

14 **Q** Okay. And since 2007 you've been a special
15 consultant to the Radey Law Firm; is that correct?

16 **A** Yes.

17 **Q** Okay. And you and the Radey Law Firm
18 represent clients from time to time before the state
19 Legislature; is that correct?

20 **A** That's correct.

21 **Q** Okay. As well as representing your clients at
22 the Governor's Office; is that right?

23 **A** I have not personally done so. Maybe others
24 in the firm have, but I'm not aware of that.

25 **Q** Okay. And in the past you have worked on

1 behalf of TECO; correct?

2 **A** Yes.

3 **Q** Okay. And Progress Energy Florida; is that
4 correct?

5 **A** Not in front of the Commission. I think maybe
6 in terms of a presentation at the Legislature.

7 **Q** Legislature. Right. And Gulf Power Company;
8 correct?

9 **A** Yes.

10 **Q** Okay. And you're being compensated by FP&L to
11 represent the company in this proceeding; correct?

12 **A** Yes.

13 **Q** Okay. And I want to just talk a little bit
14 about the nature of, of your testimony. I'll direct you
15 to on page 2, line 12, where you say you want to provide
16 your perspective on certain policy issues in the current
17 FEECA docket. Do you see that?

18 **A** Yes.

19 **Q** Okay. And you do this by providing in your
20 testimony your perspective on the meaning of events that
21 predated this docket. Is that fair to say?

22 **A** Yes. I attempted to lay a foundation of the
23 history of FEECA in Florida.

24 **Q** Okay. And by perspective, you mean your
25 opinion; right?

1 **A** Some is opinion, some is fact, as borne out in
2 orders and other places where I give reference.

3 **Q** Sure. Okay. And it's safe to say that you're
4 attempting to provide a historical roadmap of sorts for
5 the Commission to follow; is that right?

6 **A** I give the history, and then I give an opinion
7 that the Commission should re-embrace principles that
8 had been established by the Commission as early as the
9 1990s.

10 **Q** Okay. Okay. Well, let's explore that history
11 and that opinion a bit.

12 If you could turn to page 8, line 12 of your
13 testimony. And I think at this point it might also be
14 helpful to just pass out as a demonstrative exhibit Rule
15 25-17.0021, since I'm going to touch on a couple of
16 aspects of that. Great. Thank you.

17 So on line -- page 8, line, starting with line
18 12, you say -- and you quote the rule here -- "Each
19 utility's projection shall reflect consideration of
20 overlapping measures, rebound effects, free riders,
21 interaction with building codes," et cetera. Do you see
22 that?

23 **A** Yes.

24 **Q** Okay. Great. Let's talk about free riders
25 for a second. A so-called free rider is a customer that

1 will adopt a measure regardless of whether they are
2 provided an incentive or not; correct?

3 **A** Yes.

4 **Q** Okay. So these adopters will, will implement
5 the measure regardless of the level of incentive that
6 may be provided.

7 **A** Yes. Even with the incentive of zero, that's
8 the definition of a free rider, they would take the
9 action anyway.

10 **Q** Uh-huh. Okay. Right. So the incentive could
11 be 100, it could be \$1, it could be zero, but this, this
12 adopter will implement the measure regardless.

13 **A** I'm sorry. Could you repeat your question?

14 **Q** Yeah. Sure. In terms of the level of the
15 incentive, the incentive for the measure could be \$100,
16 it could be \$1, or it could -- there could be no
17 incentive at all, and this adopter is going to implement
18 the measure no matter.

19 **A** Yes.

20 **Q** Okay. So the two-year payback then doesn't
21 address free riders; right?

22 **A** No.

23 **Q** Okay. And I want to get back to some of the
24 other comments or rather testimony -- well, let me ask
25 you this. You would agree that for a customer --

1 **A** Excuse me. Excuse me. I hate to do this, but
2 I think there's been a miscommunication. When I said,
3 "No," I disagreed with your statement. So I take the
4 impression that you thought the no answer agreed with
5 your statement.

6 The two-year payback is definitely a means of
7 addressing the issue of free ridership. So if there was
8 a miscommunication, I want to make sure it's clear.

9 **Q** Okay. There was a miscommunication. My point
10 is that you just said that regardless of the incentive,
11 the, the adopter will implement the measure no matter.
12 So at what level you set the screen, that adopter is
13 still going to implement the measure; correct?

14 **A** By definition of what is a free rider, that is
15 correct. The two-year payback screen is the tool that
16 is used by the Commission to discern at what point is it
17 likely that a customer would act in their own best
18 economic interest without consideration of an incentive,
19 and at what point above, above that point where it would
20 be reasonable to include an incentive to get that
21 customer to adopt that measure.

22 **Q** Uh-huh. Okay. Well, let's talk about those
23 assumptions for a minute. You would agree that for a
24 customer to adopt a measure on their own, they would
25 likely -- they would have to have information about the

1 measure; correct?

2 **A** Yes.

3 **Q** Okay. And they would also need the financial
4 resources to implement the measure; correct?

5 **A** Yes.

6 **Q** Okay. And then to act on the information and
7 the resources, they would have to be a rational economic
8 actor; correct?

9 **A** Yes.

10 **Q** Okay. And I want to go to page 27, line 12 of
11 your testimony, and I'll just go ahead and, I'll go
12 ahead and read that sentence. "It seems implausible to
13 me that customers who can cover the cost of a DSM
14 measure with a savings of their electric bill over a
15 period as short as two years can then enjoy continued
16 savings over time -- the remaining life of the measure,
17 DSM measure would not implement that measure without the
18 need for further incentives."

19 Mr. Deason, are you at the poverty level
20 yourself?

21 **A** No, I hope not. And I don't think I am by --
22 as it's defined by the U.S. government.

23 **Q** Okay. So then you've never had to make a
24 choice, say, of, you know, buying medicine for a sick
25 child versus implementing an energy efficiency measure.

1 **A** Oh, yes, I have. I was a college -- a student
2 at FSU and married with a child, and it was very
3 difficult to make those kinds of decisions. But I
4 experienced that.

5 **Q** Uh-huh. Would you agree that at certain -- at
6 that time it's hard to be a rational actor?

7 **A** No, I disagree with that. That's the very
8 time that you do need to be a rational actor because
9 every penny counts and you need to save when you can.
10 So, yes, I would think that is the most critical time to
11 act in one's best economic interest.

12 **Q** So then are you using that as an example to
13 make -- as it appears you have done in your testimony --
14 to make the broad statement that regardless of income
15 level and regardless of your place in life and
16 regardless of the challenges in your life, it is
17 implausible to you that you would not adopt an energy
18 efficiency measure if it provides you a simple payback
19 of two years or less?

20 **A** You're reading more into my testimony than is
21 there, sir. This testimony is given in the context of a
22 tool to be used by the Commission to make that
23 discernment, and that's the context of the statement.

24 **Q** Uh-huh. I understand that it's made in
25 reference to the tool. I'm addressing the assumptions

1 behind the tool. And the tool assumes that a rational
2 actor with information and financial resources will
3 implement a two-year payback.

4 **A** Yes. We're talking about customers who are,
5 have the means to pay their bill. That's the
6 assumption. And the question is will they take a
7 measure that will reduce their net outflow of their very
8 limited income on a period as short as two years?
9 That's the nature of the statement.

10 **Q** Uh-huh. But folks that may not have the
11 information or folks that may not have the financial
12 resources are excluded from this.

13 **A** In a perfect -- I agree that we do not live in
14 a perfect world and there is not 100 percent
15 dissemination of information to everyone that could make
16 use of that information.

17 **Q** Okay.

18 **A** But there are -- in addition, but there are
19 measures to combat that, measures taken by this
20 Commission to educate customers and efforts by the
21 utilities through their energy audit program to educate
22 customers. So that is recognized currently by the
23 Commission and under FEECA and by the utilities that are
24 subject to FEECA.

25 **Q** Uh-huh. From a policy perspective, you would

1 agree that cross-subsidization takes place in all
2 resource decisions? Would that be a correct statement?

3 **A** No. I don't believe that I can agree with
4 that statement.

5 **Q** Uh-huh. Perhaps I can give you an example and
6 ask you your opinion.

7 Let's use the Florida Power & Light nuclear
8 plant for an, as an example. Assume FP&L is charging
9 customers now for significant capital costs related to a
10 nuclear plant that may have an in-service date sometime
11 in the late 2020s, assume that customers will not
12 realize a net cumulative fuel savings from those costs
13 that they've been charged until 25 to 36 years from
14 today. Isn't that a generational cross-subsidy?

15 **A** No.

16 **Q** If there's a 70-year-old customer today who
17 doesn't receive a net cumulative fuel benefit until 25
18 years from today, he would, he would be 95, probably
19 expired.

20 **A** Is that a question?

21 **Q** That's, that's a foundation. That customer
22 has now cross-subsidized in effect people, customers who
23 will enjoy the benefit of that plant while that customer
24 is no longer around.

25 **A** No. I disagree with your premise.

1 **Q** Uh-huh. You disagree with the premise
2 because?

3 **A** Absolutely I disagree with your premise.

4 **Q** Uh-huh. Because?

5 **A** And I'm not really sure it has any relevancy
6 to this anyway, but I do disagree with your premise.

7 **Q** Uh-huh. Well, you take issue, Mr. Deason,
8 with cross-subsidization when it comes to energy
9 efficiency measures, but it seems to me like you're
10 failing to recognize that cross-subsidies are inherent
11 in all resource decisions.

12 I'll give you another example and you can tell
13 me if you reject my premise or not. Transmission and
14 distribution, obviously a customer that lives closer to
15 a power plant is going to require less transmission and
16 distribution than a customer who lives 30 to 40 miles
17 from a plant. From a systemwide perspective, the whole
18 body of ratepayers is subsidizing --

19 **A** I disagree with your premise. There's no
20 factual basis to conclude that a customer in location X
21 is getting power from a power plant that's in location
22 Y. You cannot trace the flow of electrons through a
23 system.

24 Florida regulates its utilities subject to the
25 grid bill, and that looks at the system as a whole so

1 that all customers are provided the most cost-effective
2 and reliable service as a system as a whole.

3 Q But in providing in that system as a whole
4 there are inherent cross-subsidies. The general -- and
5 let me clarify. The general body of ratepayers are
6 covering those costs.

7 A If those costs are incurred to serve the
8 general body of customers, it is legitimate for those
9 customers to pay those costs. Yes.

10 Q Okay. I want to go a little bit into page --
11 if we could move to page 8, line 21 now, and we're still
12 on, on the Commission rule here, 25-17.0021. And I want
13 to point you to line 21, if I could.

14 A I am there.

15 Q Okay. Great. And it's essentially -- I'll
16 start -- and this is, this is an excerpt from, from
17 Commission rule. It says, and I'm going to start on
18 line 19, "In a proceeding to establish or modify goals,
19 each utility shall propose numerical goals for the
20 ten-year period and provide ten-year projections based
21 on the utility's most recent planning process." Would
22 you agree that this is a direct excerpt from, from the
23 rule?

24 A Yes.

25 Q Section, subsection 3, Section 3.

1 Could you read the next sentence in your
2 testimony?

3 **A** "This language was included to ensure that the
4 amount of cost-effective DSM being proposed was actually
5 needed consistent with each utility's planning process."

6 **Q** Okay. Now I am looking, I'm reading your
7 interpretation, and it seems to interpret the rule as
8 placing a limit on the DSM that, that can be used.
9 Would you agree with that interpretation?

10 **A** I'm not sure that I agree that it's an
11 absolute limitation. It is a consideration that there
12 needs to be a reconciliation between the utility's plans
13 to meet demand reliably and what amount of
14 cost-effective DSM is available to potentially offset
15 that need.

16 **Q** Okay. So you're interpreting it as a
17 consideration rather than a restriction on DSM.

18 **A** I'm not sure it's an absolute limitation, but
19 it's a, it's a serious and necessary consideration.

20 **Q** And where is that reflected in the rule?

21 **A** I'm sorry. Are you finished with your
22 question?

23 **Q** Yeah, sure. I'm finished with my question.

24 **A** Okay. Without taking the time to read every
25 provision of this rule, I'm not sure that there's

1 anything more than what's stated in what I quoted. I
2 think it's clear on its face as to what it means. It
3 certainly was clear to me at the time that the rule was
4 adopted that that was one of the considerations that
5 needed to be part of goal setting in Florida.

6 Q Uh-huh. So this is an interpretation of the
7 rule by you.

8 A No. I think the rule speaks for itself.

9 Q Okay.

10 A I did add my, my interpretation of that as
11 well, so maybe it's both.

12 Q Okay. But you would agree that if you look at
13 Section 3 of the rule, there's, there's absolutely
14 nothing in that section, subsection 3, that suggests
15 that DSM should be limited to what the utility claims it
16 actually needs; correct?

17 A Once again, I agree that there's probably no
18 use of the terminology in this rule that says that this
19 is an absolute limitation on the amount of goals that
20 can be approved. I would grant that that language is
21 probably not in this rule.

22 Q I would now like to turn our attention, since
23 you're taking us through this historical process, I do
24 want to move to the 1994 order that you discuss in your,
25 in your testimony starting at page 9, which you refer to

1 it as the so-called mega docket, and the subsequent
2 Commission order that came out of the docket.

3 **A** I must say that this proceeding is the closest
4 to the mega docket I've seen in a long time,
5 Commissioners. Maybe this is mega 2.

6 **Q** Okay. Now help me, help me, if you could
7 here, on page 10, line 9, where you answer the question:
8 "Did the Commission finally resolve the issue of the
9 appropriate cost-effectiveness test to set goals?" And
10 your response is, "Yes." Is that correct?

11 **A** Yes.

12 **Q** Okay. So you referred to that docket in part
13 as support for the use of the RIM test by the Commission
14 in this docket as well.

15 **A** Yes.

16 **Q** Is that correct? Okay.

17 **A** It's not dispositive, but it's useful
18 information.

19 **Q** Uh-huh. And, Mr. Deason, do you know the
20 difference in the current gigawatt saving projections
21 that FP&L is, is proposing for its achievable potential
22 for RIM as opposed to its achievable potential for TRC?

23 **A** Do I know that differential?

24 **Q** Roughly, do you?

25 **A** No. I would suspect that it's higher for TRC,

1 given the nature of that test, but I don't, I don't know
2 the differential.

3 Q Okay. If I told you, subject to check, that
4 FPL's achievable potential for gigawatt hour savings for
5 RIM is about 526 cumulative gigawatt hours and for TRC
6 it's 1,096 cumulative gigawatt hours, would that sound
7 about right to you?

8 A I have no basis to judge that, but I have no
9 basis to disagree with you either.

10 Q Okay. Then let's turn to page -- I'm at page
11 10 of your testimony. Now you not only rely on this
12 order for your position on RIM, but you also rely on
13 this order for support for limiting cross-subsidization;
14 is that correct?

15 A The order and the statute.

16 MR. CAVROS: Uh-huh. Okay. And what I'd like
17 do at this point, because I would like to go into the
18 '94 order, is, is, is hand that out right now. Yes.
19 This would -- I'm offering this exhibit as Exhibit 151.

20 MS. HELTON: Mr. Chairman, we don't need to
21 mark as an exhibit number, unless you just prefer to do
22 it that way, the order or the rule that Mr. Cavros has
23 passed out. You can just take official recognition of
24 that. That's all we need to do.

25 MR. CAVROS: That's helpful. Thank you.

1 **BY MR. CAVROS:**

2 **Q** Mr. Deason, if you could turn to page 21 of
3 your testimony.

4 **A** 21 of testimony or order?

5 **Q** If you'd just give me one, one second. We're
6 going to get to the order in just one second, but if you
7 could turn to page 11 of your testimony, line 9.

8 **A** Yes.

9 **Q** Okay. Great. And let me read to you. This
10 is, this is, I presume this is an excerpt from the
11 order, and let me read the first sentence to you. "We
12 will set overall conservation goals for each utility
13 based on measures that have passed both the Participant
14 and RIM test." And then you stop there and you continue
15 on to a sentence that is apparently much further down in
16 the order.

17 You omitted the sentence that comes right
18 after that, and I'd like to take a look at that
19 sentence. And that sentence is on -- in fact, this
20 excerpt is on page 22 of the order. And I will read the
21 first sentence of that order. I'll give you a second to
22 look, look at that paragraph, that first paragraph.

23 **A** Okay.

24 **Q** Great. Thanks. So the first sentence says,
25 and this is the Commission order, "We will set overall

1 conservation goals for each utility based on measures
2 that pass both the Participant and RIM test." And would
3 you be kind enough to read the rest of that paragraph
4 omitting the citations, please?

5 **A** "The record in this docket reflects that the
6 difference in demand and energy saving between RIM and
7 TRC portfolios are negligible."

8 **Q** Okay. And it continues to say that, "We find
9 that goals based on measures that pass TRC but not RIM
10 would result in increased rates and would cause
11 customers who do not participate in a utility DSM
12 measure to subsidize customers who do participate.
13 Since the record reflects that the benefits of adopting
14 TRC goals are minimal, we do not believe that increasing
15 rates even slightly is justified."

16 **A** I see that, yes, and I agree with that. I
17 mean, that is, that's the nature of the policy statement
18 that's being made here by the Commission, that it is not
19 appropriate to increase rates even though it would be
20 slight.

21 **Q** All right. But the sentence you did not
22 include in your testimony is that "The record in this
23 docket reflects the difference in demand and energy
24 savings between RIM and TRC portfolios are negligible."
25 Correct?

1 **A** That's correct. And to minimize space
2 constraints, I didn't include the last sentence as well,
3 which makes the very obvious and forceful statement that
4 regardless of the amount of differential, the fact that
5 rates would increase even slightly is not justified. So
6 that reinforces the statement that if the rates would
7 increase greatly, how much more important it is to set
8 DSM goals based upon RIM as opposed to the TRC test.

9 **Q** You failed to recognize that the Commission
10 chose RIM based on the record before it; correct?

11 **A** No. That's the very basis of my statement.
12 That was the record in front of the Commission, and the
13 Commission chose RIM based upon that record.

14 **Q** Okay. And you know that the Commission is the
15 trier of fact and makes factual determinations based on
16 substantial competent evidence in the record; correct?

17 **A** Yes.

18 **Q** Okay. And, and you're not an attorney; right?

19 **A** I am not.

20 **Q** Uh-huh. But you know as a former Commissioner
21 that Commissioners engage in a lot of different dockets
22 and deal with unique facts and make decisions based on
23 those facts.

24 **A** Other than the five people at the front of
25 this room, I probably have a better appreciation of that

1 than anybody else in this room.

2 Q Uh-huh. Okay. And based on the record before
3 it, the Commission chose RIM in this instance because
4 there was a negligible difference in demand and energy
5 savings; correct?

6 A No. I don't think that's the statement. I
7 think the statement was it was recognition that was
8 negligible in this case. But the policy statement is
9 that RIM is the preferred test, the primary test because
10 it does not result in rate increases for the general
11 body of customers.

12 Q Mr. Deason, you just agreed that a -- policy
13 statement aside -- a Commission may base its decisions
14 on substantial competent evidence. And the facts in
15 this case were that the savings were, were negligible
16 between the RIM and TRC portfolios that were, that were
17 presented to the Commission in this case.

18 A That may have been the facts in that case. I
19 don't think it diminishes the policy statement, and it
20 certainly doesn't diminish the consistent use of the RIM
21 test by the Commission for the majority of the goal
22 setting dockets that ensued from that time.

23 Q Based on the record before it, the Commission
24 also chose RIM because -- rather, chose not to
25 cross-subsidize because there was limited or negligible

1 demand energy savings difference between the RIM and the
2 TRC.

3 **A** I'm sorry. Could you repeat your question?

4 **Q** Sure. Sure. In addition to their choice of
5 RIM here, because of the facts before them that there
6 were negligible savings between RIM and TRC, they also
7 made the decision that -- and you used this report or
8 this order as support for your case that, that, that
9 subsidization should be limited -- and in this case the
10 Commission made a decision to limit cross-subsidization.

11 **A** I'm not sure if it was a decision to limit
12 cross-subsidization. It was to prevent cross-
13 subsidization by utilization of the RIM test.

14 **Q** Again, based on the facts in the record.

15 **A** Based upon the facts in this record and the
16 facts of all of the records that ensued subsequent to
17 that in which the RIM test was used for those very
18 reasons.

19 **Q** Irrespective of the cases that came after this
20 case, this particular case, one should not draw broad
21 policy conclusions from it, given that it was based on
22 unique facts in that particular docket.

23 **A** No. I absolutely disagree with that
24 statement. That's not correct.

25 **Q** But you just agreed that each individual case

1 has unique sets of facts.

2 **A** Each case has unique sets of facts and policy
3 can be derived from those facts, and that policy is not
4 necessarily limited to that set of facts. That policy
5 was established by the Commission, and it was used in
6 subsequent cases where there were different facts.

7 **Q** But we can at least agree that in this, in
8 this order it was established based on these facts in
9 this order.

10 **A** Yes. It was based upon these facts and the
11 Commission's interpretation of those facts and what --
12 and its interpretation as to what is the best policy.

13 **Q** In fact, if the facts had been different, the
14 Commission may have come out with a different, with a
15 different order; correct?

16 **A** I'm not sure of that. The facts would have
17 been that the TRC does not result in increased rates and
18 does not contribute to cross-subsidization. And, by
19 definition, I don't think that that factual situation
20 could have occurred.

21 **Q** The Commission, in fact, encouraged the
22 utilities to valuate (phonetic) implementation of TRC
23 measures in this particular order, did they not?

24 **A** Yes, and in the rule as well. The Commission
25 encouraged all three tests, including the TRC test,

1 realizing that valuable information could be derived.
2 But the Commission did make the policy decision in this
3 case that the RIM test should be the primary test, and
4 TRC information could be looked at in conjunction with
5 the RIM test to see if there should be some, some tweaks
6 to the use of the RIM test.

7 **Q** Let's go back to line -- page 8 of your
8 testimony again, line 22, because this order also
9 addresses the issue we discussed earlier regarding the
10 utility's most recent planning process. So I'm going to
11 ask you now to turn to page 32 of the order.

12 **A** I'm there.

13 **Q** Great. And I'll read the first two sentences
14 of that first paragraph. "Our rule requires each
15 utility to propose numeric goals for a ten-year horizon.
16 We accept FPL's RIM-based goals for each year during the
17 period 1994 to 2000."

18 And if you'd be kind enough, could you read
19 the second paragraph just without the citations?

20 **A** The entire paragraph?

21 **Q** If you could, if you don't mind.

22 **A** "FPL believes that it is premature to set
23 goals for the 2001 through 2003 period because the
24 company's DSM-RIM goals are projected to meet new
25 capacity needs through January 1, 2002, when

1 340 megawatts of resource options are required to
2 maintain system reliability criteria. FPL excludes
3 210 megawatts of cost-effective DSM-RIM in 2001 because
4 FPL's cost-effective DSM-RIM was insufficient to defer
5 in its entirety the 340-megawatt need in 2002. We
6 include the 210 megawatt of uncommitted DSM-RIM in the
7 company's goals which may ultimately be combined with
8 additional DSM resources, if found, or with a
9 RFP/standard offer for 130 megawatts to satisfy the 2002
10 need."

11 **Q** Thank you for reading that.

12 So essentially FP&L had a 340 megawatt need in
13 2002, it had 210 megawatts of DSM it felt was
14 insufficient to meet that 340 megawatt need, and
15 therefore did not set goals for the last three years.
16 Is that correct?

17 **A** Yes. I think that's pretty much the factual
18 situation.

19 **Q** Okay. FPL argued essentially that additional
20 DSM was inconsistent with the results of its planning
21 process here in this order; correct?

22 **A** No, I wouldn't necessarily agree with that.
23 The decision here in the presentation by FPL was based
24 upon its planning process as required by the rule and as
25 is contained in my testimony that that is a needed

1 consideration.

2 There was a difference of opinion between FPL
3 and the Commission as to how the dynamics of that
4 planning process needed to be reconciled with the amount
5 of available DSM savings under the RIM test.

6 **Q** Uh-huh.

7 **A** And when that savings should be recognized in
8 setting goals. So it wasn't that there was a deviation
9 from using the planning process, it was a difference of
10 opinion as to how the facts of that planning process
11 should be used to set goals.

12 **Q** Correct. And the Commission said you, FPL,
13 you go out and you do more DSM to meet that.

14 **A** Yes, I believe it was -- we included 210
15 megawatts.

16 **Q** Uh-huh. And the Commission at that time felt
17 that that resource need could also, also be combined
18 with additional DSM resources if found or with some sort
19 of Standard Offer Contract; correct?

20 **A** Well, we found that it may ultimately be
21 combined, and we felt that it was the prudent thing to
22 do considering that we were looking at a 10-year
23 horizon. We were setting goals for five years, and then
24 we knew that we were going to take another look at it in
25 another five years.

1 **Q** The Commission has never adopted a zero goal
2 for an investor-owned utility; correct?

3 **A** I'm confident in saying that the Commission
4 has never established a zero goal for the four largest
5 investor-owned utilities. I'm not sure about Florida
6 Public Utilities to say one way or the other. I do know
7 that the Commission has set zero goals for Orlando
8 Utilities Commission and JEA.

9 **Q** Okay. I'd also like to direct you to page 10,
10 line 16. The question above that is "Why did the
11 Commission reach this conclusion?" And your response
12 is, "As I stated previously, the Commission felt it was
13 always -- it was important to always implement FEECA
14 consistent with," et cetera, et cetera, et cetera.
15 Actually let me read that. "With its overarching
16 responsibility to regulate in the public interest and
17 with other provisions in Chapter 366."

18 So I read the whole order, and there was no
19 mention in the order about the Commission feeling that
20 it was important to always implement FEECA consistent
21 with its overarching responsibility. Is that something
22 that you could help me find?

23 **A** I'm not surprised you didn't find that exact
24 wording in the order. As a participant in that case,
25 that is my interpretation of the reasoning that the

1 Commission -- it was part of the decision-making process
2 to not look at FEECA in isolation but to interpret the
3 requirements of FEECA consistent with other overarching
4 responsibilities as contained in the entirety of Chapter
5 366.

6 **Q** Okay. So this is your opinion?

7 **A** I think it's my opinion. I also think it's,
8 it's founded in the results of the order because that is
9 the result of the order.

10 And let me add, I mean, it would be, it would
11 be inconsistent with the requirements of this Commission
12 to regulate in the public interest to read one section
13 of 366 and not -- read it in isolation and not take into
14 account how other provisions of 366 need to be read and
15 reconciled so that decisions are made in the public
16 interest.

17 **Q** Uh-huh. And I understand you're not an
18 attorney, but if you're looking at statutory
19 construction and there's a general overarching
20 legislative intent or overarching responsibility under a
21 statute section and then the Legislature provides more
22 specific language on how to deal with something,
23 generally the more specific language would trump the
24 more general. Are you familiar with that?

25 **A** I'm general -- I'm familiar with that as a

1 concept, yes.

2 Q Okay. I want to also just real quickly -- you
3 talk about the *LEAF* case. This order was challenged and
4 it went to the Supreme Court, and you discuss that on
5 page, page 13. And you use this as further support of,
6 of RIM; is that correct?

7 A Yes.

8 Q Okay. Do you know what the standard of review
9 is for a case before the Supreme Court on factual
10 issues?

11 A I am aware that the Supreme Court gives
12 deference to the Commission's decisions.

13 Q Uh-huh. And on factual issues it's generally
14 substantial competent evidence. Are you aware that if
15 the Commission has considered evidence and it's
16 substantial and competent, that the, as you said, the
17 Court will give the Commission deference and not put
18 itself in the shoes of the Commission?

19 A I'm aware the Court is not a re-trier of fact.

20 Q Okay. And on line 18 in that excerpt from
21 the, from the court order it says, "Based on our review
22 of the record, we find ample support for the
23 Commission's determination to set conservation goals
24 using RIM." So the Court in that essence simply
25 deferred to the, to the Commission and the facts before

1 the Commission during that '94 case; is that correct?

2 **A** Yes. And the relevancy of this is that the
3 belief in this case was appealing the case, saying that
4 as a matter of law that the Commission had no
5 alternative but to use the TRC test. So similar to
6 arguments that are being made in this very proceeding,
7 Commissioners. And I wanted to point out how the
8 Commission -- I mean, how the Court interpreted that
9 argument.

10 **Q** And you'd also agree that there's been an
11 amendment to the statute since this case?

12 **A** There has been. I discuss that in my
13 testimony.

14 **Q** We will get there.

15 **A** I hope so.

16 **Q** Also on line 8 the Court references class of
17 customers and the class of customers should not be
18 discriminated against. Do you see that?

19 **A** Yes.

20 **Q** Page 13, line 8.

21 **A** Yes.

22 **Q** Okay. And you would agree that a participant
23 and a non-participant is not a class of customer?

24 **A** No, I can't agree with that. I think that it
25 is -- in the context of setting goals, that participants

1 versus non-participants can be considered a class of
2 customers.

3 Q The three recognized class of customers are
4 generally commercial, residential, and industrial; is
5 that correct?

6 A That's one definition of class in the, in the
7 use of cost of service studies in setting base rates,
8 but that's not to say the class of customers cannot be
9 distinguished by other means.

10 The subject matter in front of the Commission
11 at this point is how to eliminate or minimize
12 cross-subsidy between participants and non-participants.
13 So the Court's use of that language in this case, to me,
14 means that it was referring to participants versus
15 non-participants. Otherwise, the language would have no
16 meaning in this context.

17 Q Uh-huh. And is this the authority you use?

18 A I'm sorry?

19 Q And is this the authority you use for your,
20 your support of participants and non-participants as a
21 class?

22 A No. I mean, this is, this is added indication
23 of what the Commission's policy is and why it was
24 correct and why the Court looked at it, reviewed it, and
25 found it to be consistent with the requirements of

1 Chapter 366.

2 **Q** Let's move on to the 2008 amendments, and I'm
3 going to turn to page 18 of your testimony and
4 specifically line 7. And I'll go ahead and read that
5 sentence. "Section 366.82(3)(b) requires the Commission
6 to consider the cost and benefits to the general body of
7 ratepayers as a whole, including utility incentives and
8 participant contributions. While this is new language,
9 the concept is certainly not new. This is precisely
10 what the Commission has consistently considered in
11 setting goals." Did I read that correctly?

12 **A** Yes.

13 **Q** Okay. Now Legislatures usually amend laws to
14 realize different outcomes; is that correct?

15 **A** I'm not sure I can agree with that. Sometimes
16 it's merely to clarify what's already existing in a law.

17 **Q** But generally a new law might include
18 renewable portfolio standards if there's concerns about
19 renewable energy. It could include laws on, on
20 cap-and-trade rulemaking if there's concerns about
21 climate change. Those would be examples of where the
22 Legislature changed the law to effect a change; correct?

23 **A** Yes, I would agree. If there was no mention
24 of those things in statute prior and it was included, I
25 guess you could classify that as a change, not a

1 clarification.

2 Q Uh-huh. So your contention then is that the,
3 that the Legislature changed the law in order to keep
4 things the same.

5 A It's my contention that the Legislature
6 offered greater clarification of its intentions when it
7 comes to the considerations that the Commission should
8 make in establishing goals that are cost-effective.

9 Q Okay. And your client, FP&L, advanced the
10 same theory in 2000 -- in the 2009 proceeding; is that
11 correct?

12 A I'm not sure.

13 Q Okay. Well, with all due respect, let's take
14 a look at some legislative history of the law. And I
15 would like to pass that out at this time and enter that
16 as an exhibit. It's described as 2008 FEECA Amendments,
17 Legislative History.

18 **CHAIRMAN GRAHAM:** Mary Anne, do we need to
19 give this an exhibit number?

20 **MS. HELTON:** It really depends if the
21 utilities are going to object, that might be a little
22 bit cleaner. But this is something I think you could
23 probably take official recognition of.

24 **MR. DONALDSON:** We can have it marked as an
25 exhibit. Thank you.

1 **MS. HELTON:** I think it's fine to take it as
2 an exhibit, Mr. Chairman.

3 **CHAIRMAN GRAHAM:** All right. So we'll mark
4 this as Exhibit 151.

5 **MR. DONALDSON:** Just realizing it's only a
6 particular section; it's not the complete history.

7 **CHAIRMAN GRAHAM:** Correct.

8 (Exhibit 151 marked for identification.)

9 **BY MR. CAVROS:**

10 **Q** So, Mr. Deason, this is a summary of past
11 legislation. If you could turn to the second page,
12 which is actually 57 at the bottom, and it describes the
13 FEECA amendments at the top of the page. And in bullet
14 points it highlights some of the changes that have been
15 made to the statute, and the second bullet point says,
16 "The cost and benefits to the general body of ratepayers
17 as a whole, including both utility incentives and
18 participant contributions," and in parenthesis it says,
19 "similar to a Total Resource Cost test, or TRC test, but
20 including the cost of incentives." Did I read that
21 correctly?

22 **A** Yes.

23 **Q** Okay. Now this was -- I'm sure you recall the
24 2008 energy bill. It was an omnibus bill that had a lot
25 of components and a lot of, a lot of legislative changes

1 in it. Would you agree with that?

2 **A** I would generally agree, yes.

3 **Q** Okay. And if you turn the to page to 58, page
4 58, the bill also provided legislative authority to this
5 Commission to develop a renewable portfolio standard.

6 **A** Yes, I recall this.

7 **Q** You recall that? Very well. And then if you
8 turn to page 60, it also provided authority to the
9 Department of Environmental Protection to develop a
10 cap-and-trade program. Do you recall that?

11 **A** Yes, I do.

12 **Q** Okay. And then if you turn to the following
13 page with the heading "House of Representatives Staff
14 Analysis" and go down six bullet points where it
15 provides a brief summary of the legislation, that sixth
16 bullet points says, "Requiring the PSC to adopt goals to
17 increase and promote cost-effective demand-side and
18 supply-side efficiencies in conservation programs and
19 renewable energy systems." Do you see that there?

20 **A** I do.

21 **Q** So would you agree that a, some of the
22 programs in that bill, some of the provisions in that
23 bill were certainly progressive provisions and, and
24 significant changes in law that we had not seen in
25 Florida before?

1 **A** I would agree. I would also agree that those
2 were suggestions or authorizations, and that after those
3 authorizations were granted, Florida did not implement a
4 cap-and-trade system and Florida did not implement a
5 renewable portfolio standard.

6 And I would also indicate that in your
7 reference to the language concerning the, what is in
8 parentheses, "similar to a Total Resource Cost test,"
9 that it is similar but it is not the Total Resource Cost
10 test because the Total Resource Cost test does not
11 include the cost of incentives. Only the RIM test does.
12 So there's a -- in an attempt to provide clarification,
13 maybe it was not as clear language as it should have
14 been. But, nevertheless, it is clear that the
15 Legislature did not mandate to the Commission that it
16 shall use the TRC test. In fact, that was a finding
17 that the Commission made in the last goal setting docket
18 proceeding that the changes, the legislative changes in
19 2008 did not mandate what was the appropriate
20 cost-effectiveness test and it was still a matter within
21 the discretion of the Commission. And that's an
22 interpretation with which I agree.

23 **Q** But you would agree that this legislation,
24 this 2008 bill, authorized the Legislature -- provided
25 legislative authority to undertake many of these

1 progressive energy initiatives.

2 **A** It was authorized, yes.

3 **Q** All right. Let's talk a little bit about the
4 2009 proceeding. I want to take you to page 19, if I
5 could, in your testimony where you state on line 10 that
6 "Consequently, the Commission rejected a plan filed by
7 FP&L to implement 2009 goals as having undue adverse
8 impact on the costs passed on to customers." Do you, do
9 you see that sentence?

10 **A** Yes.

11 **Q** Now the Commission approved DSM programs to
12 meet the goals set in 2009 for TECO; correct?

13 **A** I did not review that case in terms of the
14 impacts on TECO, but I don't have a basis to disagree
15 that that was the outcome.

16 **Q** Okay. And the Commission also approved DSM
17 plans to meet the goals for Gulf Power as well?

18 **A** I have no basis to disagree with that.

19 **Q** Okay. And would you know if the impacts of
20 those programs were the same or less regarding -- let me
21 back up. You reference in your -- and the Commission in
22 its order -- that the rate impacts from those plans
23 would have produced an undue rate impact. But do you
24 know what the, how those impacts related to the TECO and
25 Gulf impacts, if they were less, more?

1 **A** First, let me be clear, it wasn't my
2 interpretation. It was the Commission's interpretation
3 that those rate impacts or those rate increases were too
4 large, and that was the decision in reference to FPL.
5 But I'm not aware of the relative rate impacts for Gulf
6 Power and Tampa Electric.

7 **Q** Uh-huh. Would you happen to know if the
8 Commission staff found that the Commission should
9 approve FPL's plan because it was projected to achieve
10 all its goals, and the programs in the plan pass
11 cost-effectiveness testing, and that the plan would not
12 create undue rate impacts?

13 **A** I'm sorry. Could you repeat your question?

14 **Q** Yeah. Sure. Are you familiar or do you
15 remember that Commission staff came to a different
16 conclusion?

17 **A** In terms of the approval of the, of the
18 programs to, to achieve the goals?

19 **Q** Correct.

20 **A** Yeah. I'm also aware that the staff -- at the
21 time the goals were set that the Commission deviated
22 from staff's recommendation and adopted goals higher
23 than what staff recommended.

24 **Q** Do you know if TECO and Gulf have met their
25 goals?

1 **A** I do not, I do not know.

2 **Q** Uh-huh. You do not know.

3 Would you know if Gulf is currently achieving
4 almost 1 percent energy savings?

5 **A** I do not know.

6 **Q** Would you know if their DSM plans have, in
7 fact, come in under budget this year?

8 **A** I do not know. Gulf is an extremely well-run
9 company and have excellent management. I'm not
10 surprised if they're achieving that.

11 **Q** Okay.

12 **A** But that's not to say that what they have
13 achieved needs to be a template for FPL and what would
14 or would not constitute adverse and significant rate
15 increases for FPL's customers.

16 **Q** On page 21, line 9, you state that "I am not
17 here to criticize." But when these goals came out, you,
18 in fact, you or your company did complain to the
19 Legislature on behalf of one or more of your IOU
20 clients; is that correct?

21 **A** I did not complain to the Legislature, and FPL
22 is not my company. I'm here testifying on their behalf.
23 I don't know if they complained in any way or not. I
24 just do not know that.

25 **Q** Okay. Do you recall if you participated in a

1 2010 House Energy Committee meeting?

2 **A** I recall making presentations perhaps in that
3 general time period, but I don't know for sure.

4 **Q** Uh-huh. Okay. Let's go to, if we could,
5 line, page 26 -- so we're moving along in your
6 testimony -- line 14. And actually I'm going to refer
7 you to line, line 17. And you are claiming that the
8 2009 order, and I'll read this, "First, it is
9 inconsistent with Rule 25-17.001(6), which requires the
10 Commission to continuously review present and
11 anticipated needs for demand in energy and recognize
12 that DSM goals are not to be exclusively relied upon to
13 meet customer needs." I'd like, as a, again, a
14 demonstrative exhibit, to pass out Rule 25-17.001.

15 Are you ready, Mr. Deason?

16 **A** Yes.

17 **Q** Okay. Great. On line, on line 18 -- this is
18 essentially an excerpt from, from the statute,
19 subsection 6 -- where you say, "The Commission shall
20 continuously review the relationship between demand and
21 energy," and you stop there. And that sentence
22 continues in, in the rule, and it says, "both present
23 and anticipated. In making its," the rule continues,
24 "In making its determination of need pursuant to the
25 Florida Electric Power Plant Siting Act, the Commission

1 shall take these relationships" -- or, rather, "shall
2 take these relationships into account so that sufficient
3 capacity will be authorized to meet anticipated needs."
4 This particular section seems to refer to determination
5 of needs; is that correct?

6 **A** Yes. But it also refers to the fact that it,
7 it's a starting point for establishing demand-side
8 management programs.

9 **Q** And then the second part of your statement,
10 "and to recognize that DSM goals not exclusively relied
11 upon to meet customer needs." Are you aware of how much
12 DSM is used, how much -- how many gigawatt hours of
13 demand are met through energy efficiency programs for
14 FP&L?

15 **A** I'm not aware.

16 **Q** Okay. Subject to check, would you agree that
17 it's about 0.2 percent annually?

18 **A** I have no basis to disagree. Mr. Koch or
19 Dr. Sim would be better able to give you a precise
20 answer to that.

21 **Q** Sure. Would that even approach exclusive
22 reliance on meeting customer needs?

23 **A** I'm sorry. Could you repeat your question?

24 **Q** Sure. Would that, would that remotely
25 approach exclusive reliance upon meeting customer needs?

1 **A** No, I don't think that it would.

2 **Q** You talk a little bit also from a policy
3 perspective about an even playing field, and this is on
4 line, line 12. And I want to talk about the even
5 playing field with you for just a bit. You advocate for
6 the RIM test in your testimony; correct?

7 **A** Yes.

8 **Q** Okay. And you know that RIM measures lost
9 revenues as costs, and thereby it tends to limit the
10 measure's cost-effectiveness relative to the TRC test;
11 right?

12 **A** There are two distinct tests. TRC does not
13 include the impact from lost revenues and the potential
14 to increase rates; RIM does. So, yes, that is a
15 significant difference between the tests.

16 **Q** Uh-huh. Right. So the answer is yes. Let
17 me --

18 **A** I agree that, that one considers it and one
19 does not. I mean, that's pretty much my statement.

20 **Q** And the fact that one considers it tends to
21 make it less cost-effective relative to the one that
22 does not consider it.

23 **A** Well, it depends upon the facts and
24 circumstances of the measure that's being reviewed.

25 **Q** Generally.

1 **A** But the fact that RIM considers lost revenues
2 or the potential to increase base rates, that does have
3 the impact of eliminating some programs or some measures
4 from further consideration. I would agree with that.

5 **Q** Okay. And do you know if revenue loss is
6 sometimes measured as long as the life of the avoided
7 unit, up to 30 years?

8 **A** I'm sorry. Could you repeat the question?

9 **Q** Sure. In measuring, in calculating lost
10 revenue, do you know or do you have any knowledge if any
11 of the utilities measure that lost revenue up to the
12 life of the avoided unit that that measures?

13 **A** I don't know that for a fact, but I would not
14 be surprised if it does because the nature of the test
15 is to measure the cost-effectiveness of a, a measure or
16 a program or a plant over a given life. So to ignore it
17 before that life ends may be an inconsistency. But let
18 me say that that would be better addressed to either
19 Dr. Sim or Mr. Koch.

20 **Q** And, of course, you know that measures are
21 eliminated from any potential analysis if the payback to
22 the customer is two years or less; right?

23 **A** I apologize. I didn't follow your question.
24 Could you repeat that?

25 **Q** Yeah. I apologize. Let me clarify.

1 You've given extensive testimony on the
2 two-year payback. So I'm just reaffirming that, that in
3 the potential analysis that FPL has proposed, measures
4 with a simple payback to the customer of two years or
5 less are eliminated from, from further consideration.
6 In other words, they do not make it to the achievable
7 potential step.

8 **A** Yes. Consistent with the rule, that was the,
9 that was the tool used to establish free -- to determine
10 a reasonable amount of free ridership, which would not
11 be included in the goals.

12 **Q** Okay. And do you know that some or maybe all
13 of the utilities limit the incentives for measures that
14 make it into the achievable potential to a two-year
15 payback level? Are you familiar with that?

16 **A** No. That would better addressed to probably
17 Mr. Koch.

18 **Q** Okay. And then do you know that after all
19 that then the measures go head to head with supply-side
20 options?

21 **A** Once again, you probably need to address that
22 to Dr. Sim.

23 **Q** Okay. If all that were true, would that be
24 your idea of a level playing field?

25 **A** Yes, even if all that were true. The idea is

1 to determine what is the most cost-effective alternative
2 consistent with the Commission's -- I mean, I'm sorry --
3 the company's planning process, and that seems to me to
4 be necessary steps to make that evaluation.

5 Q Mr. Deason, if I challenged you to a tennis
6 match and tied up both your legs and one arm behind your
7 back, would that be an even playing field?

8 A It depends on how good a tennis player you
9 are.

10 (Laughter.)

11 Q Fair enough. I want to turn your attention
12 real quickly to page 31 of your testimony. And actually
13 if we could go to the next page, 32. This is a section
14 of your testimony where you discuss economic development
15 considerations, and you quote a section of Rule
16 25-17.001, and this is subsection (7). And I'll start
17 from line 1 and just read, read that. "Rather, these
18 rules should be construed so as to enhance job producing
19 economic growth by lowering energy costs." And energy
20 costs, you would agree, are a function of both
21 consumption and rates?

22 A Bills are. I'm not sure that costs are.

23 Q Uh-huh. Okay. And customers pay bills;
24 correct?

25 A Yes.

1 Q Okay. I have one more final exhibit I'd like
2 to offer into, into evidence. This should be marked as
3 152. Do you have that letter, Mr. Deason?

4 A Yes, I have this document.

5 Q Okay. This is a document that was filed with
6 the Commission Clerk, just to give you the background on
7 it, by a company in the thermal energy storage business.
8 And I would just like to direct you to the third
9 paragraph down, the fourth line.

10 A I'm sorry. I'm not following your, your
11 reference.

12 Q Sure. I'm sorry. If you could turn the page
13 to the first -- the two pages -- to the first page of
14 the letter.

15 A I don't have a letter in front of me.

16 Q I apologize. Could we please pass out the
17 correct exhibit? It'll only take us a minute. Thank
18 you.

19 **CHAIRMAN GRAHAM:** We'll mark this as Exhibit
20 152.

21 (Exhibit 152 marked for identification.)

22 **BY MR. CAVROS:**

23 Q By way of background, this is a letter that
24 was filed with the Commission Clerk by a company called
25 CALMAC Manufacturing Corporation. And I would simply

1 like to direct your attention to the third paragraph of
2 that letter, the fourth line down, where the company
3 states, "By leveraging FPL incentives to install the
4 company's IceBank thermal energy storage technology, the
5 school districts -- the school district has realized a
6 reduction of \$5 million in utility bills over the past
7 seven years. These savings can go back into the school
8 district to hire more teachers or fund needed
9 infrastructure improvements."

10 I'd also direct your attention to the first
11 paragraph, the very last sentence, "I'm concerned about
12 the significant reduction in conservation goals proposed
13 by FPL because of the impact on its commercial and
14 industrial customers to realize significant bill
15 savings." You would agree with me that bill savings of
16 this magnitude are important to a school district?

17 **A** I'm sure it's important to the school
18 district, but it's also important to realize who's
19 paying the, the rebates and the incentives. It may be
20 just as important for them not to have that burden. It
21 would all depend upon whether the programs are
22 cost-effective, and I have no information beyond what
23 you've given me in this letter as to what the facts are.

24 **MR. CAVROS:** Okay. I have no further
25 questions for this witness and would like to move the

1 exhibits into the record.

2 **CHAIRMAN GRAHAM:** When we circle back around,
3 we'll do that.

4 EDF.

5 **MR. FINNIGAN:** No questions, Your Honor.

6 **CHAIRMAN GRAHAM:** Thank you.

7 Staff.

8 **MS. TAN:** Staff has no questions for this
9 witness.

10 **CHAIRMAN GRAHAM:** Commissioners.

11 I've got a question. Mr. Deason, welcome.

12 **MR. DEASON:** Thank you.

13 **CHAIRMAN GRAHAM:** The programs -- I guess I'm
14 going to address the two-year payback. The programs
15 that your client, Florida Power & Light, are suggesting
16 or have suggested in the past, what sort of programs are
17 set aside or are -- what programs out there are ones
18 that the people living below the poverty line can
19 afford?

20 **THE WITNESS:** I'm sorry. Which programs are
21 what, Mr. Chairman?

22 **CHAIRMAN GRAHAM:** I'm looking at programs that
23 are out there that somebody that has very minimum
24 resources can afford. What sort of programs would
25 Florida Power & Light suggest? For example --

1 **THE WITNESS:** I'm, I'm at a loss to answer
2 that question, Mr. Chairman. That probably would be
3 best directed to Mr. Koch, I believe, when he takes the
4 stand.

5 **CHAIRMAN GRAHAM:** Okay. Fair enough.

6 Any other questions? Rebuttal.

7 **MR. DONALDSON:** None.

8 **CHAIRMAN GRAHAM:** All right. Exhibits.
9 There's three things that you passed out. Well, I guess
10 there's more than three things, but there's two we put
11 numbers on. And there's this, it looks like a, an old
12 docketed case that we had that we didn't do anything
13 with.

14 **MR. CAVROS:** Okay. Yes. That was a mistake.
15 The -- we're entering 151, which is the excerpt of the
16 FEECA legislative -- the amendments.

17 **CHAIRMAN GRAHAM:** So the short title for that
18 will be 2008 FEECA Amendment Excerpts?

19 **MR. CAVROS:** Correct.

20 **CHAIRMAN GRAHAM:** And then 152, CALMAC
21 Manufacturing corporate letter?

22 **MR. CAVROS:** Correct.

23 **CHAIRMAN GRAHAM:** And those are the only two
24 exhibits?

25 **MR. CAVROS:** Correct. The others can be

1 administratively noticed, so we're fine. Thank you.

2 **CHAIRMAN GRAHAM:** Okay. Any objections to
3 those exhibits?

4 **MR. DONALDSON:** Well, FPL doesn't object to
5 Exhibit Number 151; however, we do object to 152 as this
6 is not sworn testimony. It's a correspondence that was
7 sent to the Commission. No discovery has been done on
8 this particular letter to verify the facts that are
9 being alleged in it. It's beyond the discovery
10 deadline, at least the date of it is. And so based on
11 those, those are the reasons why we would object to the
12 inclusion into the actual record.

13 **MS. HELTON:** Mr. Chairman, it would be better
14 to have raised those objections contemporaneously with
15 the discussion of the exhibit on the record. I agree
16 with all the concerns raised by counsel for FPL and it's
17 hearsay, but the timing of it was a little bit off.

18 **CHAIRMAN GRAHAM:** So your suggestion would be?

19 **MS. HELTON:** My suggestion would be maybe
20 everybody can understand that if they're going to make
21 an objection to an exhibit, that waiting until the time
22 that the exhibit will be admitted into the record is not
23 the appropriate time, according to Professor Ehrhardt,
24 and that it should be done at the time that the exhibit
25 is brought up and in discussion.

1 And so I would suggest, Mr. Chairman, that you
2 admit this exhibit and give it the weight that it
3 deserves.

4 **CHAIRMAN GRAHAM:** So would you suggest that we
5 just admit this exhibit as, for demonstrative purposes?

6 **MS. HELTON:** Well, I would suggest that you
7 admit the exhibit and give it the weight that it
8 deserves, and right now I'm not thinking that it
9 deserves much weight.

10 **MR. BUTLER:** Mr. Chairman? Mr. Chairman?

11 **CHAIRMAN GRAHAM:** Yes.

12 **MR. BUTLER:** May I respond briefly?

13 **CHAIRMAN GRAHAM:** Sure.

14 **MR. BUTLER:** We weren't sure where Mr. Cavros
15 was going with using it. I mean, if he wanted to ask
16 Mr. Deason if he was familiar with the substance of it
17 or some question about it that didn't go to the
18 substance of the letter, then it would have been okay.
19 It only became apparent kind of after he had finished
20 asking his questions. Apparently his only purpose of
21 putting it in was for the truth of what's laid out in
22 the letter. So I think that our opportunity to object
23 was really once he had finished his examination of it,
24 which is essentially what we did. And it's certainly
25 not proper evidence in the record, so we would just

1 renew our objection to it.

2 **CHAIRMAN GRAHAM:** I agree it's difficult. I'm
3 glad you handled it the way you did, because rather than
4 constantly stopping and objecting to things, you want to
5 see, let the flow go and see where it goes. I think
6 Mr. Deason answered it appropriately earlier when he
7 just said, "There's really no facts here. All I know is
8 these two lines that the guy says in this letter and I
9 don't know any of the background." So I think, as Mary
10 Anne said earlier, it pretty much in the record is
11 already given the weight that it deserves. I understand
12 where you're coming from, but I think in a situation --
13 I wouldn't say that you do anything any different than
14 you did last time because a lot of times you just want
15 to see where the flow goes.

16 **MR. BUTLER:** Okay.

17 **CHAIRMAN GRAHAM:** So we will enter 151 and
18 152 into the record.

19 (Exhibits 151 and 152 admitted into the
20 record.)

21 And I think we're done with Mr. Deason for
22 now.

23 **MR. BUTLER:** I think we are.

24 Our next witness will be Mr. Koch. Do you
25 want to take a -- I'm sorry.

1 **MS. HELTON:** I'm sorry. I don't have it in my
2 notes, and it may be that I just missed it, that
3 Mr. Deason's direct exhibits were admitted into the
4 record, Numbers 26 and 27.

5 **CHAIRMAN GRAHAM:** We have not done that. We
6 did his direct testimony.

7 **MS. HELTON:** We did his direct testimony, but
8 it's, I think, our practice is to admit the exhibits at
9 the end.

10 **CHAIRMAN GRAHAM:** You are correct.

11 **MR. DONALDSON:** Right. And at this point in
12 time, Your Honor, FPL would like to admit those exhibits
13 into the record.

14 **CHAIRMAN GRAHAM:** Exhibit Number 26 and Number
15 27.

16 **MR. DONALDSON:** Correct.

17 **CHAIRMAN GRAHAM:** Any other exhibits that
18 we've missed?

19 (Exhibits 26 and 27 admitted into the record.)

20 Okay. Your next witness, sir.

21 **MR. BUTLER:** Call Mr. Koch to the stand. Do
22 you want to get started now or are we going to take a
23 break?

24 **CHAIRMAN GRAHAM:** Let's get started now.

25 **MR. BUTLER:** Get started. Okay. I don't

1 believe Mr. Koch has been sworn.

2 Whereupon,

3 **THOMAS R. KOCH**

4 was called as a witness on behalf of Florida Power &
5 Light Company and, having first been duly sworn,
6 testified as follows:

7 **EXAMINATION**

8 **BY MR. BUTLER:**

9 **Q** Would you please state your name and business
10 address for the record.

11 **A** Thomas R. Koch, 9250 West Flagler Street,
12 Miami.

13 **Q** By whom are you employed and in what capacity?

14 **A** Florida Power & Light as Senior Manager of
15 Demand-Side Management Strategy, Cost, and Performance.

16 **Q** Have you prepared and caused to be filed
17 31 pages of prefiled direct testimony in this
18 proceeding?

19 **A** Yes.

20 **Q** Do you have any changes or revisions to your
21 prefiled direct testimony?

22 **A** No, I don't.

23 **Q** Okay. If I asked you the same questions
24 contained in your direct testimony today, would your
25 answers be the same?

1 **A** Yes, they would.

2 **MR. BUTLER:** Okay. Mr. Chairman, I'd ask that
3 Mr. Koch's prefiled direct testimony be inserted into
4 the record as though read.

5 **CHAIRMAN GRAHAM:** We will insert his testimony
6 into the record as though read.

7 **MR. BUTLER:** Thank you.

8 **BY MR. BUTLER:**

9 **Q** Mr. Koch, are you also sponsoring exhibits
10 TRK-1 through TRK-8 to your direct testimony?

11 **A** Yes, I am.

12 **Q** Okay. And are those exhibits prepared by you
13 or under your supervision, direction, and control?

14 **A** Yes.

15 **Q** Are they true and correct to the best of your
16 knowledge?

17 **A** Yes, they are.

18 **MR. BUTLER:** Okay. Mr. Chairman, I would note
19 that Mr. Koch's exhibits have been prefiled -- or
20 premarked for identification as numbers 18 through 25.

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **DIRECT TESTIMONY OF THOMAS R. KOCH**

4 **DOCKET NO. 130199-EI**

5 **APRIL 2, 2014**

6
7 **Q. Please state your name and business address.**

8 A. My name is Thomas R. Koch. My business address is 9250 W. Flagler Street, Miami,
9 Florida 33174.

10 **Q. By whom are you employed and what is your position?**

11 A. I am employed by Florida Power & Light Company (FPL) as Senior Manager, Demand-
12 Side Management Strategy, Cost & Performance.

13 **Q. Please describe your duties and responsibilities in that position.**

14 A. I am responsible for regulatory filings, reporting and cost management for FPL's
15 Demand-Side Management (DSM) related activities.

16 **Q. Please describe your educational background and professional experience.**

17 A. I have a Master of Business Administration and a Master of Science in Computer
18 Information Systems, both from University of Miami, and a Bachelor of Music from
19 West Chester University.

20
21 I joined FPL's Finance Department in 1985 working on forecasting and regulatory
22 projects. In 1989 I became Treasury Manager responsible for FPL's short-term cash
23 management, investing and borrowing. In 1991, I joined Customer Service where I was

1 responsible for program management of various tariffed offerings, product development
2 and commercial/industrial retail market strategy. Beginning in 1998, I served in a
3 number of positions in Distribution: Manager, Development & Planning; Manager,
4 Environmental Department; Manager, Underground Department; and Manager, Financial
5 Forecasting. In these positions I was responsible for: day-to-day field operations;
6 regulatory proceedings; growth activities; policy and procedure development; and
7 regulation compliance. In 2009, I rejoined Customer Service, initially working on
8 securing FPL's \$200 million award from the Department of Energy's Smart Grid
9 Investment Grant program and then on DSM. I assumed my current position in 2011.

10 **Q. Are you sponsoring any exhibits in this case?**

11 A. Yes. I am sponsoring Exhibits TRK-1 through TRK-8, which are attached to my
12 testimony:

13 TRK-1 – FPL's DSM National Performance Rankings

14 TRK-2 – 2014 Technical Potential Energy Efficiency Measures

15 TRK-3 – 2014 Technical Potential Update Methodology

16 TRK-4 – 2014 Technical Potential Results Summary

17 TRK-5 – Technical Potential for Economic Screening Sensitivities

18 TRK-6 – 2015-2024 Achievable Potential – RIM & TRC

19 TRK-7 – Proposed 2015-2024 DSM Goals

20 TRK-8 – Solar Pilots Results

1 **Q. What is the purpose of your testimony?**

2 A. The purpose of my testimony is the following:

- 3 • Describe FPL’s historical DSM performance
- 4 • Discuss impacts of significant market forces on utility-sponsored DSM
- 5 • Discuss the steps in FPL’s DSM Goals development process for which I am
- 6 responsible, including the impact of significant market forces on those steps
- 7 • Summarize FPL’s proposed 2015-2024 DSM Goals
- 8 • Report on the results of demand-side pilots for solar water heating and solar
- 9 photovoltaic technologies as part of FPL’s current DSM Plan (Solar Pilots)

10 **Q. Please summarize your testimony.**

11 A. The purpose of utility-sponsored DSM in fulfilling the intent of the Florida Energy
 12 Efficiency and Conservation Act (FEECA) should be straightforward – to encourage
 13 customers to implement cost-effective conservation measures (which reduce peak
 14 demand and/or energy usage) that they would not otherwise implement on their own.
 15 Utilities’ DSM programs pick up where the Florida Building Code and federal equipment
 16 manufacturing standards (collectively, Codes & Standards) leave off, by promoting cost-
 17 effective efficiency beyond the government mandates. The impact of Codes & Standards
 18 has been dramatic and provides an important frame of reference for the role of utility
 19 DSM. Because utility DSM programs are funded by the general body of customers, it is
 20 important that DSM is implemented in a cost-effective manner to ensure fairness for all
 21 customers. In addition, DSM represents one of two types of resources available to
 22 address future load needs (the other being generation resources), so it is important that

1 the level of DSM be based on sound economic analysis in which those two types of
2 resources compete to provide the best result for customers.

3
4 **Historical DSM Performance** – FPL is one of the industry leaders in DSM. For more
5 than three decades, FPL has focused on delivering DSM programs that help customers
6 manage their energy use while maintaining the discipline to avoid promoting DSM
7 measures that result in higher electric rates than supply-side options. For the majority of
8 this time, consistent with FEECA and the Commission’s DSM Goals Rule (Rule 25-
9 17.0021), certain critical goal-setting policies have been followed to ensure the best
10 balance of resources was achieved. Following these policies yielded resource plans,
11 including DSM portfolios, which have provided the most favorable long-term electric
12 rate impact for all customers. However, in the 2009 DSM Goals proceeding, the Florida
13 Public Service Commission’s (Commission) decision deviated from these policies, which
14 resulted in setting inappropriately high Goals. This is discussed in detail by FPL witness
15 Deason. The situation was partially mitigated for FPL’s customers by the Commission’s
16 subsequent decision on FPL’s DSM Plan (Order No. PSC-11-0346-PAA-EG,
17 consummated by Order No. PSC-11-0590-FOF-EG). This DSM Plan consists of the
18 DSM programs approved by the Commission in 2004 and subsequent modifications
19 approved by the Commission in 2006. With subsequent adjustments for 2012 Florida
20 Building Code changes, this is the DSM Plan currently in place.

21
22 **Significant Market Forces** – There are two significant marketplace changes that are
23 already affecting certain FPL DSM programs and will play an even more significant role

1 during future years. First, as discussed in more detail in FPL witness Sim's testimony, a
2 number of FPL's system costs (e.g., fuel, environmental compliance, etc.) have
3 experienced a significant decline in recent years. Reductions in system costs result in
4 enormous benefits for all FPL customers and Florida as a whole. However, avoiding
5 these, and other, system costs represents the main cost-effectiveness benefits achieved
6 through DSM. Accordingly, if the costs "to be avoided" by DSM are lower, then fewer
7 DSM programs will be cost-effective.

8
9 Second, there have been increases in mandated energy efficiency as a result of changes to
10 Codes & Standards. The effect of these Codes & Standards is positive for overall energy
11 efficiency in Florida because it means that 100% of customers are subject to
12 governmental requirements to install higher efficiency end-uses, rather than just those
13 that a utility could induce through one of its DSM programs. However, these mandated
14 improvements also have the effect of significantly reducing the amount of incremental
15 efficiency benefits achievable from a participating customer installing even more
16 efficient end-use equipment. This, in turn, diminishes the number and scope of cost-
17 effective DSM programs/measures. It should be recognized that these increased Codes &
18 Standards represent normal external forces which FPL must account for in its forecasting
19 and planning and necessarily will reduce the amount of cost effective utility-sponsored
20 DSM. This result should not be viewed as a negative, but rather as a positive in that (as a
21 whole) customer usage is much more energy efficient than it was even five years ago.

1 **Proposed DSM Goals Development Process** – As explained in greater detail by FPL
2 witness Sim, the Goals development process involves multiple analyses in a six-step
3 process. First, a Technical Potential (TP) analysis determines the breadth of measures to
4 be considered and their maximum hypothetical demand and energy savings. Second,
5 FPL’s resource needs during the DSM Goals timeframe are determined. Third, a
6 preliminary economic screening (Economic Potential) of the DSM measures is derived
7 based on the Participant, Rate Impact Measure (RIM), and Total Resource Cost (TRC)
8 preliminary screening tests, and their maximum rebate amounts are calculated. At this
9 stage of the process, FPL also performed Staff-requested sensitivity analyses to assess the
10 impact of variations in certain key assumptions: higher and lower fuel costs, shorter and
11 longer (1 and 3-year) customer payback for free ridership; and inclusion of CO₂ costs.
12 Fourth, the 10-year (2015-2024) Achievable Potential (AP) is determined based on the
13 maximum rebate levels for all measures that passed the prior screening. In the fifth and
14 sixth steps, various resource plans are developed and analyzed, respectively, to determine
15 the optimum level of DSM Goals. I discuss the first and fourth steps (development of TP
16 and AP), while FPL witness Sim discusses the other steps in the analytical process.

17
18 **FPL’s Proposed 2015-2024 DSM Goals** – FPL’s proposed cumulative DSM Goals for
19 2015-2024 are 337 Summer MW, 189 Winter MW and 59 GWh. They are the result of
20 FPL’s robust analytical process, requiring months of analyses. FPL’s proposed Goals
21 were developed in compliance with Rule 25-17.0021 and the Commission’s traditional
22 policies on DSM goal-setting that have provided large cumulative amounts of DSM

1 savings over the years. FPL's proposal will establish DSM Goals at an appropriate level
2 while continuing to maintain low electric rates for all FPL customers.

3
4 **Solar Pilots Results** – FPL is a long-time proponent of solar and currently operates 110
5 MW in Florida, which is far more than any other entity (utility or non-utility) in the state.
6 In its 2009 Goals decision, the Commission directed the investor-owned FEECA utilities
7 to file demand-side pilots for solar water heating and solar photovoltaic technologies as
8 part of their DSM Plans. The Solar Pilots are subject to an annual expenditure cap, which
9 for FPL is approximately \$15.5 million. The Commission approved seven Solar Pilots
10 for FPL. Since the Solar Pilots' initial launch in mid-2011 through year-end 2013, FPL's
11 general body of customers has spent a total of approximately \$30 million on the pilots.
12 Analysis during the 2009 Goals proceeding showed that no demand-side solar measures
13 were cost-effective and FPL's experience since 2011 when FPL's Solar Pilots were first
14 launched has shown this remains the case. At this point, these Solar Pilots have run long
15 enough to fully understand that they are an inefficient and unfair way to encourage solar.
16 The great majority of FPL customers, who do not participate in the Solar Pilots, are
17 subsidizing the uneconomic installation of solar measures for the very small fraction of
18 customers who do. Accordingly, it is incumbent upon proponents of such programs to
19 furnish compelling reasons and data for why the pilots should be continued after their
20 expiration at the end of 2014.

I. FPL'S HISTORICAL DSM PERFORMANCE

1
2
3 **Q. Please provide an overview of FPL's history and results in implementing DSM.**

4 A. FPL began offering DSM programs in the late 1970s prior to the Florida Legislature's
5 adoption of FEECA in 1980. Since then, FPL has maintained a continuous commitment
6 to DSM. As described in greater detail by FPL witness Sim, FPL has made DSM an
7 integral part of its Integrated Resource Planning (IRP) process and has consistently
8 evaluated DSM in accordance with the Commission's long-standing goal-setting policies.
9 Through this process, FPL has developed a wide array of cost-effective load management
10 and energy efficiency programs for both residential and business customers, which have
11 achieved large cumulative reductions. Through year-end 2013, summer peak demand has
12 been reduced by 4,753 Megawatts (MW), eliminating the need to construct the equivalent
13 of more than 14 new 400 MW generating units. Annual energy consumption has been
14 reduced by 66,782 Gigawatt-hours (GWh), equal to the consumption of all of FPL's
15 residential customers for more than a year. This reduction in consumption has resulted in
16 approximately 50.7 million tons of avoided CO₂ emissions (the equivalent of removing
17 approximately 9.7 million passenger cars from the road). FPL's long-term continuous
18 commitment to DSM has placed us among the industry leaders in terms of reducing the
19 demand for electricity. At the same time the discipline of working within the traditional
20 Commission goal-setting policies has helped ensure that our bills are among the lowest in
21 the state and well below the national average.

1 **Q. By what measures is FPL among the industry leaders in DSM performance?**

2 A. The U.S. Department of Energy (DOE) reports on the results of utility DSM efforts
3 through its Energy Information Administration (EIA). The EIA, using utilities' self-
4 reported data, reports both load management and energy efficiency achievement. It is
5 reasonable and appropriate to view EIA's results as directionally indicative of FPL's
6 performance.

7

8 As shown on Exhibit TRK-1, based on the latest EIA comparative data for the year 2012,
9 FPL is nationally ranked 2nd in terms of cumulative MW of total DSM defined as Energy
10 Efficiency (EE) and Load Management (LM) combined. For cumulative MW of LM and
11 EE individually, FPL ranked 2nd and 3rd, respectively. Additionally, FPL ranked 4th in
12 terms of EE cumulative GWh.

13

14 FPL's successful DSM performance is not simply due to its size. FPL system peak
15 represents only 2% of total U.S. peak demand, but FPL has achieved 7% of the total
16 DSM MW nationally, 9% of total EE, and 6% of total LM. So, compared to the industry,
17 FPL has been aggressive and successful in capturing cost-effective DSM for the benefit
18 of its customers.

19 **Q. Has this success resulted in high electric rates and bills for FPL's customers?**

20 A. No. Through disciplined evaluation of DSM and adherence to the Commission's long-
21 standing DSM policies, FPL has been able to achieve this success while keeping electric
22 rates low for all customers. This approach is a contributor to FPL's typical residential
23 monthly bill being the lowest in Florida and approximately 25% below the national

1 average. Clearly, the manner in which FPL and the Commission have historically
2 implemented DSM is working (including the 2011 decision modifying FPL's DSM Plan).
3 In other words, FPL's and the Commission's focus on cost-effective DSM has been
4 successfully striking the balance between energy conservation and maintaining low rates
5 for all customers.

6 **Q. Please provide some examples of FPL's load management and energy efficiency**
7 **programs.**

8 A. FPL operates one of the largest load management programs in the nation. As of year-end
9 2013, FPL's Residential On Call program, established in 1987, was the largest residential
10 load control program in the United States with about 830,000 participants. Along with
11 FPL's 22,000 business load management participants, FPL currently has approximately
12 1,900 MW of summer load management demand reduction available for use by FPL's
13 system operators. One example of FPL's energy efficiency programs is the Residential
14 Air Conditioning program which has helped more than 1.6 million customers make their
15 home's largest source of energy use more efficient than required by the Codes &
16 Standards that were applicable at the time of installation.

17 **Q. Does FPL also emphasize customer education as part of its DSM portfolio?**

18 A. Yes. FPL uses Home Energy Surveys (HES) and Business Energy Evaluations (BEE) as
19 a foundational component of its DSM portfolio. These are used for customer education
20 on conservation measures that make economic sense, whether offered as a part of FPL's
21 programs or not. Since 1981, FPL has performed over 3.3 million HESs and almost
22 200,000 BEEs. In 2013, more than 550 residential customers per day had an HES and
23 almost 50 business customers per day had FPL conduct a BEE. FPL also searches for the

1 most cost-effective delivery method that still meets our customers' needs by offering on-
2 site, phone or online channels. Additionally, FPL extended this education to the new
3 housing market through the BuildSmart™ program which helps builders to meet and
4 exceed the requirements of Florida's Energy Efficiency Code for Building Construction.

6 II. SIGNIFICANT MARKET FORCES

8 **Q. What marketplace changes are impacting utility-sponsored DSM?**

9 A. There are two significant marketplace changes affecting FPL's DSM programs. First is
10 the significant decline in recent years of a number of FPL's system costs (e.g., fuel,
11 emissions allowance costs, etc.). Though these reductions result in enormous benefits for
12 all FPL customers and Florida as a whole, avoiding system costs represents the main
13 cost-effectiveness benefits achieved through DSM. Accordingly, if the costs "to be
14 avoided" by DSM are lower, then fewer DSM programs will be cost-effective. FPL
15 witness Sim explains the reduction of FPL's system costs and its impact in his testimony.
16 Second is the more stringent Codes & Standards, which impact Heating, Ventilation &
17 Air Conditioning (HVAC) and lighting measures during the Goals time period.

18 **Q. Please elaborate on the effects of increased Codes & Standards.**

19 A. Increased Codes & Standards impact all residents and businesses by mandating higher
20 energy efficiency minimums for prospective end-use equipment installations and/or
21 building design improvements. In terms of the summer peak, the cumulative impact from
22 Codes and Standards based on savings beginning in 2005 and extending through 2014 is
23 estimated at approximately 1,700 MW. By 2024, the impact from Codes and Standards

1 is projected to increase by an approximate additional 1,800 MW for a cumulative savings
2 of 3,500 MW. Thus, the cumulative impact from Codes and Standards is expected to
3 more than double during the current goal-setting period (2015 to 2024) thereby reducing
4 the growth in FPL's summer peak by almost 30%. Because all customers must comply
5 with these higher energy efficiency requirements, market penetration and therefore
6 conservation impacts will be much higher as compared to induced participation in
7 voluntary utility programs. Utility-offered DSM programs are affected in two ways by
8 these increases. First, any utility-offered measures that are no longer above Codes &
9 Standards are rendered obsolete. The previously-achieved utility participation and
10 energy and demand savings will now be attained by the Codes & Standards instead,
11 thereby replacing efficiency gains that used to be obtained from DSM programs. For
12 example, the minimum residential air conditioning Seasonal Energy Efficiency Ratio
13 (SEER) standard is being increased from the current level of 13 to 14 in 2015. As a
14 result, FPL's current 14 SEER measure must be eliminated from FPL's DSM program.

15
16 Second, the "baseline" efficiency level will also increase, reducing the incremental
17 savings that the remaining DSM measures can achieve. For example, the residential air
18 conditioning SEER level increase from 13 to 14 results in a loss of 0.13 Summer kW and
19 275 annual kWh incremental savings for all higher SEER units. For a customer installing
20 a straight-cool air conditioner with a 16 SEER, this represents efficiency replacements of
21 more than 35% for both Summer kW and annual kWh from the current 0.36 Summer kW
22 and 731 annual kWh savings (relative to the previous 13 SEER baseline). This Codes &
23 Standards replacement of participating customer demand and energy savings will

1 significantly affect utility program/measure cost-effectiveness and put downward
2 pressure on proposed DSM Goals, simply because there are less savings to be realized
3 through DSM programs.

4 **Q. Will the impact of changes in Codes & Standards during the upcoming DSM Goals**
5 **period be substantially greater than in prior periods?**

6 A. Yes. Codes & Standards have been increased periodically in the past. However, during
7 the 2015-2024 time period that is being used to set DSM Goals in this proceeding, FPL's
8 DSM portfolio will be disproportionately impacted because one of the biggest Codes &
9 Standards increases applies to air conditioning in 2015. FPL's Residential Air
10 Conditioning program is a large contributor to the overall DSM portfolio savings,
11 representing approximately 45% of Summer MW and almost 60% of annual GWh overall
12 achievement in 2013. Therefore, the significant increase in mandated air conditioning
13 efficiency in 2015 will significantly reduce overall DSM portfolio achievement for FPL
14 even though the efficiency improvements will continue to provide the same fuel savings,
15 emission reductions and other benefits – the only difference is that FPL's non-
16 participating customers won't have to fund the rebates to get these efficiencies.

17 **Q. Has FPL's DSM portfolio been modified in the past due to changes in market**
18 **forces?**

19 A. Yes. FPL's DSM portfolio has never been static. Over the decades, programs have been
20 added, removed or modified to adapt to changing FPL resource requirements and market
21 conditions. For example, in 2006 FPL faced increased short-term resource needs and
22 significantly increased its DSM implementation by increasing load management
23 recruitment and adding some new measures. More recently, in 2012, FPL removed its

1 residential air conditioning right-sizing measure because the Florida Building Code had
2 been updated to mandate it.

3 4 **III. 2014 TECHNICAL POTENTIAL UPDATE**

5 **(DSM GOALS DEVELOPMENT STEP 1)**

6

7 **Q. Please define Technical Potential (TP).**

8 A. FEECA requires the Commission to "...evaluate the full technical potential of all
9 available demand-side and supply-side conservation and efficiency measures, including
10 demand-side renewable energy systems." (Section 366.82(3), F.S.) Therefore, a TP
11 analysis is the first in a series of steps in the DSM Goals development process. Its
12 purpose is to identify the theoretical limit to reducing summer and winter electric peak
13 demand and energy. The TP assumes every identified potential end-use measure (or
14 measures) is installed everywhere it is "technically" feasible to do so from an engineering
15 standpoint regardless of cost, customer acceptance, or any other real-world constraints
16 (such as product availability, contractor/vendor capacity, cost-effectiveness, and
17 customer preferences). Therefore, the TP in no way reflects the MW and GWh savings
18 that are achievable through real-world voluntary utility programs.

19 **Q. For 2014, why are FPL and the other FEECA Utilities updating their 2009 TPs
20 rather than conducting new TP evaluations?**

21 A. On June 17, 2013, Commission Staff held an informal meeting with interested parties
22 regarding this proceeding. At that meeting the parties agreed that the FEECA Utilities
23 would perform an update to the 2009 TP rather than a new, full TP. An update was

1 deemed to be reasonable due to the recency of the 2009 TP and the substantially less time
2 and expense required to perform an update versus a full TP. The FEECA Utilities
3 worked jointly to develop the update methodology. FPL's TP update was performed
4 under my direction. It resulted in a thorough and wide-ranging reassessment of
5 conservation and efficiency measures. The update required extensive iterative analytical
6 work and continuous collaboration among the FEECA Utilities to ensure that it was
7 comprehensive.

8 **Q. How were the measures included in the 2014 TP update identified?**

9 A. The starting point was the measures included in the 2009 TP, which was deemed a
10 comprehensive list of unique measures. Various sources were used to develop the list of
11 measures and supporting data, including utility-specific measurement and verification
12 (M&V) data, utility measure research data, the Florida Solar Energy Center, Itron data,
13 the California Database for Energy Efficient Resources (DEER), National Renewable
14 Energy Laboratory (NREL), the Electric Power Research Institute (EPRI), and local
15 equipment distributors for pricing information.

16
17 Building on this work, the FEECA Utilities then jointly determined which measures
18 should be eliminated due to the Codes & Standards changes. Next, the FEECA Utilities
19 identified new measures to be added for 2014. As was the case for the 2009 TP, a new
20 measure had to be an existing technology, currently available in the Florida market and
21 for which Florida-specific pricing data was available. Thus, non-commercialized
22 "emerging" technologies were excluded. It should be noted that FPL tracks and evaluates

1 such technologies on an ongoing basis in its Conservation Research and Development
2 program.

3
4 The 2014 TP update added 25 measures and eliminated 5 measures. The 2009 TP unique
5 Energy Efficiency (EE) measures that were retained, those eliminated and the new
6 measures added are shown in Exhibit TRK-2. The Demand Response (DR) and
7 Photovoltaic (PV) calculations did not require measure or baseline adjustments. For
8 purposes of the preliminary economic screening performed in the next step, the
9 residential measures were expanded to the three housing types and the business measures
10 were expanded to three respective rate classes, as appropriate. This resulted in 850
11 individual measures which were then analyzed.

12 **Q. Please describe how the demand and energy reduction values were calculated for**
13 **the 2014 TP update.**

14 A. Exhibit TRK-3 provides a graphical overview of the methodology, a step-by-step
15 description of all the calculations performed and the relevant associated definitions. All
16 modifications were made to each individual measure's "bottom line" Summer MW,
17 Winter MW and Annual GWh amounts as computed in 2009.

18 **Q. Please summarize the results of the 2014 TP update.**

19 A. The updates to the Summer MW, Winter MW and Annual GWh were performed for EE,
20 DR and PV for both the Residential and Business sectors. It is important to note that the
21 total TP for EE, DR and PV measures partially overlap each other and, therefore, are
22 developed independently and cannot be added together. Exhibit TRK-4 provides the

1 detailed results by market sector for each TP update step. Overall, the results for the
2 2014 TP were generally somewhat lower than the 2009 TP.

3 **Q. Do you find the overall TP results to be reasonable?**

4 A. Yes. The decrease is not surprising given the Codes & Standards changes and the level
5 of FPL's DSM achievements over the last 30-plus years.

6 **Q. Does the 2014 TP update reflect the full technical potential of all available demand-
7 side and supply-side conservation and efficiency measures, including demand-side
8 renewable energy systems, consistent with FEECA requirements?**

9 A. Yes. The starting point was the 2009 TP, which the Commission previously reviewed
10 and determined to be an adequate assessment of the technical potential of all available
11 demand-side and supply-side conservation and efficiency measures, including demand-
12 side renewable energy systems. (Order No. PSC-09-0855-FOF-EG). Because of the
13 comprehensive, iterative approach taken to updating the 2009 TP, the TP update provides
14 an adequate assessment of the full technical potential of all measures.

15 16 **IV. ACHIEVABLE POTENTIAL**

17 **(DSM GOALS DEVELOPMENT STEP 4)**

18
19 **Q. Please summarize the process that FPL used to move from the TP to DSM
20 Achievable Potential.**

21 A. After the TP was updated, FPL's resource needs during the DSM Goals timeframe were
22 determined and other facets of FPL's resource planning process were then used to
23 conduct an Economic Potential (EP), or cost effectiveness screening of the DSM

1 measures. It should be noted that the EP is a subset of the TP and also is a theoretical
2 derivation as the EP represents the upper bound of potential DSM measure savings
3 determined to be technically feasible and potentially cost-effective but without taking
4 into account important real-world constraints such as product availability,
5 contractor/vendor capacity, stock turnover rates, or customer preferences. Therefore, the
6 EP does not reflect the amount of potential peak demand and energy savings that are
7 likely achievable through voluntary utility programs. As described by FPL witness Sim,
8 measures from the TP are screened under both RIM and TRC cost-effectiveness tests,
9 with the participant test and years-to-payback screening also applied in both instances.
10 120 measures passed the preliminary economic screening under RIM and 300 passed
11 under TRC. Also as described by FPL witness Sim, FPL conducted certain sensitivity
12 analyses at this stage. Dr. Sim presents the number of measures that passed the various
13 sensitivity screenings in his Exhibit SRS-6. In Exhibit TRK-5, I provide the Summer
14 MW, Winter MW, and annual GWh TP associated with the measures that passed the EP
15 preliminary screening.

16
17 Maximum rebates for each measure in the base case RIM and TRC screenings are also
18 determined as part of this analysis. The measures that pass the preliminary screening
19 tests and their maximum rebates are used as an input to the next analysis, the
20 determination of Achievable Potential (AP) under both the RIM and TRC screening tests.
21 The AP determination was performed under my direction.

1 **Q. Please explain the process FPL used to develop its RIM and TRC APs.**

2 A. For each measure that passed the EP preliminary screening under either RIM or TRC,
3 FPL used a combination of quantitative and qualitative information and FPL's market
4 experience to develop the AP. The AP represents the sum of FPL's estimates of Summer
5 MW, Winter MW and Annual GWh for 2015-2024 for each measure. In contrast to the
6 TP and EP values, the AP MW and GWh values represent meaningful "real world" inputs
7 of DSM annual potential that can be used in the rest of FPL's resource planning process.
8 To calculate this, FPL estimates the 10-year customer adoption level, or participation, for
9 each measure.

10

11 Voluntary DSM programs recruit participants by providing monetary incentives (rebates)
12 and through marketing, education and training. A customer's decision on whether or not
13 to participate in a given DSM measure is the result of many interrelated factors.
14 Therefore, to assist with the AP estimates, FPL employed a proprietary modeling tool
15 developed by ICF International (ICF), a leading third-party implementer of DSM
16 programs. ICF has used this tool to estimate AP over many years and in numerous other
17 jurisdictions such as Maryland, South Carolina, Georgia, Arkansas, Louisiana,
18 Mississippi, Texas, Wisconsin, and Illinois. FPL employed the modeling tool on a
19 measure-by-measure basis relying on a number of elements that reflect FPL's market
20 experience:

21 • Participant's years-to-payback (using the maximum rebates);

- 1 • Payback Acceptance Curves – provides the percent of customers who should
2 select a measure based on years-to-payback. These curves, provided by ICF, are
3 based on customers’ stated preferences from market research;
- 4 • Historical adoption rates – provides “baseline” market experience reflecting both
5 the empirical and the non-quantifiable factors (such as customer awareness, etc.);
- 6 • Projected changes in market conditions – used to adjust historic adoption for
7 changes, such as lower projected rebates;
- 8 • Impacts of the delivery channel (e.g., participating independent contractors, or
9 PICs) – the number of measures that pass the EP and the new maximum rebate
10 levels can influence PICs’ desire to participate and, in turn, the extent to which
11 measures are conveniently available to customers .

12

13 For currently-offered measures, FPL started by estimating the Year 1 (2015) participation
14 using the factors listed above. For 2016-2024, FPL used a ramp-up (escalation) rate from
15 the 2015 participation value which combined customer growth and incremental further
16 market share penetration. For new measures (i.e., those not included in FPL’s current
17 DSM portfolio), the Year 1 (2015) participation was assumed to be zero due the likely
18 timing of final DSM Plan and Program Standards approvals and the time and logistics
19 required to launch and generate customer awareness – all of which will likely take most
20 of 2015 to execute. For 2016-2024, FPL applied a “market diffusion” or “s-curve” from
21 Year 1 until the measure reached its steady state adoption. This type of curve generally
22 has a steeper rate of growth in market penetration than was used for the currently-offered
23 measures, which tend to be on a flatter curve reflecting maturity in the market.

1 For residential measures, each customer residence represents one participant. For
2 business measures, a “participant” is normalized to 1 Summer kW. Due to the
3 differences between various types of businesses, this normalization facilitates making the
4 calculations on a standardized basis for these measures. The projected adoption values
5 are translated into their respective kW and kWh amounts and then summed to create the
6 AP under both RIM and TRC screening test paths. This AP methodology applied
7 essentially the same approach and considerations as used in prior proceedings.

8 **Q. What are FPL’s RIM and TRC APs for 2015-2024?**

9 A. FPL’s RIM and TRC APs are shown in Exhibit TRK-6. The RIM and TRC AP Summer
10 MW amounts are quite close. As FPL witness Sim addresses, the impact of DSM on
11 FPL’s Summer MW peak load is what matters for resource planning.

12 **Q. Why are the 10-year AP amounts lower than the TP?**

13 A. It should be expected that the AP will be substantially less than the TP. The TP is a
14 theoretical construct that essentially represents 100% market penetration everywhere a
15 measure is assumed to be technically feasible. In contrast, the AP represents the amount
16 of demand and energy savings that are both preliminarily cost-effective and projected to
17 be achievable in the market place over the 10-year Goals period.

18
19 The two significant market forces previously discussed have a major impact. Both the
20 increased Codes & Standards and the lower avoided cost benefits substantially reduce the
21 number of screening-passing measures and, very importantly, the size of the maximum
22 rebates when compared to today’s levels. These lower rebates restrict adoption in two
23 ways. First, lower rebates lengthen customer paybacks making investing in incremental

1 efficiency less attractive. Second, the programs become less financially desirable to PICs
2 who deliver certain FPL programs, such as Residential Air Conditioning due to the lower
3 total rebate payments. Many air conditioning measures did not pass the screening
4 evaluation, and for those that did the maximum rebate was substantially reduced. As a
5 result, it is possible that many PICs will not find it financially attractive enough to remain
6 in the program. Compounding the projected reduced adoption, the incremental kW and
7 kWh savings per measure are reduced by the increased Codes & Standards efficiency
8 minimums – meaning that each new participant in affected measures will now yield less
9 incremental kW and kWh savings. In sum, FPL’s AP is the product of normal market
10 forces which have made it more difficult for utility DSM to compete. Again, this should
11 not be viewed as a negative consequence, but rather a positive result of greater system
12 efficiency (i.e., lower avoided costs) and increased conservation and efficiency of
13 customer usage as a whole.

14 15 **V. PROPOSED DSM GOALS**

16
17 **Q. Once FPL determined its AP, how were the proposed DSM Goals determined?**

18 A. As discussed by FPL witness Sim, the AP is used as an input to the fifth and sixth steps
19 of the DSM goal development process, in which various resource plans are developed
20 and analyzed to determine the level of DSM Goals that represents an optimal mix of
21 DSM and supply-side measures and thus minimizes the overall electric rates for all
22 customers.

1 **Q. What are FPL's proposed DSM Goals for 2015-2024?**

2 A. FPL's proposed DSM Goals are set forth on Exhibit TRK-7. They result from the robust
3 analytical process, requiring months of analyses and thorough vetting of all assumptions,
4 that FPL witness Sim and I describe. FPL's proposed Goals were developed in
5 compliance with Rule 25-17.0021 and the traditional goal-setting policies that have
6 served FPL's customers well over the years by providing substantial amounts of DSM
7 while keeping all customer's electric rates low. FPL's proposed Summer MW Goal of
8 337 MW appropriately reflects the amount of cost-effective DSM reasonably achievable
9 over the 10-year planning period and, after accounting for the 20% total reserve margin,
10 is equivalent to avoiding yet another 400 MW power plant, on top of the 14 such plants
11 that FPL's DSM programs have already avoided. Though both annual and cumulative
12 figures are shown, FPL proposes the Commission return to the use of cumulative Goals
13 which had been the case prior to 2009.

14 **Q. Should it be surprising that the 2015-2024 Goals are lower than those established in**
15 **the past?**

16 A. No. Goals can and will vary, potentially significantly, from one reset period to another.
17 Projected load and resources are subject to change. Setting prospective Goals should not
18 be done based on an arbitrary target (such as previously-established Goals) but instead
19 should be based on the level that the IRP analytics determine, using current forecasts and
20 assumptions, represent the lowest long-term electric rate impacts for FPL's customers.
21 The DSM Goals, whether higher or lower, are not an end in themselves, but instead
22 represent one of the resources available to meet projected needs in the most cost-effective
23 manner possible in order to keep customer bills as low as possible.

1 **Q. What additional MW and GWh savings are projected to result from the increases in**
2 **Codes & Standards during 2015-2024 Goals period?**

3 A. During the 10-year Goals period, Codes & Standards are projected to reduce the summer
4 system peak by approximately an additional 1,800 MW. FPL's proposed Goals are in
5 addition to these savings. Therefore, FPL's customers will experience a large amount of
6 demand and energy savings from these mandates in addition to the savings resulting from
7 FPL's DSM Goals.

8 **Q. Should the Commission establish additional goals for efficiency improvements in**
9 **generation, transmission and distribution?**

10 A. No. As a normal part of the planning process, FPL continually looks for opportunities to
11 reduce the cost of providing electrical service to our customers. The potential for supply-
12 side improvements is continually looked at by FPL in its ongoing resource planning
13 analyses. As noted in FPL witness Sim's testimony, the fuel-efficiency of FPL's
14 generating system has dramatically improved: e.g., the heat rate of FPL's fossil fuel
15 generating units has improved by 20% since 2001 and is continuing to improve. Supply-
16 side efficiency and conservation are also analyzed in every need determination for new
17 generation. Rule 25-17.001, F.A.C., supports this stating: ". . . general goals and methods
18 for increasing the overall efficiency of the bulk electric power system of Florida are
19 broadly stated since these methods are an ongoing part of the practice of every well-
20 managed electric utility's programs and shall be continued." The Commission agreed
21 with this position in its 2009 Goals Order. If such additional Goals are desired, they
22 should be discussed in a separate proceeding.

VI. RESULTS OF FPL'S SOLAR PILOTS

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Q. What is FPL's position on solar as a renewable energy resource?

A. FPL is a long-time proponent of renewables, including solar. FPL owns and operates 110 MW of solar generation in Florida and has three decades of experience in evaluating, testing and implementing various forms of solar energy applications as discussed in FPL's 2014 Ten Year Site Plan. This experience has demonstrated that there are certain approaches that can be more or less effective in encouraging solar development, and FPL believes that everyone will benefit in the long run from choosing more effective options.

Q. What did the Commission direct the FEECA Utilities to do for demand-side solar in its 2009 Goals decision?

A. During the 2009 Goals proceeding, analyses indicated that no demand-side solar technologies were cost-effective under any of the preliminary screening tests. Therefore, each FEECA utility's AP and proposed Goals excluded solar. However, the Commission in its 2009 decision directed the five investor-owned FEECA Utilities "...to file pilot programs focusing on encouraging solar water heating and solar PV technologies in the DSM program approval proceeding (Solar Pilots). Expenditures allowed for recovery shall be limited to 10 percent of the average annual recovery through the Energy Conservation Cost Recovery clause in the previous five years..." For FPL, this annual expenditure cap is approximately \$15.5 million.

1 **Q. Please summarize the demand-side Solar Pilots that FPL has implemented to**
2 **comply with the Commission's directive.**

3 A. On January 31, 2011, the Commission in its Order No. PSC-11-0079-PAA-EG approved
4 seven Solar Pilots for FPL. There are three solar water heating (SWH) pilots: Residential
5 SWH; Residential SWH (Low Income New Construction); and Business SWH. There
6 are also three photovoltaic (PV) pilots: Residential PV; Business PV; and Business PV
7 for Schools. The seventh program is Renewable Research and Demonstration. The
8 program standards for the Solar Pilots were approved by the Commission Staff on May
9 13, 2011 and FPL then launched the pilots on June 29, 2011.

10
11 From their launch through year-end 2013, there have been a total of about 4,000
12 installations under FPL's Solar Pilots. All of FPL's customers (through ECCR) have
13 paid a total of about \$30 million for the Solar Pilots during this period – an average of
14 approximately \$7,500 per installation. The aggregate demand and energy savings as of
15 year-end 2013 are 5.6 Summer MW, 1.6 Winter MW and 20.0 Annual GWh. Based on
16 actual data obtained over the pilot period, all of the Solar Pilots are demonstrably not
17 cost-effective. They do not pass either RIM or TRC; therefore, those rebates are not
18 justifiable from the perspective of FPL's non-participating customers. In fact, as shown
19 on TRK-8, most of the Solar Pilots do not pass the RIM screening test even with the
20 rebate set at zero. Please also see Exhibit TRK-8 for further details on FPL's cost, the
21 all-in system costs, achieved savings and cost-effectiveness for each Solar Pilot.

1 **Q. Please describe FPL's experience and findings with the SWH Pilots.**

2 A. The Residential and Business SWH Pilots are rebate pilots. For Residential SWH, the
3 rebate is \$1,000 per system and for Business SWH the rebate is \$30 per 1,000 Btu/day
4 depending on system size (up to a max of \$50,000 per premise). FPL administers these
5 pilots through its reservation system on a first-come, first-served basis. Under the
6 Residential SWH (Low Income New Construction) Pilot, in order to assist low income
7 customers, FPL pays the full cost of the system through non-profit organizations such as
8 Habitat for Humanity. Since the mid-2011 launch, more than 3,000 SWH systems have
9 been installed through these pilots.

10

11 The pilots remain not cost-effective. These results show that not only are the SWH Pilots
12 financially detrimental for the general body of customers, but with the exception of the
13 low-income pilot, the SWH Pilots are not economical for the installing participant either.
14 This is likely one of the reasons that many customers who reserve a rebate and then do
15 their own assessment, do not end up following through to installation. The "completion
16 rate" for Business SWH Pilot is about 40% and Residential SWH Pilot is about 75%.
17 The aggregate demand and energy savings as of year-end 2013 for the SWH Pilots are
18 0.8 Summer MW, 1.4 Winter MW and 5.1 Annual GWh.

19 **Q. What are FPL's observations regarding SWH pricing?**

20 A. Over the time that the Residential SWH Pilot has been in effect, the invoice price charged
21 to customers by contractors has increased dramatically -- from an average of about
22 \$5,700 per unit in 2011 to about \$7,200 per unit in 2013. This approximate 25% price
23 increase essentially washes out the value of FPL's rebate. FPL does not know why

1 contractors have increased their cost to customers, but, as FPL stated during the 2009
2 Goals hearing, this same pricing phenomenon was also observed the last time FPL
3 offered such a program back in the 1980s. The fact that it has happened again
4 demonstrates the unintended consequences that can result from rebates. The installed
5 cost for residential customers would have to decrease by at least 60% to pass cost-
6 effectiveness under the Participant test – and no utility rebate could be justified because
7 residential SWH fails the RIM screening test even with a rebate of zero.

8 **Q. Please describe FPL's experience and findings with the PV Pilots.**

9 A. The Residential and Business PV Pilots are also rebate pilots which FPL operates in
10 essentially the same manner as the SWH rebate pilots. For Residential PV, the rebate is
11 \$2.00/watt_{dc} (with a max of \$20,000 per premise) and for Business PV the rebate is on a
12 declining scale from \$2.00 to \$1.00/watt_{dc} depending on system size (with a max of
13 \$50,000 per premise). The Business PV for Schools Pilot is designed to provide
14 educational materials and training to participating schools in conjunction with a PV
15 system and associated infrastructure. Ultimately, one or more systems will be installed at
16 schools in 23 of the 28 school districts served by FPL. Unlike the Residential and
17 Business PV Pilots, FPL pays the full cost of the systems that are installed at participating
18 schools and retains ownership for the first five years, at which point the systems are
19 donated to the schools. Since the mid-2011 launch, more than 950 systems have been
20 installed through the PV Pilots.

21
22 These pilots are not cost-effective. Despite the poor participant economics, all
23 reservations for the Residential and Business PV Pilots fill very rapidly. However, like

1 SWH, actual completion rates show substantial drop outs with only about 50% of
2 business and about 75% of residential customers actually installing systems.
3 Additionally, measurement and verification (M&V) has been completed on residential
4 PV showing that actual Summer kW and annual kWh savings were lower than originally
5 estimated. M&V Summer kW was 0.34 v. FPL's original estimate of 0.42 and annual
6 kWh was 1,114 v. FPL's original estimate of 1,330 – reductions of about 20% and 15%,
7 respectively. The aggregate demand and energy savings as of year-end 2013 are 4.8
8 Summer MW, 0.1 Winter MW and 14.9 Annual GWh.

9 **Q. What are FPL's observations regarding PV pricing?**

10 A. Over the course of the pilots, the average contractor invoice for residential PV's price per
11 kW_{dc} has declined from about \$5,400 in 2011 to \$4,100 in 2013. This approximate 25%
12 price decline within FPL's service territory is consistent with the nation-wide trend
13 widely reported by the media and attributed to factors such as low-priced foreign-made
14 panels. For example, the Solar Energy Industries Association (SEIA) reported a 25%
15 reduction in residential PV installed prices from the 3rd quarter 2011 through year-end
16 2013. It does not appear that FPL's rebates had any significant influence. In addition,
17 cost reductions have a long way to go. Based on the Participant screening test, the
18 installed costs for residential PV would have to fall more than 50% from today's average
19 to pass – and no meaningful utility rebate could be justified because residential PV is
20 essentially breakeven under the RIM screening test with a rebate of zero.

21 **Q. Please describe the Renewable Research and Demonstration Pilot.**

22 A. This pilot is designed to provide education and raise public awareness of solar
23 technologies through installation of demonstration PV systems in high-visibility areas

1 and to conduct research on emerging renewable technologies to fully understand and
2 quantify their potential energy savings performance and applications. FPL has installed
3 demonstration projects in places such as: the Museum of Discovery and Science in Fort
4 Lauderdale; the Kennedy Space Center Visitor Center in Cape Canaveral; and the
5 Imaginarium Science Museum in Fort Myers. FPL has also conducted research on
6 renewables under this pilot, such as PV-powered pool pumps.

7 **Q. At this point, have the Solar Pilots served their purpose?**

8 A. Yes. Because the largest hurdle faced by demand-side solar was financial, the following
9 represents a reasonable and comprehensive set of issues to test with these pilots. First,
10 could SWH or PV become cost-effective? Second, would there be any market changes
11 such as lower incremental customer cost and, most importantly, could this change be
12 directly attributed to an FPL pilot? Third, would the demand and energy savings be
13 better than assumed? Positive results for one or more of these objectives for a pilot might
14 indicate that the measure could become financially viable.

15
16 As described in the preceding Solar Pilots' summaries, the findings were the opposite.
17 Current analysis results have validated 2009 projections. Demand-side SWH and PV
18 remain decidedly non-cost-effective by large margins for non-participants and the
19 participants regardless of the preliminary cost-effectiveness screening test used. FPL did
20 not discern any significant improvements in either the availability or price of solar
21 technologies for customers as a result of the Solar Pilots, and in one case the pricing
22 actually got noticeably worse to the detriment of the participants. The one cost reduction
23 that was seen could not be attributed to FPL's Pilots.

1 **Q. What is your conclusion with regard to the Solar Pilots?**

2 A. The Solar Pilots have run for sufficient time to fully understand their performance and
3 results, and they are scheduled to expire at the end of 2014. The performance and results
4 show that these types of pilots are clearly not cost-effective and do not appear to be an
5 efficient and equitable way to encourage demand-side solar development. Indeed, the
6 lack of cost-effectiveness of these pilots unfairly places higher rate impacts on non-
7 participating customers, many of whom do not have the resources or any practical
8 incentive to incur the substantial financial outlay to participate in the pilot programs.
9 Accordingly, it is incumbent upon proponents of such programs to furnish very
10 compelling reasons and data for why the pilots ought to be extended or converted into
11 full DSM programs, rather than simply being allowed to expire.

12 **Q. Does FPL intend to pursue alternative programs to promote solar?**

13 A. Yes. FPL is exploring other programs that could promote solar efficiently and without
14 cross-subsidies among customers. For example, FPL is filing in a separate docket a
15 proposed voluntary, community-based solar partnership pilot program. That pilot
16 program will provide an efficient way for customers to support solar that: (1) is not
17 restricted to customers who can install solar facilities on their own property; and (2) does
18 not rely upon subsidies from non-participating customers.

19 **Q. Does this conclude your direct testimony?**

20 A. Yes.

1 **BY MR. BUTLER:**

2 Q And, Mr. Koch, have you prepared a summary of
3 your direct testimony?

4 A Yes, I have.

5 Q Would you please give that at this time.

6 A Good afternoon, Commissioners. The purpose of
7 utility-sponsored DSM under FEECA is straightforward:
8 Encouraging customers to implement cost-effective
9 conservation measures that they would not otherwise
10 implement on their own. DSM picks up where the Florida
11 Building Code and federal equipment manufacturing
12 standards leave off, by promoting efficiency beyond
13 government mandates. Because DSM is funded by all
14 customers, it's important to implement it in a
15 cost-effective manner to ensure fairness to all.

16 My testimony will focus on five areas: FPL's
17 historic DSM performance, the impacts of significant
18 market forces and changes on utility-sponsored DSM, the
19 steps in the DSM goals development process for which I'm
20 responsible, FPL's proposed 2015 through 2024 DSM goals,
21 and the results of FPL's demand-side pilots for solar
22 water heating and photovoltaics.

23 FPL has been one of the industry leaders in
24 DSM for more than three decades by focusing on
25 delivering DSM that helps customers manage their energy

1 while also maintaining the discipline to avoid promoting
2 DSM that results in higher rates than supply-side
3 options.

4 There are two significant marketplace changes
5 affecting the cost-effectiveness of future DSM. First,
6 FPL's system costs have declined significantly. This
7 results in enormous benefits for all FPL customers, but
8 since avoiding these system costs is the main benefit
9 achieved through DSM, this means fewer DSM programs will
10 be cost-effective.

11 Second, our increases in mandated efficiency
12 from codes and standards. The overall energy efficiency
13 effect is positive for Florida because 100% of customers
14 are now mandated to install higher efficiency end uses
15 rather than just those that utilities can induce through
16 DSM programs, but these mandates also reduce
17 significantly the incremental efficiency benefits that
18 can be achieved through those programs.

19 Turning to FPL's proposed goals, our goals
20 development process involves multiple analyses and a
21 rigorous six-step process. I'm responsible for two
22 steps, and FPL Witness Sim discusses the others. The
23 first step is a technical potential analysis which
24 determines the breadth of measures to be considered and
25 their maximum hypothetical demand and energy savings.

1 Consistent with the Order Establishing Procedure, FPL
2 updated the technical potential study that was accepted
3 by the Commission in the 2009 goals proceeding.

4 The fourth step is determining the maximum
5 ten-year achievable potential based on the maximum
6 rebate levels for each measure that can be paid
7 consistent with the economic screening tests.

8 FPL proposed cumulative DSM goals for 2015
9 through 2024 of 337 summer megawatts, 189 winter
10 megawatts, and 59 gigawatt hours. They are the result
11 of FPL's robust analytical process that required months
12 of analyses, and they were developed in compliance with
13 the Commission's rule and traditional goal setting
14 policies that have provided large cumulative amounts of
15 DSM savings over the years. They appropriately reflect
16 the impact of the market forces I described earlier and
17 will continue to maintain low rates for all customers.

18 My final topic is the solar pilots results.
19 In 2009, the Commission directed the utilities to
20 implement demand-side pilots for solar water heating and
21 photovoltaics subject to an annual expenditure cap.
22 Through year-end 2013, FPL's general body of customers
23 has spent about 30 million on the pilots. Analysis in
24 2009 showed that no solar measures were cost-effective,
25 and FPL's experience to date has shown this remains the

1 case. These pilots have now run long enough to fully
2 confirm that they are an inefficient and unfair way to
3 encourage solar with non-participating customers
4 subsidizing the uneconomic installations of the tiny
5 fraction of customers who do participate.

6 Commissioners, FPL's proposed goals represent
7 FPL's reasonably achievable cost-effective DSM potential
8 for 2015 through 2024, and FPL respectfully requests
9 that they be approved. This concludes my summary.
10 Thank you.

11 **MR. BUTLER:** Tender the witness for
12 cross-examination.

13 **CHAIRMAN GRAHAM:** Thank you.

14 OPC.

15 **MR. SAYLER:** Thank you, Mr. Chairman.

16 **EXAMINATION**

17 **BY MR. SAYLER:**

18 **Q** Good afternoon, Mr. Koch. How are you?

19 **A** Good afternoon.

20 **Q** I'm Erik Sayler with the Office of Public
21 Counsel.

22 Were you in the hearing room during the
23 opening statements earlier?

24 **A** No, I was not.

25 **Q** Okay. Were you aware that OPC has, in our

1 prehearing statement, has taken the position that if the
2 Commission approves RIM goals, that there should be no
3 rewards to any of the companies if they exceed those RIM
4 goals?

5 **A** I did not hear that.

6 **Q** You did not hear that. Okay.

7 And when it comes to the DSM goals that FP&L
8 is proposing, isn't it true that FPL's goals are
9 actually lower than its RIM achievable potential?

10 **A** Could you repeat the question, please?

11 **Q** Certainly. Isn't it true that FPL's proposed
12 DSM goals are lower than its RIM achievable potential?

13 **A** Yes, that's true. The achievable potential
14 represents the fourth step in the six-step process, and
15 at that point we haven't yet competed it with either DSM
16 measures themselves or supply measures in order to see
17 what would best meet the need.

18 **Q** Okay. And if the Commission approves FPL's
19 proposed goals, is it your testimony that FPL would seek
20 a reward for exceeding those proposed goals which are
21 less than its RIM achievable potential?

22 **A** That's not part of my --

23 **MR. BUTLER:** Excuse me. I'm going to object.
24 I don't think that this is part of Mr. Koch's testimony.
25 I'd like Mr. Sayler to point to where in Mr. Koch's

1 testimony he's directing this cross-examination.

2 **MR. SAYLER:** Certainly. In response to
3 interrogatory number 10 that Public Counsel served on
4 all the utilities, Mr. Koch was the respondent or he
5 signed the affidavit saying that he was responsible for
6 the utility's answer to our question to all the
7 utilities regarding "Should utilities receive rewards
8 for exceeding RIM-based goals?" So that's the basis for
9 my question.

10 **MR. BUTLER:** I'm not hearing any reference to
11 Mr. Koch's testimony in there.

12 **BY MR. SAYLER:**

13 **Q** When it comes to -- you would be the person
14 who would, is responsible for sponsoring the goals for
15 the utility; is that correct?

16 **A** Yes, that's correct.

17 **Q** All right. And you also are responsible for
18 responding to OPC's interrogatories; is that correct?

19 **A** Some of the interrogatories, yes. That's
20 correct.

21 **MR. SAYLER:** Okay. Then if you're not the
22 witness for responding to whether FPL should be able to
23 receive a reward for exceeding its RIM-based goals, then
24 I would ask Mr. Butler who the witness -- or who would
25 the witness be.

1 **MR. BUTLER:** I'm not sure that we have a
2 witness who is identified to respond to your questions
3 on your discovery request. I mean, we provided answers
4 to your discovery, but I believe that the proper scope
5 of examination is the testimony that has been prefiled.
6 Mr. Koch's testimony doesn't go to the topic that you
7 are addressing.

8 **MR. SAYLER:** Is he able to answer the question
9 for the company?

10 **MR. BUTLER:** I'm not sure.

11 **MR. SAYLER:** Would FPL seek rewards for
12 achieving or exceeding goals that are lower than RIM?

13 **MR. BUTLER:** Honestly I don't know that
14 Mr. Koch is in a position to answer that question. It's
15 certainly not a topic of his testimony. It's, frankly,
16 not a topic that we prepared him to be, you know, able
17 to respond to today because it's not within the scope of
18 his testimony.

19 **CHAIRMAN GRAHAM:** It doesn't sound like this
20 is the witness, and it actually doesn't sound like there
21 is a witness that's coming up that can answer that
22 question.

23 **MR. BUTLER:** I don't really think that there
24 is. I mean, I am prepared to let Mr. Koch respond to
25 the extent he can to this. But I don't want to have

1 this -- well, I'll reserve my right to reraise
2 objections if it goes too far afield from his testimony.

3 **CHAIRMAN GRAHAM:** Understandable. And, Mary
4 Anne, for the most part, we are sticking strictly to
5 cross-examination of the written testimony.

6 **MS. HELTON:** Mr. Chairman, that's certainly
7 within your prerogative to restrict cross-examination to
8 the scope of the testimony. There is a stipulated
9 exhibit that deals with this, so I think that's what
10 Mr. Saylor must be going towards.

11 **CHAIRMAN GRAHAM:** But that exhibit has already
12 been stipulated.

13 **MS. HELTON:** The exhibit's already stipulated
14 and already in the record.

15 **CHAIRMAN GRAHAM:** Okay. Continue. We'll see
16 where it goes.

17 **MR. SAYLER:** Okay. Thank you. Actually it
18 was just the one question, Mr. Chairman.

19 **BY MR. SAYLER:**

20 **Q** If, if the Commission approves your goals as
21 proposed and you exceed those goals and qualify for a
22 reward, is it your testimony that FPL would seek a,
23 potentially seek a reward?

24 **A** I think the problem is -- and I think this is
25 what we said in discovery -- without knowing what the

1 criteria would be for any such reward or how it would be
2 judged, it's really not possible to answer that question
3 in the abstract.

4 Q All right. Fair enough. Thank you.

5 Moving on to rate impact. If the Commission
6 approves the company's proposed goals, what would the
7 rate impact be for a 1200 kilowatt residential customer
8 be?

9 MR. BUTLER: I'm sorry, Mr. Sayler. Compared
10 to what? Compared to the current goals, compared to
11 something else?

12 MR. SAYLER: In response to -- or FPL's
13 supplemental response to OPC interrogatory number 22,
14 they prepared a response for what the rate impact would
15 be for a 1200 kilowatt customers. I can -- I have an
16 exhibit which I can, a demonstrative exhibit which I can
17 pass around, and that's already in the record. I'm just
18 wondering if Mr. Koch has that number. Or I can just
19 provide him a copy and he can refresh himself with FPL's
20 response.

21 MR. BUTLER: That would be fine.

22 MS. HELTON: And, Mr. Chairman, I have a
23 request. If you wouldn't mind asking Mr. Sayler to
24 speak a little bit more into the microphone. I am
25 having a really hard time hearing him.

1 **MR. SAYLER:** Sorry. Will do.

2 **CHAIRMAN GRAHAM:** I think he heard you.

3 **MR. SAYLER:** Yes. I, I will speak louder and
4 project.

5 **BY MR. SAYLER:**

6 **Q** All right. Mr. Koch, are you familiar with
7 this response, supplemental response?

8 **A** Are you referring to the one on --

9 **Q** Page 2.

10 **A** -- that's marked page 2?

11 **Q** Yes. I hand marked numbers on here.

12 **A** Yes. Yes.

13 **Q** And this is labeled "Florida Power & Light
14 Interrogatory Number 2 Supplemental"?

15 **A** Yes.

16 **Q** Isn't it true that the current projected rate
17 impact for DSM is \$3.15?

18 **A** That's correct.

19 **Q** And if the Commission approves FPL's proposed
20 goals, it'll go down to \$2.13?

21 **A** \$2.13 is the estimate.

22 **Q** All right. And if you'll turn to the next
23 page marked 3 and marked -- just marked 3, my question
24 would be for you that if the Commission approved TRC
25 goals, do you know what the rate impact will be for a

1 residential customer?

2 **A** No, because FPL didn't propose goals based on
3 TRC.

4 **MR. SAYLER:** All right. Thank you. No
5 further questions.

6 **CHAIRMAN GRAHAM:** Department of Agriculture.

7 **MR. HALL:** No questions at this time.

8 **CHAIRMAN GRAHAM:** Thank you.

9 NAACP.

10 **MR. DREW:** No questions.

11 **CHAIRMAN GRAHAM:** PCS Phosphate, no questions.
12 FIPUG.

13 **MR. MOYLE:** We have, we have a couple.

14 **EXAMINATION**

15 **BY MR. MOYLE:**

16 **Q** To follow up on a question that OPC asked you,
17 in this docket, in this proceeding you're not asking the
18 Commission to increase the return on equity in this
19 proceeding based on achieving a goal, are you?

20 **A** No. I have nothing in my testimony about
21 rewards for goal achievement.

22 **Q** Okay. And indeed you're not aware of any FPL
23 evidence or testimony that asks for that in this
24 proceeding; correct?

25 **A** That's correct.

1 **Q** Okay. And the exhibit you were shown that has
2 the reduction in DSM in the cost, that doesn't
3 necessarily correlate to the amount of energy efficiency
4 that is realized; correct?

5 **A** Could you repeat the question?

6 **Q** Sure. This, this chart that shows that the
7 residential ratepayers, as I understand it, will save,
8 save some money if the Commission goes with FPL's
9 proposal as compared to something else, that's a, that's
10 an exhibit that talks about the cost. It doesn't
11 necessarily mean what's going happen to the actual
12 energy efficiency that's taking place in the field in
13 FPL's service territory; correct?

14 I mean, for example, there's mandated building
15 codes. That's stuff that's going to happen regardless
16 and be realized. I'm just trying to understand that
17 there's no correlation between these dollar differences
18 and the field results of energy efficiency.

19 **A** I think the answer to your question is yes.
20 What this represents is the effect -- and it was a
21 reduction effect of about a dollar to \$1.30 a year from
22 what currently the ECCR clause is collecting. So it
23 does not reflect the effect of any mandated codes and
24 standards, which obviously is, you know, quite
25 substantial, as I've talked about in my testimony.

1 **Q** Okay. And it doesn't reflect the results of
2 people making investment decisions because it's in their
3 own economic interest to invest in energy efficiency;
4 correct?

5 **A** No, it does not include that either.

6 **Q** Okay. On page 31 of your testimony, line 14,
7 you say, "For example, FPL is filing in a separate
8 docket a proposed voluntary, community-based solar
9 partnership pilot program." What's the status of that
10 filing?

11 **A** At this moment I'm not certain.

12 **Q** It's not pending as we sit here, and you're
13 not asking for it in this proceeding; correct?

14 **A** Correct. It's not part of this proceeding.

15 **Q** And do you know, are you responsible for that?

16 **A** No, I'm not.

17 **Q** You're not?

18 **A** No.

19 **Q** Do you know if in analyzing that whether,
20 whether that program would be subjected to screens such
21 as these energy efficiency measures in this proceeding
22 are?

23 **A** I'm not certain. It's not proposed as a DSM
24 program, so I don't think it would follow this, the
25 exact cost-effectiveness test that we use for DSM

1 testing. But conceptually a lot of the same concepts
2 would apply for it to be cost-effective to the general
3 body of customers.

4 **Q** So I guess you're not sure it could be done,
5 but not sure whether it's going to be done as we sit
6 here today; is that fair?

7 **A** Yeah. I'm not directly involved in this
8 filing, so I'm not familiar with the details of it.

9 **MR. MOYLE:** Thank you. That's all I have.

10 **CHAIRMAN GRAHAM:** Okay. Wal-Mart.

11 **MR. WRIGHT:** No cross, Mr. Chairman.

12 **CHAIRMAN GRAHAM:** Sierra Club.

13 **MS. CSANK:** A few questions, please.

14 **CHAIRMAN GRAHAM:** Sure.

15 **MS. CSANK:** Thank you, Chairman.

16 **EXAMINATION**

17 **BY MS. CSANK:**

18 **Q** Hello, Mr. Koch. Diana Csank on Sierra Club's
19 behalf.

20 **A** Hello.

21 **Q** I wanted to go back to the exhibit that OPC
22 introduced, and specifically FPL's supplemental response
23 to interrogatory number 22. Before we go there though,
24 just a general question, are participants generally
25 better off with energy efficiency, conservation, and

1 load management programs, or so-called DSM programs?

2 **A** You're asking me if participants are better
3 off?

4 **Q** Yes.

5 **A** Participants probably are better off. This is
6 the reason why they would select to have participated in
7 the program.

8 **Q** So going back to my question, is the answer
9 yes or no?

10 **A** I guess the answer would be yes.

11 **Q** Thank you. Has the company accounted for the
12 benefits to participants?

13 **A** We account for the benefits to participants in
14 the Participant test.

15 **Q** And where are the results of the Participant
16 test presented in your testimony or elsewhere?

17 **A** The results of the Participant test are in
18 Dr. Sim's testimony.

19 **Q** All right. So now turning to the bill impacts
20 that you provided in response to OPC interrogatory
21 number 22, does this reflect a participant or a
22 non-participant?

23 **A** This reflects all customers, participants and
24 non-participants, because it's reflecting the impact on
25 the ECCR clause, which all customers are responsible

1 for, for paying.

2 Q But do you account for specific bill savings
3 enjoyed by those who participate in the company's
4 programs anywhere in these numbers?

5 A These numbers are addressing the general body
6 of customers. They are not addressing the participant,
7 individual participants' bills.

8 Q Thank you for that clarification.

9 And do have a sense, are you familiar with the
10 extent of customer participation in FP&L's DSM programs?

11 A Could you be more specific?

12 Q That's something that you report on, the level
13 of participation in the programs that you offer; right?

14 A Yes, that's correct. We report on that
15 annually to the Commission.

16 Q How would you characterize that participation?
17 Is it robust?

18 A I guess I would say that, that there is a
19 large number of participants the -- in, in the program.
20 So it varies program by program the level of
21 participation. I'm not certain exactly how to
22 characterize it as you're asking me to.

23 **MS. CSANK:** Okay. Thank you. That concludes
24 my questions.

25 **CHAIRMAN GRAHAM:** Okay. SACE.

1 **MS. TAUBER:** Thank you, Mr. Chairman.

2 **EXAMINATION**

3 **BY MS. TAUBER:**

4 **Q** Good afternoon, Mr. Koch. My name is Jill
5 Tauber for SACE.

6 **A** Good afternoon.

7 **Q** Mr. Koch, I'd like to begin by the proposed
8 energy savings goal that you have offered up in your
9 testimony. The company is proposing 59.3 gigawatt
10 hours; is that correct?

11 **A** Yes.

12 **MR. BUTLER:** Could you refer to an exhibit,
13 Ms. Tauber?

14 **MS. TAUBER:** Absolutely. Exhibit TRK-7.

15 **MR. BUTLER:** Thank you.

16 **THE WITNESS:** Right. 59.2 gigawatt hours.

17 **BY MS. TAUBER:**

18 **Q** 59.2. And that's a cumulative goal.

19 **A** That's correct.

20 **Q** And that's over ten years.

21 **A** That's correct.

22 **Q** Okay. Now I'd like to hand you, Mr. Koch,
23 what's been previously admitted as hearing Exhibit 140.
24 And, Mr. Koch, I'll let the copies circulate, but this
25 is an exhibit that was provided in your deposition. And

1 this is the Commission's 2004 order approving FP&L's
2 conservation goals. Do you see that?

3 **A** Yes, I do.

4 **Q** Thank you. Now, Mr. Koch, I'd like you to
5 turn to page 4, if you would. And on that page there's
6 a table that I'd like to spend a little bit of time on,
7 which is a comparison of the proposed goals which were
8 approved by the Commission and, at the time, the
9 existing conservation goals. Do you see that table?

10 **A** Yes, I do.

11 **Q** Now the existing goals at the time from
12 2000 to 2009, do you see where it says "gigawatt hours
13 for residential, 943.2"?

14 **A** Yes.

15 **Q** And could you read for me the goals for
16 commercial and industrial for that same period in the
17 energy savings?

18 **A** 343.4.

19 **Q** Okay. So now putting them together, we've got
20 a total goal of 1286.6 gigawatt hours. Does that sound
21 right to you?

22 **A** I'll take your word for it.

23 **Q** Okay. Would you agree with me, Mr. Koch, that
24 59.2 gigawatt hours is smaller than 1286.6 gigawatt
25 hours?

1 **A** Mathematically that's true, but I don't think
2 it has any relevance whatsoever.

3 **Q** But it is smaller, 59.2 gigawatt hours is
4 smaller than 12 point -- 1286.6 gigawatt hours.

5 **A** I would agree with that.

6 **Q** Okay.

7 **A** Again with the same comment.

8 **Q** Would you agree with me that 59 gigawatt hours
9 is 4.6 percent of 1286.6 gigawatt hours?

10 **A** Maybe. Sorry.

11 **Q** I can hand you a calculator.

12 **A** That's not necessary. I'll take your word for
13 it.

14 **Q** Okay. I'd like you to move down to the
15 proposed row, if you would. Now these are the proposed
16 goals that the order, this order did eventually approve.
17 And could you read for me the residential gigawatt
18 hours, please?

19 **A** Yes. 931.

20 **Q** Thank you. Could you please do the same for
21 the commercial and industrial?

22 **A** 127.6.

23 **Q** So I'm getting a total goal of 1058.6. Would
24 you agree with that?

25 **A** That looks about right.

1 **Q** Mr. Koch. 59.2 gigawatt hours is smaller than
2 1058.6; is that correct?

3 **A** Again, but not relevant.

4 **Q** Would you agree -- could I have a yes or no,
5 please?

6 **A** Yes.

7 **Q** Thank you. And, Mr. Koch, would you agree
8 that 59.2 is 5.6 percent of 1058.6 gigawatt hours?

9 **A** I'll take your word for it.

10 **Q** Okay. Mr. Koch, if I can direct you back to
11 your testimony, that same Exhibit 7 where you have the
12 goals.

13 **A** I'm there.

14 **Q** Do you see the -- could you please tell me the
15 summer peak goals that you're proposing?

16 **A** The summer megawatt is -- are you asking for
17 the ten-year cumulative?

18 **Q** Yes, sir. Thank you.

19 **A** 336.7.

20 **Q** Okay. Now I'd like to go back to the table we
21 were just discussing, and I'd like to look at the
22 existing cumulative goals that occurred during the 2000
23 to 2009 period. Could you please read -- could you
24 please read the summer residential and summer commercial
25 industrial for me?

1 **A** 485.9 and 278.8.

2 **Q** Now I'm getting, when I add those together,
3 roughly 765 megawatts. Does that sound right?

4 **A** That sounds about right.

5 **Q** Would you agree with me that 336.7 megawatts
6 is less than 765 summer megawatts?

7 **A** Yes, I would. But, again, to be expected,
8 time to time the conditions change and the number could
9 be higher, could be lower in any given goals period.

10 **Q** You agree that this is less than 50 percent of
11 the goal we just discussed; is that correct?

12 **A** Could you state that again?

13 **Q** Sure. That was rather confusing. I
14 apologize.

15 Would you agree that the current goal you're
16 proposing, the 336.7, is less than 50 percent of the 765
17 goal?

18 **A** Mathematically that's correct.

19 **Q** I'm going to look at the later -- the second
20 row there, 2005 to 2014. Summer peak for residential
21 and commercial, just to expedite this, and you can tell
22 me if you agree with this, when I add them together, I
23 am getting roughly 800 megawatts.

24 **A** That looks about correct.

25 **Q** Would you agree that the goal you are

1 proposing is less than 50 percent of that goal that I
2 just stated?

3 **A** It's less than 50 percent of that number, yes.

4 **Q** Okay. I'd like to now refer you to a separate
5 document that has also been admitted as hearing
6 Exhibit 140. It is late-filed Exhibit F to your
7 deposition.

8 Mr. Koch, do you have the exhibit before you?

9 **A** Yes, I do.

10 **Q** Now this document is a list of -- this is a
11 version of an exhibit that you filed in your prefiled
12 direct testimony except that there are incremental
13 energy and demand saving values entered in. Do you see
14 that?

15 **A** Yes, I do.

16 **Q** Okay. So I'd like to turn to the energy
17 savings chart that lists FP&L at number four. Do you
18 see that?

19 **A** You're referring to the chart that's in the
20 lower right-hand corner.

21 **Q** Lower right. That's correct.

22 **A** Yes.

23 **Q** Now what was the 2012 energy savings that
24 Florida Power & Light achieved in 2012 as reflected on
25 this chart?

1 **A** 197.

2 **Q** Okay. So 197 gigawatt hours were achieved in
3 2012; that's what this is saying.

4 **A** That's correct.

5 **Q** And the company in this case is proposing to
6 achieve 59.2 gigawatt hours over a decade.

7 **A** That's correct, under an entirely different
8 set of circumstances, as I mentioned before. So it's
9 not unexpected. It could be higher or lower.

10 **MS. TAUBER:** At this time I'd like to hand out
11 an exhibit that has not been entered in. I'd like to
12 identify and distribute an exhibit.

13 And I believe, Mr. Chairman, this should be
14 identified as hearing Exhibit Number 153.

15 **CHAIRMAN GRAHAM:** Yes. We will call this
16 Exhibit 153.

17 **MS. TAUBER:** Thank you.

18 (Exhibit 153 marked for identification.)

19 **BY MS. TAUBER:**

20 **Q** Mr. Koch, I've distributed to you what's been
21 identified as 153, and this is FP&L's response to OPC's
22 interrogatory number 1. Do you see that?

23 **A** Yes, I do.

24 **Q** And I believe you are the sponsor of this
25 discovery response; is that correct?

1 **A** Yes, that's right.

2 **Q** Okay. Now in this discovery -- in this
3 interrogatory OPC had asked the company to fill in the
4 goals as well as achievements that the company had for
5 efficiency -- for energy and demand savings from 2000 to
6 2014. Do you see that?

7 **A** Yes, I do.

8 **Q** I'd like to go to Attachment 1, which is the
9 chart that the company has completed.

10 **A** I'm there.

11 **Q** Okay. Now I'd like to go to what is, I
12 believe, the last, most recent full year of data that
13 the company has. And given that we're in the middle of
14 2014, I'm going to assume that that is 2013; is that
15 correct?

16 In other words, the 2014 column is partially
17 projections, given that we're in the middle of the year;
18 is that correct?

19 **A** Yes, that's correct. Uh-huh.

20 **Q** Okay. Now if you could, under achievements,
21 again on energy, if you can please tell me the 2013
22 achievements that the company -- of the company for
23 energy in both the residential and C&I categories?

24 **A** Are you asking me for the year 2013 or 2014?

25 **Q** 2013.

1 **A** Okay. So for 2013 residential it's 138.7.

2 **Q** Okay.

3 **A** And for commercial it's 75.5.

4 **Q** Okay. Now, Mr. Koch, when I'm adding those
5 together, I'm getting roughly 214 gigawatt hours. Does
6 that sound right?

7 **A** That looks about right.

8 **Q** Okay. Now what I'd like to do is refer you
9 back to your proposed goal exhibit of your direct
10 testimony, which is TRK-7 once again.

11 And I'd like to ask you -- we've discussed the
12 cumulative number of 59.2, but I'd like to focus on the
13 incremental, the annual number. And am I right that the
14 first year of this goal period, 2015, the company is
15 proposing annual energy savings of 2.4 gigawatt hours?

16 **A** That's correct.

17 **Q** Okay. So if we look at the last full year,
18 the most recent full year of energy savings, which we
19 just discussed was 214, and we look at the first year of
20 this proposal, 2.4, we're looking at a 99 percent
21 reduction in gigawatt hours; is that correct?

22 **A** Yes and no. So the answer is mathematically
23 that's correct. However, the -- what we've sort of been
24 glossing over this whole time is the fact that this is
25 the result of having gone through the whole IRP process.

1 And at the end of the IRP process there's going to be a
2 certain amount of unmet need, and that unmet need is
3 going to be met by an optimized set of supply and DSM
4 options. And that optimized result is what you're
5 seeing here for the circumstances projected for 2015,
6 which really has nothing to do with the historical
7 circumstances.

8 Q Well, we'll certainly get to the optimization
9 issue, which may or may not be your testimony. But just
10 to go back, mathematically you agree that the company's
11 proposing a 99 percent reduction in gigawatt hours from
12 the last full year that they have of achievement, 214
13 gigawatt hours, to the first year of this proposal,
14 2.4 gigawatt hours.

15 A I would agree that we're proposing
16 2.4 gigawatt hours. However, it's not that it's a
17 reduction from before; it is an entirely different
18 projection under an entirely different resource plan.

19 Q You would agree with me that 2.4 gigawatt
20 hours is less than 214 gigawatt hours.

21 A Yes, I would.

22 Q Okay. Thank you. Now after, Mr. Koch, after
23 the Commission sets goals -- and we won't go into this
24 in too much detail at all -- but FP&L plans to develop
25 programs to achieve those goals; is that correct?

1 That's generally how the FEECA process works?

2 **A** Yes. The next step after the goals is we
3 would design programs to meet those goals.

4 **Q** So if there were an energy savings target that
5 was 99 percent lower than the existing levels of energy
6 savings, does that -- that could result in reductions in
7 programs, is that correct, in the size of programs?

8 **A** There could definitely be changes in the
9 programs. There might be some that are reduced and some
10 that don't make sense anymore because they're no longer
11 cost-effective under the current set of -- under the
12 current cost-benefit analysis.

13 **Q** Mr. Koch, the final planning year of this
14 proposal is 2024; is that correct?

15 **A** Yes.

16 **MS. TAUBER:** Okay. I'd like to mark another
17 exhibit, which will be 154.

18 (Exhibit 154 marked for identification.)

19 **BY MS. TAUBER:**

20 **Q** Now, Mr. Koch, this is a company's response to
21 an interrogatory propounded by the Sierra Club. Do you
22 see that?

23 **A** Yes, I do.

24 **Q** And I'm not going to go too far into this, and
25 I'd note this is a redacted version, but we're just

1 going to stick to subletter B, retail electricity sales.

2 Do you see that?

3 **A** Could you tell me which page you're on,
4 please?

5 **Q** I'm sorry. I'm sorry. Page 2. This is --
6 the company is providing their retail electricity sales.
7 Do you see that?

8 **A** Yes. Under subpart B?

9 **Q** Yes.

10 **A** Yes.

11 **Q** Now could you please read for me the total for
12 2024?

13 **A** 120,826,434.

14 **Q** Now this is for the retail sales of the
15 company. I'm assuming -- it's not listed -- but my
16 assumption is this is in megawatt hours. Do you, do you
17 know the --

18 **A** That would be my assumption also, it's
19 megawatt hours.

20 **Q** Okay. So what I'd like to just ask you is
21 this is the, this is the retail sales forecast for 2024,
22 and we're at roughly 120,000 gigawatt hours, as I do the
23 conversion with much trepidation to do math on the fly.

24 **A** Yes.

25 **Q** We talked earlier about the cumulative savings

1 goal ending in 2024 at 59.3. Do you recall that?

2 **A** Yes.

3 **Q** Now 59.3 represents roughly 1/20th of 1
4 percent of this retail sales figure; is that correct?

5 **A** Subject to check.

6 **Q** Would you agree with that?

7 **A** I'll agree with that.

8 **MR. BUTLER:** If you want him to do the math,
9 why don't you give him a calculator.

10 **MS. TAUBER:** Sure.

11 **THE WITNESS:** You gave me a number with a lot
12 of zeros on it.

13 **BY MS. TAUBER:**

14 **Q** Yeah. It may not go that low, but --

15 **A** I don't think that's the problem. It may be
16 an operator error.

17 **Q** Oh.

18 **A** Could you ask me the question again? I think
19 I got it here.

20 **Q** Yes. My question -- sure. My question is by
21 my math -- which again is, on a good day I'm hopeful
22 that I can get this -- is that the 59.2 percent gigawatt
23 hour goal that will be met in 2024 is equal to roughly
24 1/20th of 1 percent of sales in that year.

25 **A** Yes, I believe that's correct.

1 **Q** Okay. Great. Now, Mr. Koch, I'd like to
2 switch gears a little bit and take a look at your
3 exhibit in your direct testimony, TRK-1.

4 **A** I'm there.

5 **Q** Now this exhibit supports the discussion in
6 your testimony concerning FP&L's historical efficiency
7 performance; is that correct?

8 **A** That's correct.

9 **Q** Now this provides, what this exhibit provides
10 is rankings of cumulative demand and energy savings in
11 the different tables; is that correct?

12 **A** Yes, that's right.

13 **Q** Now this is data from EIA, which stands for
14 the Energy Information Administration; is that correct?

15 **A** Yes, that's correct.

16 **Q** Now this is based on self-report data; is that
17 correct?

18 **A** Yes, that's right.

19 **Q** Okay. And by self-report, I mean this is data
20 that the utilities submit to EIA and they compile the
21 statistics based on that.

22 **A** Yes, you're right.

23 **Q** Okay. Now the rankings in the various -- take
24 the top left, for example, the cumulative DSM megawatt
25 hours. Do you see that chart?

1 **A** Yes, I do.

2 **MR. BUTLER:** I'm sorry. I think that's
3 cumulative DSM megawatts, isn't it?

4 **MS. TAUBER:** Oh, yes, it is. You're correct.
5 I apologize. Megawatts.

6 **BY MS. TAUBER:**

7 **Q** Do you see that?

8 **A** Yes. I guess I shouldn't have been so quick
9 to agree.

10 **Q** Yeah. Right. So that is -- what you're doing
11 there is ranking the, ranking the utilities or providing
12 a list of the top ten performers by the amount of
13 megawatts that they saved; is that correct?

14 **A** Yes. Through load management and energy
15 efficiency.

16 **Q** Now going to the bottom right, I'm looking at
17 cumulative energy efficiency gigawatt hours, same, same
18 would apply, is that correct, that you're listing the
19 amount of energy savings -- listing the utilities by
20 order of how much energy savings they achieved; is that
21 correct?

22 **A** Yes. That's right.

23 **Q** Now this does not account for the amount of
24 sales or the amount of customers. This is an absolute
25 number; is that fair?

1 **A** That is true.

2 **Q** Okay. Mr. Koch, are you generally aware of
3 the other proposals from IOUs in this docket?

4 **A** I'm not specific with the -- not familiar with
5 the specific details from the other proposals.

6 **Q** Are you aware that Gulf Power is proposing
7 84 gigawatt hours as a goal?

8 **A** No.

9 **Q** Would you be surprised to learn that Gulf
10 Power is proposing 84 gigawatt hours?

11 **A** I wouldn't have a feeling about it one way or
12 the other. All of the utilities' needs and measures are
13 different, and so their costs are different, their
14 generation portfolios are different, what their growth
15 rates are going to be, all of that is different. So
16 it's actually not surprising there would be differences
17 between the various utilities.

18 **Q** Another thing that's different is size. Is
19 that correct, the utilities differ in terms of size?

20 **A** Between Gulf and FPL, yes.

21 **Q** FP&L, you guys have about 4.7 million
22 customers; is that correct?

23 **A** That's right.

24 **Q** Gulf has roughly 400,000; does that sound
25 right to you?

1 **A** Subject to check, it seems reasonable.

2 **Q** Okay. And 84 gigawatt hours is larger than 59
3 gigawatt hours; is that correct?

4 **A** That's correct. But similar to this line of
5 questioning we've been going through, it really isn't a
6 relevant comparison one to another.

7 **Q** Mr. Koch, in your testimony you talk about
8 marketplace changes affecting FP&L's programs. Do you
9 recall that discussion?

10 **A** Yes.

11 **Q** And I can point you -- the discussion is over
12 several pages, but just by anchoring this line of cross,
13 we're looking at, I believe it starts at around page
14 11 of your testimony. So if you just want to -- you can
15 certainly feel free to turn there for, for the place in
16 your testimony.

17 Now you discuss two changes, one of which you
18 go in a bit of detail, and that one is the increase,
19 increasing codes and standards. Do you recall that
20 discussion?

21 **A** Yes, I do.

22 **Q** Now by that, essentially what you're, what
23 you're saying, I believe, and you can correct me if I'm
24 wrong, that there will be an increase in the baseline
25 for energy efficiency measures, and that would lower

1 overall utility DSM savings; is that correct?

2 **A** There's a couple of points. That's, that's
3 one of them, that it'll have an impact on programs
4 because it will raise the baseline, thereby limiting,
5 limiting the effect of, you know, programs for future
6 DSM.

7 However, the real key point from here is that
8 the, there's a transformation going on where the
9 government mandates are taking a lot larger share of the
10 energy efficiency, and, therefore, utility-sponsored
11 programs are going to be shrinking. However, the fact
12 of the matter is that there's a lot more energy
13 efficiency in total being implemented in FPL's territory
14 and in Florida. You know, over this period of time not
15 only are we looking at 1800 megawatts, but around 5500
16 gigawatt hours just from the codes and standards impact
17 here that will go into effect over the next decade.

18 **Q** Now the impact of codes and standards, that,
19 that is reflected in your update to the 2009 technical
20 potential study; is that correct?

21 **A** That's right. Yes, it is.

22 **Q** And that was conducted under your supervision;
23 is that correct?

24 **A** Yes.

25 **Q** Okay. Now I'd like to refer you to your

1 Exhibit TRK-4 in your testimony.

2 **A** Okay. I'm there.

3 **Q** Okay. And that -- what this is providing is
4 the summary results of the 2014 update of the technical
5 potential study; is that correct?

6 **A** Yes. That's right.

7 **Q** So I'd like to look at the -- in the first
8 chart, if you will, there's three charts, the one on the
9 top. For 2004 updates to the technical potential,
10 number one is codes and standards. Do you see that?

11 **A** Yes. This top chart refers to the energy
12 efficiency, and number one is codes and standards.

13 **Q** Okay. So looking at efficiency, the reduction
14 that I'm seeing from codes and standards on annual
15 gigawatt hours, the furthest chart to the right is
16 4183 gigawatt hours. Do you see that?

17 **A** Yes. That's correct.

18 **Q** And so that is reducing, just to be clear, the
19 first row of this chart is the 2009 technical potential.
20 So we're taking the 2009 technical potential of 31,849
21 and we're reducing it by 4,183 to account for increasing
22 codes and standards; is that correct?

23 **A** Right. In essence that, that is correct. In
24 essence that is being transferred from something that
25 could be technically potential from the utility-

1 sponsored program over to mandated codes and standards
2 changes. So it's going to happen regardless because now
3 you have to install measures of that level of
4 efficiency.

5 Q Okay. Now when I'm -- and I'm -- the
6 calculator is still up there, so you can feel free to
7 use it. But I'm going to ask you, my calculation of the
8 impact of codes and standards on the 2009 technical
9 potential study is a 13 percent decrease in the
10 technical potential. Do you see that? Does that sound
11 right to you?

12 A That, that looks reasonable.

13 Q Okay. Now, again, we just discussed the
14 goals, however, would be decreasing by 99 percent.

15 A Well, this is the technical potential which
16 has little to do with goals. The purpose of the
17 technical potential is to establish what would be the
18 absolute maximum amount of theoretical, from an
19 engineering standpoint, energy efficiency, assuming that
20 every single measure was installed by everybody
21 everywhere regardless of cost and any sort of
22 marketplace consideration. So they're apples and
23 oranges.

24 Q Well, the two -- the technical potential is
25 the first step in formulating the goals. Would you

1 agree with that?

2 **A** Yes. It is the first step. So you can set
3 your --

4 **Q** And so we're taking -- excuse me.

5 **A** Sorry.

6 **Q** No. No. Please go ahead.

7 **A** You can basically -- its purpose is to set the
8 maximum level so you know sort of there's the kind of
9 not to exceed position, if you will.

10 **Q** Sure. And taking that maximum level, the
11 reduction to account for this market force that you've
12 identified is 13 percent; is that correct?

13 **A** In gigawatt hours, yes.

14 **Q** In gigawatt hours, yes.

15 Okay. So, Mr. Koch, I'd like to shift gears a
16 little bit and talk about briefly the years-to-payback
17 screening. Now understanding that other -- we have
18 covered that a good bit, and I'm going to certainly
19 endeavor to not repeat and to streamline things.

20 You mentioned in your testimony on page 18
21 that there is a years-to-payback screen that the company
22 employs as it develops goals. Do you -- are you aware
23 of that screen?

24 **A** Could you point exactly, in order to avoid
25 confusion on this, could you point exactly to where

1 you're talking about?

2 Q Sure. Well, I'm looking at your direct
3 testimony at page, at line 18 -- excuse me, page 18,
4 line 9, and you just speak to the screens that are
5 employed from the technical potential study.

6 MR. BUTLER: And what he literally speaks to
7 is that Mr. -- or Dr. Sim describes this. He's really
8 referring to something -- the only reference you're
9 making is to something that is, you know, discussed in
10 Dr. Sim's testimony. So I really don't think this is
11 the appropriate witness for payback screening questions.

12 BY MS. TAUBER:

13 Q Well, are you aware of this payback screen?

14 A Yes.

15 Q Okay. So why don't I -- I'll ask you a
16 question. And if you're not the right witness, you can
17 certainly tell me. Does that sound okay?

18 A Sure.

19 Q Okay.

20 CHAIRMAN GRAHAM: I don't mean to cut you off,
21 but how many more questions do you have? Ten minutes,
22 15 minutes, 20 minutes?

23 MS. TAUBER: At the risk of underestimating
24 and then being disappointing, I think I maybe have 15 to
25 20 minutes.

1 **CHAIRMAN GRAHAM:** Is it okay if we take a
2 break now? I don't want to catch you in the middle of
3 your stroke, but we're about time to switch over our
4 court reporters.

5 **MS. TAUBER:** Absolutely. We're -- since
6 we're -- it's a perfect time, in fact. We're just at a
7 new topic, so that would be great.

8 **CHAIRMAN GRAHAM:** Okay. So let's -- it's
9 about six or seven minutes to 5:00. Let's take a break
10 until about five after 5:00.

11 (Recess taken.)

12 (Transcript continues in sequence with Volume
13 2.)

1 STATE OF FLORIDA)
 : CERTIFICATE OF REPORTER
 2 COUNTY OF LEON)

3
 4 I, LINDA BOLES, CRR, RPR, Official Commission
 Reporter, do hereby certify that the foregoing
 5 proceeding was heard at the time and place herein
 stated.

6
 7 IT IS FURTHER CERTIFIED that I stenographically
 reported the said proceedings; that the same has been
 transcribed under my direct supervision; and that this
 8 transcript constitutes a true transcription of my notes
 of said proceedings.

9
 10 I FURTHER CERTIFY that I am not a relative, employee,
 attorney or counsel of any of the parties, nor am I a
 relative or employee of any of the parties' attorney or
 11 counsel connected with the action, nor am I financially
 interested in the action.

12 DATED THIS 4th day of August, 2014.

13
 14 *Linda Boles*

15
 16 LINDA BOLES, CRR, RPR
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