

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

COMMISSION REVIEW OF NUMERIC CONSERVATION GOALS (FLORIDA POWER & LIGHT COMPANY). DOCKET NO. 080407-EG

COMMISSION REVIEW OF NUMERIC CONSERVATION GOALS (PROGRESS ENERGY FLORIDA, INC.). DOCKET NO. 080408-EG

COMMISSION REVIEW OF NUMERIC CONSERVATION GOALS (TAMPA ELECTRIC COMPANY). DOCKET NO. 080409-EG

COMMISSION REVIEW OF NUMERIC CONSERVATION GOALS (GULF POWER COMPANY). DOCKET NO. 080410-EG

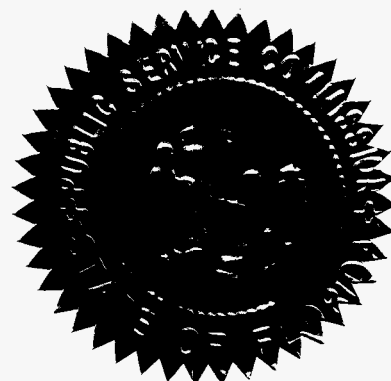
COMMISSION REVIEW OF NUMERIC CONSERVATION GOALS (FLORIDA PUBLIC UTILITIES CO.). DOCKET NO. 080411-EG

COMMISSION REVIEW OF NUMERIC CONSERVATION GOALS (ORLANDO UTILITIES COMMISSION). DOCKET NO. 080412-EG

COMMISSION REVIEW OF NUMERIC CONSERVATION GOALS (JEA). DOCKET NO. 080413-EG

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VOLUME 10
Pages 1909 - 2101



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FLORIDA PUBLIC SERVICE COMMISSION

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1 PROCEEDINGS: HEARING
2
3 BEFORE: CHAIRMAN MATTHEW M. CARTER
4 COMMISSIONER LISA POLAK EDGAR
5 COMMISSIONER KATRINA J. McMURRIAN
6 COMMISSIONER NANCY ARGENZIANO
7 COMMISSIONER NATHAN A. SKOP

8 DATE: Thursday, August 13, 2009

9 TIME: Commenced at 9:30 a.m.
10 Concluded at 4:05 p.m.

11 PLACE: Betty Easley Conference Center
12 Room 148
13 4075 Esplanade Way
14 Tallahassee, Florida

15 REPORTED BY: MARY ALLEN NEEL, RPR, FPR

16 PARTICIPATING: (As heretofore noted.)
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P R O C E E D I N G S

1
2 (Transcript follows in sequence from
3 Volume 9.)

4 CHAIRMAN CARTER: We are back on the record.
5 And when we last left, we were taking a break so we
6 could change court reporters. We're on
7 cross-examination.

8 Mr. Jacobs, you're recognized.

9 MR. JACOBS: Thank you, Mr. Chairman.

10 Thereupon,

11 JOHN N. FLOYD

12 a witness on behalf of Gulf Power Company, continued his
13 sworn testimony as follows:

CONTINUED CROSS-EXAMINATION

14
15 Q. Good afternoon again, Mr. Floyd. I'll try to
16 be very brief. In your rebuttal testimony, you have a
17 very broad critique, and you go to various aspects of
18 the analysis that has been done here. You've heard the
19 testimony and the questions regarding whether or not
20 their analysis for TRC addresses incentives, have you
21 not?

22 A. Yes.

23 Q. Is it your opinion that the TRC analysis
24 never, ever includes incentives?

25 A. Could you refer me to where I talk about that

1 in my rebuttal testimony, please?

2 Q. On page -- I believe it's page -- I believe
3 it's page -- the bottom of page 3, top -- and on to page
4 4, where you begin to address the requirements of
5 25-17.0021 and on to critique Mr. Spellman's analysis of
6 the E-TRC achievable potential results. Isn't one of
7 the critiques of the analysis done by the intervenors
8 that it doesn't address the rule, because TRC doesn't
9 address this requirement?

10 A. No, actually it's not. One of the critiques,
11 though, that I make of Mr. Spellman's analysis is
12 actually on page 5, beginning on line 3, where he is
13 building up the achievable potential associated with
14 what we call the two-year payback measures. That
15 build-up that he is presenting represents 100 percent of
16 the technical potential of those measures in the
17 residential sector. That's one of the things that I
18 characterize as not reasonably achievable in his
19 proposed goal.

20 Q. Okay. I want to go back to my original
21 question. Isn't one of the critiques of the
22 implementation of TRC that it fails to accommodate
23 incentives?

24 MR. GRIFFIN: And again, Mr. Chair, I'm sorry.
25 I understand the need to expedite this, and I share that

1 desire, but that was an issue that was addressed by
2 Mr. Floyd in his direct testimony. The question
3 regarding the inclusion of incentives was addressed in
4 his direct cross-examination by NRDC and SACE, and so at
5 this point, we would object to that line of questioning
6 as outside the scope of his rebuttal testimony.

7 CHAIRMAN CARTER: Mr. Jacobs.

8 MR. JACOBS: Mr. Floyd, on page 4, beginning
9 at line 8 --

10 CHAIRMAN CARTER: Whoa, whoa, whoa, whoa.
11 Don't talk to Mr. Floyd. Talk to the bench.

12 MR. JACOBS: I'm sorry. I thought you --

13 CHAIRMAN CARTER: No. You speak to the
14 objection. There was an objection raised.

15 MR. JACOBS: On page 4 of Mr. Spellman's
16 testimony, his rebuttal testimony, beginning at line 8
17 of his testimony, he states -- and if you don't mind,
18 I'll read it. "Mr. Spellman begins the development of
19 proposed goals with the results of the E-TRC achievable
20 potential results produced by Itron and filed in
21 Schedule 9 of Exhibit JNF-1 to my direct testimony. He
22 then includes sweeping adjustments for various
23 exclusions and perceived understatements in the
24 Itron-developed achievable potential study."

25 CHAIRMAN CARTER: Ms. Helton?

1 MS. HELTON: Mr. Chairman, the way I'm reading
2 Mr. Floyd's rebuttal testimony is, he's just describing
3 what he believes Mr. Spellman did. I'm not sure that
4 he's critiquing anything there. I would note that on
5 page 1 of Mr. Floyd's prefiled rebuttal testimony, he
6 states that the purpose of his rebuttal testimony is to
7 address the testimony of SACE, NRDC, and GDS, not to
8 talk about any of the tests in broad terms.

9 CHAIRMAN CARTER: Okay. Sustained. Move on.

10 MR. JACOBS: I would like to mark an exhibit,
11 Mr. Chairman.

12 CHAIRMAN CARTER: Okay. For the record,
13 Commissioners, that would be Exhibit Number 176. Short
14 title?

15 MR. JACOBS: McKensey & Company report,
16 "Unlocking Energy Efficiency in the U.S. Economy."

17 MR. GRIFFIN: And, Mr. Chair, I have to object
18 to this. That's not a study that has been referenced by
19 Mr. Floyd in any testimony. I'm not sure why Mr. Jacobs
20 would be introducing this study as an exhibit in this
21 proceeding.

22 MR. JACOBS: If I may, Mr. Chairman.

23 CHAIRMAN CARTER: You may respond.

24 MR. JACOBS: Mr. Floyd speaks to his having
25 looked at what the leading utilities do in the analysis,

1 in his analysis. He has looked at --

2 CHAIRMAN CARTER: No, he said that he was
3 responding to the language that was used by your witness
4 that used the term "leading." We've been down this
5 road, when he said "leading utilities."

6 MR. JACOBS: If I may, he --

7 CHAIRMAN CARTER: Please respond.

8 MR. JACOBS: He spoke that as a part of his
9 work, his training in doing his analysis is based on his
10 experience with Gulf Company and the expertise that he
11 has gained through Gulf Company. And I think we
12 established that much of that input comes from Southern
13 Company.

14 MR. GRIFFIN: Mr. Chair, if I may just
15 respond.

16 CHAIRMAN CARTER: Yes, sir.

17 MR. GRIFFIN: I don't know that that's an
18 accurate characterization of Mr. Floyd's testimony.
19 There is no foundation whatsoever for this document in
20 Mr. Floyd's testimony. It's far afield.

21 MR. JACOBS: If I may, Mr. Chairman, I thought
22 we had established that Mr. Floyd responded to one of my
23 questions that part of the critical inputs to his
24 analyses are avoided cost figures that come from
25 Southern Company. And I asked --

1 CHAIRMAN CARTER: No. No, we didn't establish
2 that. That was an objection that was sustained.

3 Ms. Helton?

4 MS. HELTON: Notwithstanding what Mr. Floyd
5 has testified to or not, I'm just looking at this study,
6 which it looks like, according to the second page on the
7 back of the first page, it was published in July of
8 2009. I'm not sure, given the timing, that anybody has
9 addressed this in any testimony, and I'm not sure at
10 this point in time that it's appropriate to bring up.

11 CHAIRMAN CARTER: Okay.

12 MR. JACOBS: Mr. Chairman, this is an exhibit
13 for cross-examination. That's not required, pre-notice.

14 CHAIRMAN CARTER: I beg your pardon?

15 MR. JACOBS: Prior notice of exhibits used for
16 cross-examination is not required, unless I'm mistaken.

17 CHAIRMAN CARTER: Well, it would be something
18 that the witness could testify to. That's why they call
19 it --

20 MS. HELTON: You have to be able to lay a
21 foundation that the witness was familiar with this, I
22 think, and --

23 MR. JACOBS: I'll be happy to.

24 MS. HELTON: And that it's relevant to the
25 proceeding.

1 MR. JACOBS: I'll be happy to do that,
2 Mr. Chairman.

3 CHAIRMAN CARTER: If you think that's
4 possible, you may proceed.

5 BY MR. JACOBS:

6 Q. Mr. Floyd, would you turn over to the page --
7 I think it's the back of the third page.

8 CHAIRMAN CARTER: Let's do this, now. Before
9 we start reading stuff here, let's establish a
10 foundation.

11 MR. JACOBS: That's exactly my point,
12 Mr. Chairman.

13 CHAIRMAN CARTER: Let's do that. We're going
14 to follow the procedure here. We've gone far afield, by
15 the way, so let's kind of get back on track here.

16 MR. JACOBS: That's exactly my objective,
17 Mr. Chairman, I can assure you. This is only -- this
18 line of questioning is only about laying a foundation,
19 and I'll stop at that moment to hear what the parties
20 have to say.

21 CHAIRMAN CARTER: Okay.

22 BY MR. JACOBS:

23 Q. Mr. Floyd, do you see the page labeled
24 "Preface" and at the bottom labeled page 1?

25 A. I have a page 3.

1 Q. I'm sorry. That's an insert page.

2 A. The preface?

3 Q. Yes.

4 A. Sure.

5 Q. Would you look at the last paragraph on that
6 page, and in fact, the last sentence of that paragraph?

7 A. Okay.

8 Q. And if you don't mind, Mr. Chairman, I'll read
9 that. It says, "We especially acknowledge our
10 governmental, non-governmental, and corporate sponsors
11 for sharing their expertise and co-sponsoring this
12 report."

13 Would you look over to the next page of that
14 report? Who was one of the co-sponsors of this report?

15 A. Well, there's number of them. You want me to
16 read each of the --

17 Q. You can go to the last three. The last three
18 on the second page will be fine.

19 A. Sea Change Foundation, Southern Company, U.S.
20 Green Building Council.

21 MR. JACOBS: Mr. Chairman, I'll stop here and
22 express that I believe, as we've heard testimony, that
23 the inputs to Mr. Floyd's analysis are based on
24 expertise that he gained through Southern Company. Here
25 we have a report to which the expertise of Southern

1 Company was contributed to.

2 CHAIRMAN CARTER: I think it's a reach.

3 Ms. Helton?

4 MS. HELTON: Mr. Chairman, I have to agree
5 with you.

6 CHAIRMAN CARTER: Let's proceed. Denied.

7 MR. JACOBS: Thank you, sir. No further
8 questions.

9 CHAIRMAN CARTER: Thank you. Ms. Brownless.

10 MS. BROWNLESS: No, sir. Thank you.

11 CHAIRMAN CARTER: Commissioners? Commissioner
12 Skop, you're recognized.

13 COMMISSIONER SKOP: Thank you, Mr. Chairman.
14 Good afternoon, Mr. Floyd.

15 THE WITNESS: Good afternoon.

16 COMMISSIONER SKOP: Just a few questions for
17 you with respect to your rebuttal testimony.

18 Generally speaking, would you agree that
19 energy conservation costs incurred today are cheaper
20 than building new generation later?

21 THE WITNESS: I'm not sure that I could agree
22 in general with that statement. I do definitely think
23 there are opportunities for certain energy efficiency
24 measures that would be less expensive than the
25 generation alternative.

1 COMMISSIONER SKOP: Thank you. If viewed as a
2 potential barrier to the adoption of additional energy
3 conservation measures -- excuse me. Let me restate
4 that. If viewed as a potential barrier to the adoption
5 of additional energy conservation measures, do you
6 believe that the continued reliance on a RIM-based test
7 would expose consumers to much larger rate increases
8 later?

9 THE WITNESS: No, I would not say that.

10 COMMISSIONER SKOP: Okay. Do you believe that
11 the continued reliance on a RIM-based test advances or
12 frustrates the legislative intent of House Bill 7135
13 specifically as it pertains to the amendment of Section
14 366.82, Florida Statutes?

15 THE WITNESS: I do not believe that it
16 frustrates or limits that. As we've shown in our
17 proposed goals here, we are demonstrating that we can
18 advance those objectives through increased energy goals
19 by incorporating the carbon component in our evaluation
20 and work within that RIM framework.

21 COMMISSIONER SKOP: Thank you. Do you believe
22 that the continued reliance on a RIM-based test advances
23 or frustrates the legislative intent of Section 377.601,
24 Subsection (2)(i), Florida Statutes?

25 THE WITNESS: No. I'm sorry. I can't comment

1 on that section.

2 COMMISSIONER SKOP: Okay. Thank you. Just
3 one final question. I think that you previously
4 testified and discussed the incentives with respect to
5 the TRC test. And if those incentives were included,
6 would that not make the TRC test more restrictive than
7 it currently is, to the extent that those would be in
8 the denominator?

9 THE WITNESS: If there was an additional cost
10 considered in the form of incentives, then, yes, that
11 would tend to decrease the cost-benefit of any measure
12 evaluated in that type of construct.

13 COMMISSIONER SKOP: Thank you. Thank you,
14 Mr. Chair.

15 CHAIRMAN CARTER: Commissioner McMurrin.

16 COMMISSIONER McMURRIAN: Thank you.
17 Mr. Floyd, I'm sure you can anticipate what questions
18 I'm going to ask. We're all expecting you to blow us
19 away with your answers, since we had an extra hour and a
20 half to think about them. Just kidding.

21 My first question is about at-risk customer
22 programs, Mr. Floyd. I know you've heard me ask the
23 others, and I'm sure you may want to discuss what kind
24 of programs Gulf may have in place for that. But more
25 importantly, I think I wanted to ask if there's more

1 that can be done and also meet the RIM and/or TRC tests.

2 THE WITNESS: Sure. First, just a quick
3 recap. And I think I've talked about some of these
4 things before. Currently Gulf makes available to all
5 customers our audit program, which, in the context of
6 low-income, provides an opportunity for education about
7 energy saving behaviors and measures that can be adopted
8 to help lower energy use.

9 Also, all customers are eligible to
10 participate in our EnergySelect program, which, as we
11 talked about before, provides customers an opportunity
12 to achieve bill savings through that. And then going
13 forward, you know, Gulf in the program design and
14 development phase of this process will be looking to
15 expand our low-income program to include installation of
16 more measures.

17 Another aspect of that that I think we talked
18 about earlier today was the split incentive issue with
19 landlords and renters, and that's clearly something that
20 we see and work hard to try and overcome that. And I
21 think an example of the kinds of things that we have
22 done and continue to do is in working with the HUD
23 housing projects. I believe there's currently four
24 projects where we've been able to work with those
25 project owners in communicating to them and educating

1 them on the benefits, from their perspective, of making
2 wise, energy-efficient investments, and that not only
3 providing benefit to the owner, but also to the tenant.

4 And I'll give you an example, and that is, in
5 Chipley and in Panama City and in Fort Walton, we worked
6 with the HUD projects there to facilitate the
7 installation of geothermal heating and cooling systems
8 in those units. The owner realizes the benefits of
9 lower maintenance costs associated with those, lower
10 costs associated with having outdoor equipment, and some
11 of the vandalism types of concerns that could be present
12 with that. The tenant, who, of course, doesn't
13 participate in that investment decision, but the tenant
14 benefits in having lower bills.

15 So that's an example of the kind of thing that
16 Gulf takes to, you know, owner-tenant type projects to
17 look for ways to encourage participation in
18 energy-efficient measures such that both parties can
19 benefit.

20 COMMISSIONER McMURRIAN: Okay. Thank you.
21 And then my other question, as you know, will be about
22 the Total Resource Cost test and whether or not in
23 Gulf's calculations of the TRC, whether or not utility
24 incentives paid to customers will be included in the
25 denominator of that calculation.

1 THE WITNESS: Well, as has been described
2 earlier -- and I'm just looking on the sheet here that
3 has been used. The TRC test does not explicitly
4 consider the incentive cost. I think that has been
5 demonstrated. The TRC test looks at cost as a whole,
6 both the cost to administer a program and the cost of
7 the measure or the program, regardless of who is paying
8 it.

9 But the incentive cost is a real cost that
10 customers incur, and that shows up through the ECCR
11 clause for each of the utilities. So that cost is
12 really there, and in that light, the rate impact test is
13 the only test that recognizes that cost as an explicit
14 cost when evaluating a measure to determine whether it's
15 cost-effective or not for the utility to sponsor.

16 COMMISSIONER McMURRIAN: And you said which
17 test did that? I'm sorry.

18 THE WITNESS: The rate impact test. I just
19 point that out as being, you know, identified in the
20 denominator of that test.

21 COMMISSIONER McMURRIAN: Okay. And I guess
22 the other question was, why shouldn't those incentives
23 paid to customers be included in the Total Resource Cost
24 test?

25 THE WITNESS: Well, I'm not saying -- the way

1 that test is constructed, it just does not consider the
2 incentive costs. And I think that's one of the
3 discussion points here this week, that when interpreting
4 the statute, the identification specifically of those
5 costs as a consideration in the goal-setting proceeding,
6 that's why, you know, several of us see that as being
7 only satisfied by the use of the RIM test in this
8 process.

9 COMMISSIONER McMURRIAN: Okay. Thank you.
10 Thank you, Mr. Chairman. I think that's the last of
11 that series of questions.

12 CHAIRMAN CARTER: Thank you, Commissioner.
13 Staff?

14 MR. SAYLER: No questions.

15 CHAIRMAN CARTER: Redirect?

16 MR. GRIFFIN: No, Mr. Chair, no redirect.

17 CHAIRMAN CARTER: Do we have any exhibits?

18 MR. GRIFFIN: No, sir.

19 CHAIRMAN CARTER: Okay. Anything further for
20 this witness?

21 Thank you, Mr. Floyd. Have a nice day.

22 THE WITNESS: Thank you.

23 CHAIRMAN CARTER: Okay. Now we have
24 Mr. Horton.

25 MR. HORTON: Yes, sir. Mr. Chairman, Florida

1 Public Utilities would move the insertion of the
2 rebuttal testimony of Joseph Eysie pursuant to
3 stipulation of the parties.

4 CHAIRMAN CARTER: The prefiled testimony of
5 the witness will be inserted into the record as though
6 read. Commissioners, this witness has been stipulated
7 to by the parties. Any questions from the bench or
8 anything like that?

9 Hearing none, show it done.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**REBUTTAL TESTIMONY OF JOSEPH R. EYSIE****ON BEHALF OF****FLORIDA PUBLIC UTILITIES COMPANY****DOCKET NO. 080411****JULY 30, 2009**

1 **Q. Please state your name and business address.**

2 A. My name is Joseph R. Eysie. My business address is 401 S. Dixie Highway,
3 West Palm Beach, Florida 33401.

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

5 A. I am employed by Florida Public Utilities Company (FPUC) as Energy
6 Conservation Manager

7 **Q. Have you previously provided testimony in this proceeding?**

8 A. Yes. I provided direct testimony on behalf of FPUC on June 4, 2009.

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

10 A. The purpose of my testimony is to rebut certain statements made in the direct
11 testimony of NRDC, SACE and GDS Associates. More specifically, my
12 testimony will focus on the appropriate tests for evaluating the cost-effectiveness
13 DSM measures; recommended DSM goals included in the testimony of witness
14 Spellman and witness Steinhurst; allegations related to the scope of Itron's
15 Technical Potential Study; selection of the two-year pay-back period;

1 consideration of incentives and administrative costs; and consideration of
2 potential greenhouse gas (GHG) costs.

3 **Q. Do you agree with witnesses Wilson and Spellman in their interpretation of**
4 **the cost-effectiveness tests required or authorized under Section 366.82, F.S.?**

5 A. No. Section 366.82, F.S., requires the PSC to consider the costs and benefits to
6 the participating ratepayers as well as the general body of ratepayers as a whole.
7 However, Section 366.82 does not dictate which cost-effectiveness test must be
8 used to establish DSM goals. The Commission should use both the RIM and
9 Participants test to set goals. When used in conjunction with each other, these
10 tests fulfill the Commission's obligation to consider the costs and benefits to the
11 general body of ratepayers as a whole, including utility incentives and participant
12 contributions.

13 **Q. Does the RIM test screen out demand-side alternatives that would increase**
14 **rates more than supply-side alternatives?**

15 A. Yes. The RIM test evaluates whether DSM measures would increase rates more
16 than supply-side alternative. The RIM test is therefore the appropriate test to use
17 as the basis for establishing DSM goals because such a screening process keeps
18 customers' rates as low as possible.

19 **Q. Witness Spellman recommends that the Commission mandate that FEECA**
20 **utilities have DSM goals consistent with those developed as discussed in**
21 **GDS' testimony. Do you agree with this suggestion?**

22 A. No. As I have stated previously throughout my direct testimony, the RIM and
23 Participant tests are the proper tests to use for evaluating the cost-effectiveness of

1 DSM measures and should be used as the basis for establishing DSM goals.
2 Upon review of witness Spellman's testimony, I do not find a solid basis for the
3 goals he has recommended for FPUC, which appear to be arbitrary. The
4 recommended goals in witness Spellman's testimony are based upon full
5 achievable potential as GDS quantifies it. However, such an approach does not
6 account for the impact to our customers' rates that will result from mandating
7 DSM measures that do not pass the RIM test.

8 Itron, on behalf of FPUC, developed annual projections of total annual
9 MW and GWh savings based on DSM measures that passed both the TRC and
10 Participants tests, along with associated costs. The table presented below shows
11 projected annual bill impacts to a residential customer consuming 1,200 kWh per
12 month based on adopting GDS' recommended cumulative energy goals (including
13 the transition period) as presented in Exhibit RFS-21 (page 7 of 7) of the
14 testimony of witness Spellman. The impacts shown in the table below were
15 calculated by determining the annual ratios of the recommended savings per
16 witness Spellman's testimony to those projected by Itron for measures passing
17 both the TRC and Participants tests, and applying these ratios to the estimated bill
18 impacts associated with the annual energy savings and associated cost projections
19 developed by Itron. As shown in the table below, annual bill increases to our
20 residential customers increase from approximately \$72 per year in 2010 to
21 approximately \$1,217 per year in 2019.

1

Projected Customer Bill (Nominal \$/Year) for 1,200 kWh Residential - Without Customer Charge										
Scenario	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
FPUC Proposed Goals	\$1,815	\$1,851	\$1,888	\$1,926	\$1,964	\$2,004	\$2,044	\$2,085	\$2,126	\$2,169
GDS Recommended Goals	\$1,887	\$2,014	\$2,144	\$2,283	\$2,423	\$2,582	\$2,757	\$2,949	\$3,158	\$3,386
Increase Due to GDS Recommended Goals	\$72	\$163	\$256	\$357	\$459	\$578	\$713	\$864	\$1,032	\$1,217

2

3 **Q. Witness Spellman testifies that use of the TRC test rather than the RIM and**
4 **Participant tests will not likely have significant long-term impacts on FEECA**
5 **utility customers' rates. Do you agree with this conclusion?**

6 A. No. Witness Spellman's conclusions do not differentiate between DSM measures
7 that pass RIM and those that fail RIM, nor are they supported by any sort of
8 comprehensive analysis. As I have testified previously, the RIM test should be
9 used to evaluate the cost-effectiveness of a DSM measure.

10 The Itron analysis referred to in my previous response indicates that
11 customer rates are estimated to increase by approximately 18.4 percent by 2019
12 based on the DSM measures that fail RIM but pass the TRC and Participants test
13 in Itron's analyses. Such increases amount to annual customer bill increases of
14 approximately \$170 per year by 2014 and by \$401 dollars per year by 2019 for
15 the residential customer based on 1,200 kWh monthly consumption.

16 The significance of the magnitude of such bill increases is dependant upon
17 the customer, and although witness Spellman may view this as an insignificant
18 increase, FPUC's customers who are currently struggling to pay their utility bills

1 would likely argue against witness Spellman's conclusions that bill increases of
2 this magnitude are in fact not significant.

3 **Q. While not making any specific recommendations for FPUC, witness**
4 **Steinhurst suggests that FPUC adopt a 1 percent per year energy savings**
5 **target. How do such energy reductions compare to recent trends in FPUC's**
6 **loads?**

7 A. For the 12-month period ending June 2009 compared to the 12 month period
8 ending June 2008, FPUC's energy sales are down approximately 9.8 percent. The
9 magnitude of the energy sales decline in energy sales already represents nearly 10
10 years of the energy reductions proposed by witness Steinhurst, and the decline in
11 energy sales has already contributed to FPUC's recent rate increases.

12 When compared to the 12 month period ending June 2007, FPUC's energy
13 sales for the 12 months ending June 2009 are down approximately 14.3 percent.
14 Therefore, potential energy savings projected using 2007 as the baseline, as was
15 done in this Docket, are overstated.

16 **Q. Taking into consideration the recent rate increases experienced by FPUC's**
17 **ratepayers, do you think it is important to focus on customer rates when**
18 **evaluating the cost-effectiveness of possible new DSM measures?**

19 A. Yes. Determining cost-effectiveness of new DSM measures using the impact to
20 customers' rates as the primary determinant is extremely important. As discussed
21 previously, FPUC's customers have recently been exposed to what I view as
22 significant rate increases. We should not implement new DSM measures that
23 have been shown to increase rates even further.

1 **Q. Do you agree with witness Spellman's conclusions that the Technical**
2 **Potential Studies performed by the FEECA utilities exclude important**
3 **energy efficiency measures?**

4 A. No. The scope of Itron's Technical Potential Study for FPUC considered 267
5 unique measures identified by the FEECA utilities as available in the utility
6 industry and the assessment techniques were fully vetted through the
7 Collaborative process. This process included input from all of the FEECA-
8 regulated utilities and other interested parties including SACE and NRDC.

9 **Q. How would you respond to the allegations made by witnesses Spellman and**
10 **Wilson that the scope of the Technical Potential Study was insufficient and**
11 **did not adequately assess the full technical potential of demand-side and**
12 **supply-side conservation and energy efficiency systems, including demand-**
13 **side renewable energy systems?**

14 A. I disagree with such allegations. The technical potential study performed by
15 Itron, as described in the testimony of Mike Rufo, considered 267 unique
16 measures known to the FEECA utilities and provided an adequate assessment of
17 the full technical potential of available demand-side and supply-side conservation
18 and efficiency measures, including demand-side renewable energy systems. The
19 scope of the study, the measures to be analyzed, and the assessment techniques
20 were fully vetted through the Collaborative process which included input from all
21 of the FEECA-regulated utilities and other interested parties including SACE and
22 NRDC. I think it is worth noting that, while raising these allegations, witness
23 Wilson simultaneously praises the study, stating "Overall, the technical potential

1 study was conducted in a professional and thorough manner. The collaboration
2 between utilities and our organizations was generally productive and
3 communications were effective for the most part.” (Wilson testimony, Page 26,
4 Lines 7-9).

5 As members of the Collaborative, SACE and NRDC agreed to the scope
6 of the Technical Potential Study and agreed that there was insufficient data to
7 analyze four sectors. SACE and NRDC did not protest any sort of “omission” of
8 the four measures, as they argue in the testimony of witness Wilson (Page 26,
9 Line 12).

10 **Q. Witness Spellman’s testimony indicates that the 2-year minimum payback**
11 **criterion should not be used for all customer segments, specifically**
12 **residential and small commercial. Is this consistent with the DSM goals**
13 **setting process in Florida?**

14 A. No. Use of different payback criterion for different customer classes is not
15 consistent with the requirements of the DSM goals setting process. The DSM
16 goal setting process does not and should not differentiate between customer
17 segments while requiring that free-ridership be recognized.

18 **Q. Why was a 2-year payback period selected for the purposes of screening out**
19 **DSM measures from further consideration?**

20 A. The 2-year payback period provides for a reasonable method for minimizing free
21 ridership when evaluating the cost-effectiveness of DSM measures. The types of
22 measures that were screened out using the 2-year payback criterion are the focus
23 of existing educational programs and other efforts. In particular, FPUC’s

1 customer education efforts consist of conservation initiatives and campaigns
2 centered on customer behavior modification. As a result, great emphasis is placed
3 on educating customers to implement, without direct monetary incentive from
4 FPUC, measures that have less than a two year payback period. This
5 implementation is part of a structured plan by FPUC to first get customers to
6 implement no cost and low cost conservation measures (i.e. measures with less
7 than a two year payback period) later followed by measures that require more
8 significant capital investment.

9 **Q. Were incentives properly considered by Itron in their cost-effectiveness**
10 **evaluations for FPUC?**

11 A. Yes. Itron properly considered incentives provided from the utility to the
12 participating customer in the RIM and Participants tests.

13 **Q. Did Itron's cost-effectiveness evaluations for FPUC reflect the inclusion of**
14 **administrative costs at the DSM measure level, as alleged in the testimony of**
15 **witness Mosenthal?**

16 A. No. Itron did not consider the inclusion of administrative costs at the DSM
17 measure level.

18 **Q. Witness Steinhurst alleges that the cost-effectiveness analyses did not**
19 **appropriately account for costs associated with regulation of greenhouse**
20 **gases (i.e. CO₂) emissions? How were such costs considered in FPUC's**
21 **analyses?**

22 A. Greenhouse gases are not currently regulated at either the State or Federal level,
23 and there currently are no costs imposed on the emissions of greenhouse gases.

1 While there is much speculation on the potential for greenhouse gas emissions
2 regulation, FPUC does not believe it is appropriate to establish DSM goals that
3 would increase customer rates based on speculation related to yet-to-be defined
4 potential regulations of emissions of greenhouse gases. However, for
5 informational purposes, Itron performed additional analyses related to several
6 different combinations of fuel and carbon dioxide (CO₂) emissions allowance
7 prices. The projected CO₂ emissions allowance prices considered in FPUC's
8 analyses are discussed further in the rebuttal testimony of witness Kushner.

9 **Q. On Page 8, Lines 5-7 of his testimony, witness Cavanagh states "It makes far
10 more sense from a policy perspective to focus not on *rates* but on total utility
11 *bills*. After all, are customers really worse off if, for a constant level of
12 service, their rates go up but their bills go down?" Is witness Cavanagh's
13 assertion regarding the relationship between rates and bills correct?**

14 **A.** No. If rates increase, as they would by implementing measures that do not pass
15 the RIM test, and a nonparticipating customer's usage does not decrease (i.e., the
16 customer maintains a constant level of service), the customer's bill will increase.
17 An increase in rates correlates to an increase in bills in such a scenario. Total
18 bills will only go down if there is sufficient reduction in consumption to offset the
19 increase in rates. In this regard, customers who are unable to implement DSM
20 measures that do not pass the RIM test due to their housing situation, income
21 level, or combinations thereof, would therefore have no corresponding benefit of
22 reduced consumption and would experience an increase to their utility bills.

1 Q. Does this conclude your testimony?

2 A. Yes.

1 MR. HORTON: Thank you. He had no exhibits.

2 CHAIRMAN CARTER: No exhibits.

3 MR. HORTON: And we would also move the
4 insertion of the rebuttal testimony of Bradley Kushner
5 pursuant to the stipulation.

6 CHAIRMAN CARTER: I think that on Mr. Kushner,
7 we also had some exhibits that we entered in at that
8 time that also flowed back to here, and there was an
9 agreement from the parties.

10 Okay. The prefiled testimony of the witness
11 will be inserted into the record as though read, and the
12 exhibits will also be -- and I think we -- was it 87?

13 MR. HORTON: His rebuttal was 128 and 129.

14 CHAIRMAN CARTER: 128 and 129. We've already
15 admitted those, Commissioners.

16 MR. HORTON: Yes, sir.

17 CHAIRMAN CARTER: 128 and 129, show it done
18 without objection.

19 MR. HORTON: Thank you.

20 CHAIRMAN CARTER: Thank you, Mr. Horton.

21

22

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24

25

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**REBUTTAL TESTIMONY OF BRADLEY E. KUSHNER****ON BEHALF OF****FLORIDA PUBLIC UTILITIES COMPANY****DOCKET NO. 080411****JULY 30, 2009**

1 **Q. Please state your name and business address.**

2 A. My name is Bradley E. Kushner. My business address is 11401 Lamar Avenue,
3 Overland Park, Kansas 66211

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

5 A. I am employed by Black & Veatch Corporation as a Manager.

6 **Q. Please describe your responsibilities in that position.**

7 A. I am responsible for the management of various projects for utility and non-utility
8 clients. These projects include production cost modeling associated with power
9 system expansion planning, feasibility studies, and demand-side management
10 (DSM) evaluations. I also have involvement in the issuance and evaluation of
11 requests for proposals (RFPs).

12 **Q. Please describe Black & Veatch Corporation.**

13 A. Black & Veatch Corporation has provided comprehensive engineering,
14 consulting, and management services to utility, industrial, and governmental
15 clients since 1915. Black & Veatch specializes in engineering, consulting, and
16 construction associated with utility services including electric, gas, water,
17 wastewater, telecommunications, and waste disposal. Service engagements

1 consist principally of investigations and reports, design and construction,
2 feasibility analyses, rate and financial reports, appraisals, reports on operations,
3 management studies, and general consulting services. Present engagements
4 include work throughout the United States and numerous foreign countries.

5 **Q. Please state your educational background and professional experience.**

6 A. I received my Bachelors of Science in Mechanical Engineering from the
7 University of Missouri – Columbia in 2000. I have more than 9 years of
8 experience in the engineering and consulting industry. I have experience in the
9 development of integrated resource plans, ten-year-site plans, DSM plans, and
10 other capacity planning studies for clients throughout the United States. Utilities
11 in Florida for which I have worked include OUC, Florida Municipal Power
12 Agency, JEA, Kissimmee Utility Authority, Lakeland Electric, Reedy Creek
13 Improvement District, Tampa Electric Company, and the City of Tallahassee. I
14 have performed production cost modeling and economic analysis, and otherwise
15 participated in five Need for Power Applications that have been filed on behalf of
16 Florida utilities and approved by the Florida Public Service Commission. I have
17 also testified before the FPSC in Need for Power proceedings.

18 **Q. On whose behalf are you testifying?**

19 A. I am providing testimony on behalf of the Florida Public Utilities Company
20 (FPUC).

21 **Q. Have you testified previously in this Docket?**

22 A. No.

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

2 A. The purpose of my testimony is to discuss the CO₂ emissions allowance prices
3 used in FPUC's analyses as they compare to those suggested by witness
4 Steinhurst and witness Spellman.

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

6 A. Yes. Exhibit No. __ [BEK-1] is a copy of my résumé.

7 Q. **What was the basis for the CO₂ emissions allowance prices considered in
8 your analyses?**

9 A. The CO₂ emissions allowance price projections considered in my analyses for
10 FPUC were based on those presented in the US Energy Information
11 Administration's (EIA) April 2008 *Energy Market and Economic Impacts of*
12 *S.2191, the Lieberman-Warner Climate Security Act of 2007* report.

13 Q. **Why was this report chosen as the basis for your CO₂ emissions allowance
14 price projections?**

15 A. The *Energy Market and Economic Impacts of S.2191, the Lieberman-Warner*
16 *Climate Security Act of 2007* report represented the most recent detailed analyses
17 of proposed legislation to regulate emissions of CO₂ with corresponding annual
18 emissions allowance price projections beyond 2019 developed by a US
19 governmental entity at the time we began developing avoided costs for use in this
20 Docket. Furthermore, these same CO₂ emissions allowance price projections
21 were considered in the JEA Greenland Energy Center Combined Cycle Need for
22 Power Application, which was approved by the Commission February 25, 2009
23 (Order No. PSC-09-0111-FOF-EM).

1 **Q. Witness Spellman suggests that GHG cost estimates considered by the**
2 **Commission in this Docket be based upon the most recent CBO costs**
3 **estimates. How do the CO₂ emissions allowance price projections used in**
4 **FPUC's analyses compare to these and other recent price projections**
5 **developed by US governmental entities?**

6 A. I have reviewed the projections developed by the US Environmental Protection
7 Agency (EPA) in their report titled *EPA Analysis of the American Clean Energy*
8 *and Security Act of 2009 H.R. 2454 in the 111th Congress* (dated 6/23/09) and the
9 Congressional Budget Office (CBO) cost estimate of H.R. 2454 (dated 6/5/09). It
10 is difficult to do a direct comparison between the CO₂ emissions allowance prices
11 considered in my analyses to those projected by either EPA or CBO, since the
12 basis of the projections in the EPA and CBO reports (i.e. real or nominal dollars
13 in either the EPA or CBO analysis, metric or short tons in the EPA analysis, etc.)
14 is not clear. However, in general the range CO₂ emissions allowance prices
15 considered in my analyses encompass those presented in both the EPA and CBO
16 reports.

17 **Q. Did witness Steinhurst present any alternative CO₂ emissions allowance price**
18 **projections?**

19 A. Witness Steinhurst only suggests a low-case CO₂ emissions allowance price of
20 \$15 per ton, a mid-case allowance price of \$30 per ton, and a high-case allowance
21 price of \$78 per ton, all levelized over the period of 2013-2030, in 2007 dollars.

1 **Q. How do the CO₂ emissions allowance price projections used in your analyses**
 2 **compare to those suggested by witness Steinhurst?**

3 A. The three CO₂ emissions allowance price projections considered in my analyses
 4 range from approximately \$15 per ton in the low-case to approximately \$35/ton in
 5 the mid-case to approximately \$89/ton in the high case, all levelized over the
 6 period of 2012-2027, in 2007 dollars. As shown in the table below, these align
 7 well with those suggested by witness Steinhurst.

Comparisons of CO ₂ Emissions Allowance Price Projections (Levelized \$/ton)			
Source	Low	Mid	High
Witness Steinhurst	15	30	78
Witness Kushner	15	35	89

9

10 **Q. Witness Steinhurst suggests that the potential for State rather than Federal**
 11 **regulation of greenhouse gases in Florida was not considered by FPUC. Is**
 12 **consideration of yet-to-be defined State regulation critical?**

13 A. No. It is irrelevant whether or not the CO₂ emissions allowance price projections
 14 were based on potential Federal- or State-level regulations of greenhouse gases.
 15 What is relevant is that an appropriate range of possible costs were considered.
 16 Based on the range of emissions allowance prices recommended by witness
 17 Steinhurst, and in light of my previous discussion of comparison of CO₂
 18 emissions allowance price projections, it would appear that he would agree the
 19 price projections considered in my analyses were reasonable and appropriate, a
 20 conclusion that appears to be substantiated by the testimony of witness Spellman
 21 (Page 50, Lines 6-7).

1 Witness Steinhurst's testimony acknowledges that there are numerous
2 different values of ranges of CO₂ emissions allowance price projections that have
3 been adopted by various state regulators across the country, which further
4 demonstrates the magnitude of the speculation related to yet-to-be defined
5 potential future regulations that do not currently exist.

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

7 **A. Yes it does.**

1 CHAIRMAN CARTER: Okay. Who's next?

2 Mr. Young, I think you're up.

3 MR. YOUNG: Sure. Thank you. I call

4 Mr. Halley.

5 CHAIRMAN CARTER: Mr. Young, is your

6 microphone on?

7 MR. YOUNG: Yes, sir.

8 CHAIRMAN CARTER: Okay. Good. Mr. Halley,

9 good to see you again.

10 MR. YOUNG: He's two days older, Mr. Chairman.

11 CHAIRMAN CARTER: I've got clothes older than

12 that.

13 Thereupon,

14 RANDALL E. HALLEY

15 was called as a rebuttal witness on behalf of Orlando

16 Utilities Commission and, having been first duly sworn,

17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. YOUNG:

20 Q. Mr. Halley, you understand you're still under
21 oath?

22 A. Yes, sir.

23 Q. Did you prefile some rebuttal testimony in
24 this proceeding?

25 A. Yes.

1 Q. If I was to ask you each of those questions
2 now, would your answers be the same?

3 A. Yes.

4 Q. I don't think we had any exhibits with your
5 prefiled rebuttal, did we?

6 A. No, sir.

7 MR. YOUNG: Okay. I would tender him,
8 Mr. Chairman. I ask that that be inserted in the record
9 as though read and tender him.

10 CHAIRMAN CARTER: The prefiled testimony of
11 the witness will be inserted into the record as though
12 read.

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**
2 **REBUTTAL TESTIMONY OF RANDALL E. HALLEY**
3 **ON BEHALF OF**
4 **ORLANDO UTILITIES COMMISSION**
5 **DOCKET NO. 080412**
6 **JULY 30, 2009**

7
8 **Q. Please state your name and business address.**

9 A. My name is Randall E. Halley. My business address is Reliable Plaza at 100
10 West Anderson Street, P.O. Box 3193, Orlando, Florida 32802.

11
12 **Q. By whom are you employed and in what capacity?**

13 A. I am employed by Orlando Utilities Commission (OUC) as Manager of Strategic
14 Planning.

15
16 **Q. Have you previously provided testimony in this proceeding?**

17 A. Yes. I provided direct testimony on behalf of OUC and my credentials are
18 provided in my pre-filed direct testimony.

19
20 **Q. On whose behalf are you testifying?**

21 A. I am providing this rebuttal testimony on behalf of the Orlando Utilities
22 Commission (OUC).

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

2 A. The purpose of my testimony is to rebut certain evidence offered in the direct
3 testimony of NRDC, SACE and Commission Staff witnesses. More
4 specifically, my testimony will address the appropriate tests for evaluating the
5 cost-effectiveness of DSM measures; the DSM goals that witness Spellman and
6 Steinhurst have recommended for OUC; the scope of Itron's Technical Potential
7 Study; utilization of the two-year payback period in OUC's analyses;
8 consideration of potential greenhouse gas (GHG) regulation; Itron's cost-
9 effectiveness evaluation; and proposed funding set-asides for research regarding
10 demand-side renewable energy.

11

12 **Q. Do you agree with the interpretations of witnesses Wilson and Steinhurst**
13 **regarding use of the RIM test relative to the intent of Section 366.82, F.S.?**

14 A. No. Section 366.82, F.S., requires the PSC to consider the costs and benefits to
15 the participating ratepayers as well as the general body of ratepayers as a whole.
16 However, Section 366.82 does not dictate which cost-effectiveness test must be
17 used to establish DSM goals. The Commission should use both the RIM and
18 Participants test to set goals. When used in conjunction with each other, these
19 tests fulfill the Commission's obligation to consider the costs and benefits to the
20 general body of ratepayers as a whole, including utility incentives and
21 participant contributions. The Commission's use of the RIM test to ensure no
22 impact to customers' rates is particularly appropriate for municipal utilities, such
23 as OUC, over which the Commission does not have ratemaking authority.

1 **Q. Do you agree with witness Cavanagh's allegation that the RIM test**
2 **discourages the adoption of most energy efficiency measures?**

3 A. No. The RIM test is a determinant of cost-effectiveness that identifies DSM
4 measures that do not increase rates. The intent of the RIM test is to identify
5 DSM measures that would increase rates more than supply-side alternatives.
6 Such measures should not be considered cost-effective. The RIM test is
7 therefore the appropriate test to use as the basis for establishing DSM goals
8 because such a screening process allows OUC to provide its customers with the
9 least cost option.

10

11 **Q. Witness Spellman testified that the RIM test tends to limit investment by**
12 **FEECA utilities in energy efficiency programs, and is therefore not**
13 **consistent with the current FEECA statutes. Is this an accurate**
14 **characterization of the RIM test?**

15 A. No. The RIM test screens out DSM measures that will increase customer rates,
16 and in doing so, accounts for costs and benefits to the ratepayers as a whole (as
17 required by the FEECA statutes). The RIM test eliminates DSM measures that
18 would result in utility rate increases for all ratepayers. Customers such as
19 renters and low income customers who do not or cannot implement a DSM
20 measure and therefore have no corresponding benefit of reduced consumption to
21 offset the rate increase will be subject to increased utility bills. If the RIM test is
22 not applied, the net result for any non-participating customer would be an
23 increase in their electricity bills above what such bills would have been if RIM
24 testing had eliminated the measure.

1 **Q. Witness Spellman testifies that use of the TRC test rather than the RIM**
2 **and Participant tests will not likely have significant long-term impacts on**
3 **FEECA utility customers' rates. Do you agree with this conclusion?**

4 A. No. Witness Spellman's conclusions do not differentiate between DSM
5 measures that pass RIM and those that fail RIM, nor are they supported by any
6 sort of comprehensive analysis. As I have testified previously, the RIM test
7 should be used to evaluate the cost-effectiveness of a DSM measure. As shown
8 in Exhibit No. __ [RH-3] of my pre-filed testimony, customer rates are
9 estimated to increase by approximately 12.7 percent by 2019 based on the DSM
10 measures that fail RIM but pass the TRC and Participants test in Itron's
11 analyses. Such increases amount to annual customer bill increases of
12 approximately \$112 per year by 2014 and \$281 dollars per year by 2019 for the
13 residential customer based on 1,200 kWh of monthly consumption. While
14 witness Spellman may view this as an insignificant increase, the definition of
15 significant is not universal and those customers who struggle to pay their utility
16 bills would likely argue against witness Spellman's conclusions that bill
17 increases of this magnitude are in fact not significant.

18

19 **Q. Witness Spellman recommends that the Commission mandate that FEECA**
20 **utilities have DSM goals consistent with those developed as discussed in**
21 **GDS' testimony. Do you agree with this suggestion?**

22 A. No. As I have stated previously throughout my pre-filed testimony, the RIM
23 and Participant tests are the proper tests to use for evaluating the cost-
24 effectiveness of DSM measures and should be used as the basis for establishing

1 DSM goals. I am not intimately familiar with the methodology used by witness
2 Spellman in estimating achievable potential, but it seems his recommended
3 goals are arbitrary in nature and not supported by conclusive supporting
4 evidence. However, witness Spellman's suggestion of basing goals upon full
5 achievable potential as GDS quantifies it does not account for the impact to our
6 customers' rates that will result from mandating DSM measures that do not pass
7 the RIM test.

8 As discussed in my pre-filed testimony, Itron's cost-effectiveness analyses
9 indicated that none of the DSM measures analyzed passed the RIM test. Exhibit
10 No. __[RH-3] of my pre-filed direct testimony presents projected rate impacts
11 associated with the DSM measures that passed both the TRC and Participants
12 tests in Itron's cost-effectiveness analyses. The table presented below shows
13 projected annual bill impacts to a residential customer consuming 1,200 kWh
14 per month based on adopting GDS' recommended cumulative energy goals
15 (including the transition period) as presented in Exhibit RFS-21 (page 6 of 7) of
16 the testimony of witness Spellman. The impacts shown in the table below were
17 calculated by determining the annual ratios of the recommended savings per
18 witness Spellman's testimony to those projected by Itron for measures passing
19 both the TRC and Participants tests, and applying these ratios to the estimated
20 bill impacts shown in Exhibit No. __ [RH-3] of my pre-filed testimony. As
21 shown in the table below, annual bill increases to our residential customers
22 range from approximately \$63 per year in 2010 to approximately \$1,202 per
23 year in 2019. These increases represent the upward rate pressure solely from

1 the implementation of DSM measures that do not pass RIM as suggested by
 2 witness Spellman.

3

Projected Customer Bill (Nominal \$/Year) for 1,200 kWh Residential - Without Customer Charge										
Scenario	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
OUC Proposed Goals	\$1,846	\$1,883	\$1,921	\$1,959	\$1,998	\$2,038	\$2,079	\$2,121	\$2,163	\$2,206
GDS Recommended Goals	\$1,909	\$2,027	\$2,157	\$2,295	\$2,440	\$2,607	\$2,790	\$2,986	\$3,192	\$3,408
Increase Due to GDS Recommended Goals	\$63	\$144	\$236	\$336	\$441	\$568	\$711	\$865	\$1,029	\$1,202

4

5 **Q. Witness Steinhurst recommends specific numeric goals that should be**
 6 **adopted by the Commission (Exhibit WS-1, Page 8 of 9). Do you agree with**
 7 **these recommended goals?**

8 A. No. As I have stated previously throughout my pre-filed and rebuttal testimony,
 9 the RIM and Participant tests are the proper tests to use for evaluating the cost-
 10 effectiveness of DSM measures and should be used as the basis for establishing
 11 DSM goals. Witness Steinhurst's recommended goals are arbitrary in nature
 12 and do not account for the impact to our customers' rates that will result from
 13 mandating DSM goals based on measures that do not pass the RIM test.
 14 As discussed in my pre-filed testimony, Itron's cost-effectiveness analyses
 15 indicated that none of the DSM measures analyzed passed the RIM test. Exhibit
 16 No. __[RH-3] of my pre-filed testimony presents projected rate impacts
 17 associated with the DSM reductions associated with the measures that passed
 18 both the TRC and Participants tests in Itron's cost-effectiveness analyses. The
 19 table presented below shows projected annual bill impacts to an OUC residential

1 customer consuming 1,200 kWh per month based on adopting the energy goals
 2 suggested by witness Steinhurst. The impacts shown in the table below were
 3 calculated by determining the annual ratios of the recommended savings per
 4 witness Steinhurst's testimony to those projected by Itron for measures passing
 5 both the TRC and Participants tests, and applying these ratios to the estimated
 6 bill impacts shown in Exhibit No. __ [RH-3] of my pre-filed testimony. As
 7 shown in the table below, annual bill of OUC residential customers would
 8 increase from approximately \$44 per year in 2010 to approximately \$1,487 per
 9 year in 2019 based on witness Steinhurst's recommendations

10

Projected Customer Bill (Nominal \$/Year) for 1,200 kWh Residential - Without Customer Charge										
Scenario	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
OUC Proposed Goals	\$1,846	\$1,883	\$1,921	\$1,959	\$1,998	\$2,038	\$2,079	\$2,121	\$2,163	\$2,206
Witness Steinhurst Recommended Goals	\$1,890	\$1,982	\$2,082	\$2,219	\$2,416	\$2,640	\$2,884	\$3,143	\$3,411	\$3,693
Increase Due to Witness Steinhurst Recommended Goals	\$44	\$99	\$161	\$260	\$418	\$602	\$805	\$1,022	\$1,248	\$1,487

11

12 **Q. Witness Steinhurst's recommended numeric goals appear to be based on**
 13 **annual savings of 1 percent of forecasted energy requirements. How have**
 14 **recent OUC energy sales compared to previous years?**

15

16 **A.** For the 12-month period ending June 2009 compared to the 12 month period
 17 ending June 2008, OUC's energy sales are down approximately 2.9 percent.
 18 The magnitude of the decline in energy sales represents nearly 3 years of the
 19 energy reductions proposed by witness Steinhurst.

1 When compared to the 12 month period ending June 2007, OUC's energy sales
2 for the 12 months ending June 2009 are down approximately 0.6 percent.
3 Therefore, potential energy savings projected using 2007 as the baseline, as was
4 done in this Docket, are overstated.

5

6 **Q. Taking into consideration the recent rate increases bourn by many FEECA**
7 **utility customers, including those of OUC, do you think it is important to**
8 **focus on customer rates when evaluating the cost-effectiveness of possible**
9 **new DSM measures?**

10 **A.** Yes. Determining cost-effectiveness of new DSM measures using the impact to
11 customers' rates as the primary determinant is extremely important. In light of
12 recent rate increases, we should not implement new DSM measures that have
13 been shown to increase rates even further. While the near-term bill impacts
14 shown in my previous responses as a result of either witness Spellman's or
15 witness Steinhurst's recommended DSM goals may not seem substantial, when
16 coupled with the recent increase in customers' rates OUC will be
17 disproportionately burdening its lower income and rental customers who cannot
18 take advantage of these DSM measures.

19

20 **Q. On Page 8, Lines 5-7 of his testimony, witness Cavanagh states "It makes**
21 **far more sense from a policy perspective to focus not on *rates* but on total**
22 **utility *bills*. After all, are customers really worse off if, for a constant level**
23 **of service, their rates go up but their bills go down?" Is witness Cavanagh's**
24 **assertion regarding the relationship between rates and bills correct?**

1 A. No. If rates increase, as a result of implementing DSM measures that do not
2 pass the RIM test, and a nonparticipating customer's usage does not decrease
3 (i.e., the customer maintains a constant level of service), the customer's bill will
4 increase. An increase in rates correlates to an increase in bills in such a
5 scenario. Total bills will only go down if there is sufficient reduction in
6 consumption to offset the increase in rates. In this regard, customers who are
7 unable to implement DSM measures that do not pass the RIM test due to their
8 housing situation, income level, or combinations thereof, would therefore have
9 no corresponding benefit of reduced consumption and would experience an
10 increase to their utility bills.

11

12 **Q. How would you respond to allegations by witnesses Spellman and Wilson**
13 **that the scope of the Technical Potential Study was insufficient and did not**
14 **adequately assess the full technical potential of demand-side and supply-**
15 **side conservation and energy efficiency systems, including demand-side**
16 **renewable energy systems?**

17 A. I disagree with the allegations of witnesses Wilson and Spellman. The technical
18 potential study performed by Itron, as described in the testimony of Mike Rufo,
19 considered 267 unique measures known to the FEECA utilities and provided an
20 adequate assessment of the full technical potential of available demand-side and
21 supply-side conservation and efficiency measures, including demand-side
22 renewable energy systems. The scope of the study, the measures to be analyzed,
23 and the assessment techniques were fully vetted through the Collaborative
24 process which included input from all of the FEECA-regulated utilities and

1 other interested parties including SACE and NRDC. I think it is worth noting
2 that, while raising these allegations, witness Wilson simultaneously praises the
3 study, stating “Overall, the technical potential study was conducted in a
4 professional and thorough manner. The collaboration between utilities and our
5 organizations was generally productive and communications were effective for
6 the most part.” (Wilson testimony, Page 26, Lines 7-9).

7 As members of the Collaborative, SACE and NRDC agreed to the scope of the
8 Technical Potential Study and agreed that there was insufficient data to analyze
9 four sectors. SACE and NRDC did not protest any sort of “omission” of the
10 four measures, as they argue in the testimony of witness Wilson (Page 26, Line
11 12).

12

13 **Q. Witness Spellman’s testimony indicates that the 2-year minimum payback**
14 **criterion should not be used for all customer segments, specifically**
15 **residential and small commercial. Is this consistent with the DSM goal**
16 **setting process in Florida?**

17 A. No. Use of different payback criterion for different customer classes is not
18 consistent with the requirements of the DSM goals setting process. The DSM
19 goal setting process does not and should not differentiate between customer
20 segments while requiring that free-ridership be recognized.

21

22 **Q. Why was a 2-year payback period selected for the purposes of screening out**
23 **DSM measures from further consideration?**

- 1 A. The 2-year payback period provides for a reasonable method for minimizing
2 free ridership when evaluating the cost-effectiveness of DSM measures. The
3 types of measures that were screened out using the 2-year payback criterion are
4 the focus of existing educational programs and other efforts. . Furthermore, it is
5 OUC's position that there are a variety of reasons not to incentivize measures
6 that have a 2-year payback period or less, including:
- 7 (a) Not all conservation measures need utility incentives to have customers
8 implement them.
- 9 (b) Utility incentives should be utilized to "change the market" to incent
10 customers to do something they would ordinarily not consider doing, rather
11 than provide a reward for something they would do anyway.
- 12 (c) There is sufficient empirical evidence that indicates most customers consider
13 a 2 year payback period to be attractive enough to implement conservation
14 measures without further utility incentives. Residential customers'
15 expectation of a 2 to 3 year payback period for household investments is an
16 often-cited barrier to energy efficiency. This expectation of rapid payback
17 limits potential, but still provides considerable opportunities across all
18 sectors.¹ The average payback period expected by commercial customers is
19 3.6 years.² Empirical research suggests that "U.S. consumers typically

¹ *Unlocking Energy Efficiency in the U.S. Economy*, McKinsey Global Energy and Materials Group, July 2009, (pg 28)

² *Unlocking Energy Efficiency in the U.S. Economy*, McKinsey Global Energy and Materials Group, July 2009, (pg 77)

1 expect payback within 2.5 years. This expectation affects 60 percent of the
2 potential (of non-low income home owners)"³

3 (d) Customers should also share in the responsibility for implementing DSM
4 measures. It is OUC's position that the economics of a 2-year payback
5 period, equal to almost a 50% return on investment, provides sufficient
6 incentive in the marketplace for customers to install these measures without
7 additional utility incentives.

8

9 **Q. Witness Steinhurst alleges that the cost-effectiveness analyses did not**
10 **appropriately account for costs associated with regulation of greenhouse**
11 **gases (i.e. CO₂) emissions? How were such costs considered in OUC's**
12 **analyses?**

13 A. Greenhouse gases are not currently regulated at either the State or Federal level,
14 and there currently are no costs imposed on the emissions of greenhouse gases.
15 While there is much speculation on the potential for greenhouse gas emissions
16 regulation, OUC does not believe it is appropriate to establish DSM goals that
17 would increase customer rates based on speculation related to yet-to-be defined
18 potential regulations of emissions of greenhouse gases. However, for
19 informational purposes, Itron performed additional analyses related to several
20 different combinations of fuel and carbon dioxide (CO₂) emissions allowance
21 prices.

22

³ *Energy Savings Potential of Solid State Lighting in General Illumination Applications: Final Report*,
Office of Energy Efficiency and Renewable Energy, Department of Energy, December 2006

1 **Q. Were incentives properly considered by Itron in their cost-effectiveness**
2 **evaluations for OUC?**

3 A. Yes. Itron properly considered incentives provided from the utility to the
4 participating customer in the RIM and Participants tests.

5

6 **Q. Did Itron's cost-effectiveness evaluations for OUC reflect the inclusion of**
7 **administrative costs at the DSM measure level, as alleged in the testimony**
8 **of witness Mosenthal?**

9 A. No. Itron did not consider the inclusion of administrative costs at the DSM
10 measure level.

11

12 **Q. Witness Spellman suggests that DSM goals be based upon the maximum**
13 **achievable cost-effective potential under the E-TRC and Participant tests**
14 **with GHG cost estimates based upon most recent CBO costs estimates. Do**
15 **you agree with this approach?**

16 A. No. As I have stated previously throughout my pre-filed testimony, the RIM
17 and Participant tests are the proper tests to use for evaluating the cost-
18 effectiveness of DSM measures and should be used as the basis for establishing
19 DSM goals.

20

21 Greenhouse gases are not currently regulated at either the State or Federal level,
22 and there currently are no costs imposed on the emissions of greenhouse gases.

23 While there is much speculation on the potential for greenhouse gas emissions
24 regulation, OUC does not believe it is appropriate to establish DSM goals that

1 would increase customer rates based on speculation related to yet-to-be defined
2 potential regulations of emissions of greenhouse gases. However, for
3 informational purposes, Itron performed additional analyses related to several
4 different combinations of fuel and carbon dioxide (CO₂) emissions allowance
5 prices. The rebuttal testimony of witness Kushner discusses the CO₂ emissions
6 allowance price projections used in these analyses and how they compare to
7 recent CBO estimates.

8

9 **Q. Do you agree with witness Spellman's suggestion that utilities should be**
10 **required to set aside a specific amount of funds to encourage demand-side**
11 **renewable energy?**

12 A. No. I do not believe there should be Commission-mandated requirements as to
13 the amount of funds set aside to encourage technologies that are not shown to be
14 cost-effective. All goals should be established to promote cost-effective DSM
15 without bias to any particular technology. If demand-side renewable energy
16 systems are cost-effective, utilities should have the flexibility to include such
17 systems either as part of their renewable portfolios or as part of their DSM
18 programs. Witness Spellman cites no basis whatsoever to require a municipal
19 utility to invest unspecified research and development into measures that he
20 admits have been shown to not be cost-effective.

21 It should be noted that even in the absence of Commission mandated
22 requirements, municipal utilities may, at their own discretion, choose to
23 implement non-RIM based measures in response to input from our communities.
24 As examples, OUC offers limited demand-side renewable energy programs such

1 as our Solar Photovoltaic (PV) and Solar Thermal programs, as well as our
2 partnership with the Orlando Federal Credit Union to offer no cost and low cost
3 loans to customers installing solar systems.

4

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

6 **A. Yes.**

1 CHAIRMAN CARTER: Is it Ms.-- you're going to
2 forgo your summary, Mr. Halley; is that right?

3 THE WITNESS: That's fine.

4 CHAIRMAN CARTER: Good. Okay. Ms. Kaufman?

5 MS. KAUFMAN: No, thank you, Mr. Chairman.

6 CHAIRMAN CARTER: Mr. Cavros, you're
7 recognized.

8 MR. CAVROS: Thank you, Mr. Chairman. I did
9 have a few questions.

10 CROSS-EXAMINATION

11 BY MR. CAVROS:

12 Q. Good afternoon, Mr. Halley. How are you
13 doing?

14 A. Good.

15 Q. Good, good. This is going to be hopefully
16 really quick. I did want to run through a calculation
17 with you, but before I do that, I wanted to refer you to
18 your testimony on page 2, starting at line 12.

19 A. Okay.

20 Q. And there it just says, "Do you agree with the
21 interpretations of witnesses Wilson and Steinhurst
22 regarding use of the RIM test relative to the intent of
23 366.82?"

24 And your answer on line 14 is no, you believe
25 that Section 366.82 requires the PSC to consider the

1 costs and benefits to the participating ratepayers as
2 well as the general body of ratepayers as a whole. And
3 I just wanted to explore that with you just real
4 quickly, and I wanted to pass out a demonstrative
5 exhibit in order to do that.

6 CHAIRMAN CARTER: Just for cross-examination
7 purposes?

8 MR. CAVROS: Yes, sir.

9 CHAIRMAN CARTER: Okay. I think we can get
10 someone to help you with that.

11 You may proceed.

12 MR. CAVROS: Thank you, Mr. Chairman.

13 BY MR. CAVROS:

14 Q. Mr. Halley, on page 1 -- this is identified as
15 a presentation by Bob Trapp, Division of Economic
16 Regulation with the Public Service Commission, on
17 February 21, 2008; is that correct?

18 A. Yes.

19 Q. Great. And I was wondering if you could turn
20 the page to page 25, or slide 25.

21 A. Okay.

22 Q. And I'll read the second bullet point if
23 that's okay. It describes what is included in the Total
24 Resource Cost test, and it says it measures the net
25 costs of a DSM program based on total program costs,

1 including both the participant's and the utility's
2 costs.

3 A. That's not the slide 25 I have.

4 Q. I'm sorry. It's slide 26.

5 A. Okay.

6 MR. YOUNG: Mr. Chairman, is Mr. Trapp -- is
7 this document in the record?

8 CHAIRMAN CARTER: No, it's not. I don't think
9 it is part of the record.

10 MR. CAVROS: Mr. Chairman, I can answer that.
11 This was actually submitted as part of John Wilson's
12 testimony. It was his seventh exhibit, GDW-7.

13 CHAIRMAN CARTER: Mr. Wilson's exhibit?

14 MR. YOUNG: So this is Mr. Wilson's testimony
15 of Mr. Trapp which you're asking a question to my
16 witness about. It seems a little farfetched.

17 And I would like to point out, Mr. Chairman,
18 that late last night when I found that they had some
19 questions for my witness, I asked them to, in order to
20 save time, give us some idea of what they were, and we
21 would try to be prepared to answer them, and this is the
22 first time I've seen this.

23 I have a great amount of respect for Bob
24 Trapp, and I'm sure that anything he said is accurate
25 and true, but he ain't here. He ain't a witness. I

1 don't understand why this is important or can be used to
2 cross-examine my witness.

3 CHAIRMAN CARTER: Mr. Cavros.

4 MR. CAVROS: Yes, Commissioner. This is not
5 being entered into the record. You know, this is just a
6 demonstrative exhibit, and it goes to Mr. Halley's
7 testimony on page 2 citing that he believes the RIM test
8 meets the requirements of 366.82. And what I would like
9 to do is just sort of clarify that for the Commission's
10 behalf and also to understand, you know --

11 CHAIRMAN CARTER: Tread lightly.

12 MR. CAVROS: I will. Thank you.

13 BY MR. CAVROS:

14 Q. Okay. On page 26, the second bullet there,
15 Mr. Halley, it describes the Total Resource Cost test as
16 measuring the net costs of a DSM program based on total
17 program costs, including --

18 CHAIRMAN CARTER: Just ask him questions.

19 Let's don't --

20 MR. CAVROS: Sure.

21 CHAIRMAN CARTER: Okay. Let's don't testify.

22 MR. CAVROS: Thank you.

23 BY MR. CAVROS:

24 Q. Do you agree with that statement?

25 MR. YOUNG: Mr. Chairman, I didn't understand

1 the question. I hope my witness did. But for this old
2 guy's benefit --

3 CHAIRMAN CARTER: Just rephrase it.

4 MR. YOUNG: Yes.

5 MR. CAVROS: Sure.

6 BY MR. CAVROS:

7 Q. Mr. Halley, this is a presentation of the
8 Total Resource Cost test and what it measures. And I've
9 read what the second bullet says a couple times, and I
10 would simply like to know if you agree with this
11 statement.

12 CHAIRMAN CARTER: The statement on the second
13 bullet is what you're asking him about?

14 MR. CAVROS: Correct, correct, Mr. Chairman.

15 A. What is his definition of being in the
16 utility's cost?

17 Q. Well, I suppose that's the crux of the
18 question, and if you turn to page 25, maybe we can
19 answer that.

20 CHAIRMAN CARTER: Page 25 of --

21 MR. CAVROS: I'm sorry. The slide, the little
22 slide there, 25.

23 BY MR. CAVROS:

24 Q. And it lists the costs on the TRC side of the
25 equation, and it lists program costs, and then it lists

1 participant's out-of-pocket expenses; is that correct?

2 A. On slide 25, yes.

3 Q. Okay. And in your opinion, the program costs
4 and the -- in your opinion, the utility incentive is a
5 transfer payment. Let me ask you this. Is it your
6 opinion that the program costs are a transfer payment,
7 that the utility incentive is a transfer cost, transfer
8 payment between the program costs and the participant's
9 out-of-pocket expenses?

10 A. I'm sorry. I'm not following.

11 Q. Sure. Let me ask you this. Where would the
12 utility incentive be in this equation?

13 A. If I assume the costs are the utility costs?

14 Q. If you assume the cost side of the equation of
15 this, where would the utility incentive --

16 A. The utility -- in the TRC test, where would
17 the utility incentive be?

18 Q. Yeah.

19 A. It would not be in the TRC test.

20 Q. What would happen -- let me ask you this,
21 then. Would you say that it's embedded in the TRC test?

22 MR. GUYTON: Objection. Asked and answered.
23 I object to this witness being asked about another
24 witness's exhibit which yet again was from Mr. Trapp's
25 presentation. I think it's about triple hearsay, and

1 it's well beyond the scope of his rebuttal.

2 CHAIRMAN CARTER: We started -- hang on. Hold
3 on. We started down this road. Once Mr. Halley
4 finished his direct, there were no questions.
5 Ms. Brownless had finished, and you said there were no
6 questions. You said you had a couple of questions, but
7 we're getting way, way far afield here. This is not
8 within the context of that, so we need to tighten it
9 down.

10 MR. CAVROS: Sure, sure. Very well.

11 CHAIRMAN CARTER: Ask him about his testimony,
12 not someone else's. That would probably help us all.

13 BY MR. CAVROS:

14 Q. Mr. Halley, why don't you think the TRC test
15 cannot meet the requirements of 366.82?

16 A. It can be considered in the requirements of
17 366.82.

18 Q. Are you familiar with the requirements of
19 366.82?

20 A. I have read them.

21 Q. Okay. Are you familiar with 366.82(3)(b)?

22 A. Is that in my direct -- is that in my rebuttal
23 testimony somewhere that you can point me to it?

24 Q. You referenced 366.82. You know, I'm not -- I
25 don't really want to belabor this, but I thought --

1 MR. GUYTON: Too late.

2 MR. CAVROS: I thought for clarification --
3 excuse me, Chairman. Could I ask if there's an
4 objection interposed that it is done by the client's
5 attorney?

6 CHAIRMAN CARTER: I beg your pardon?

7 MR. CAVROS: Can I asked if there's an
8 objection interposed, if it's made by the client's
9 attorney, by Mr. Halley's attorney?

10 CHAIRMAN CARTER: Okay. That's fine. You
11 don't want him to make one now, though; right?

12 MR. CAVROS: If he could wait a bit.

13 BY MR. CAVROS:

14 Q. So let me -- I guess let me ask this as
15 plainly as I can. Mr. Halley, I'm trying to understand
16 why you do not support the TRC test for -- to meet the
17 requirements of 366.82. I believe that you've said that
18 it can be used to meet the requirements of 366.82; is
19 that correct?

20 A. No. What I said was, I said it can be
21 considered as part of the consideration of 366.82.

22 Q. Okay. And I passed out this exhibit so we
23 could -- as a demonstrative exhibit, something that both
24 of us could sort of work from.

25 Why do you think it cannot be? Maybe we

1 should go there. Why do you think it cannot be used for
2 366.82?

3 A. Solely for 366.82?

4 Q. You said that it could be used. I assume that
5 means that it might not be able to be used as well.

6 A. No. I said it could be considered as part of
7 their consideration for the setting of goals.

8 I apologize if I'm not understanding what
9 you're asking.

10 Q. Sure. I guess -- what I'm asking is, I'm
11 trying to understand your statement through this
12 demonstrative exhibit, and there's -- when you look at
13 this exhibit, on page 25, on the cost side of the TRC
14 cost test equation, there's generally a program cost
15 listed and a participant out-of-pocket expense listed.

16 MR. YOUNG: Mr. Chairman, are we back on
17 Mr. Trapp's testimony that was attached to somebody
18 else's testimony?

19 CHAIRMAN CARTER: I think he's going to ask a
20 question.

21 MR. CAVROS: I am. I am.

22 CHAIRMAN CARTER: Okay. Let's see where it
23 goes.

24 MR. CAVROS: Okay.

25 BY MR. CAVROS:

1 Q. If the equipment cost in this equation is
2 \$100, if the measure cost is \$100 for this equation, and
3 the participant's out of -- and a utility incentive is
4 offered, say, for \$50, the participant's out-of-pocket
5 expenses will be \$50; is that correct?

6 A. That is correct.

7 Q. So therefore, the utility incentive is
8 represented in the participant's out-of-pocket expenses;
9 is that correct?

10 A. For the participant alone, yes.

11 MR. CAVROS: Thank you.

12 CHAIRMAN CARTER: Thank you very kindly.

13 MR. CAVROS: Thank you for your patience.

14 CHAIRMAN CARTER: Ms. Brownless.

15 MR. CAVROS: I'm sorry. Chairman, that was --
16 I have one other line of questioning.

17 CHAIRMAN CARTER: Too late. Forget about it.
18 You have one other question, you said?

19 MR. CAVROS: Yes. I actually just wanted to
20 run through a calculation.

21 CHAIRMAN CARTER: Okay. Have you got a
22 calculator today that works?

23 MR. CAVROS: Yes, but actually --

24 CHAIRMAN CARTER: I don't think Mr. --

25 MR. CAVROS: I do have an exhibit which I

1 would like to mark --

2 CHAIRMAN CARTER: I don't think Mr. Halley
3 held himself out to be a mathematician.

4 MR. CAVROS: -- to lead us through this.

5 CHAIRMAN CARTER: Okay. Let's kind of stay
6 focused now. I'm beginning to regret letting you guys
7 have lunch.

8 MR. CAVROS: I think this can go pretty fast.
9 Okay.

10 CHAIRMAN CARTER: Hang on. Hang on. Let
11 everyone get a copy. Hang on.

12 MR. CAVROS: I'm sorry.

13 And I would like to mark this exhibit.

14 CHAIRMAN CARTER: For identification?

15 MR. CAVROS: Yes, please.

16 CHAIRMAN CARTER: Okay. Commissioners, for
17 identification, this will be Exhibit Number 176. Title,
18 short title?

19 MR. CAVROS: OUC Cost Calculation.

20 CHAIRMAN CARTER: OUC Cost Calculation. Okay.

21 (Exhibit Number 176 was marked for
22 identification.)

23 MR. CAVROS: 176?

24 CHAIRMAN CARTER: Yes, 176.

25 Okay. You may proceed.

1 MR. CAVROS: Thank you, Chairman.

2 Chairman, I apologize. I believe that might
3 be Exhibit 177. No?

4 MS. BROWNLESS: Did you give the exhibit that
5 you denied --

6 CHAIRMAN CARTER: No, I did not. I did not
7 give that a number.

8 MS. BROWNLESS: You didn't give it a number?

9 CHAIRMAN CARTER: Because it was not
10 authenticated, no.

11 MS. BROWNLESS: Okay. Thank you.

12 MR. CAVROS: So moving right along --

13 CHAIRMAN CARTER: This is 176.

14 BY MR. CAVROS:

15 Q. Moving right along, Mr. Halley, this is the
16 last line of cross-examination I have for you. On page
17 6, the table there, you have an estimate of the GDS --
18 the impact, the bill impacts of the GDS-recommended
19 goals that I would like to ask you about.

20 A. Okay. I'm there.

21 Q. In order to expedite matters, I've prepared an
22 exhibit to guide you through. Just take a moment to
23 familiarize yourself with that exhibit, if you can.

24 The exhibit relies on four numbers in bold.
25 Two are directly from your testimony on page 6, one is

1 referred to in your testimony, and one is from OUC's
2 Ten-Year Site Plan. And what I've done is also -- you
3 can assume that those numbers are correct subject to
4 check, or I've included the source documents, you know,
5 if you want to look them over.

6 Would you agree, subject to check, that this
7 is a page from the Ten-Year Site Plan, OUC's Ten-Year
8 Site Plan?

9 A. Subject to check, yes.

10 MR. YOUNG: Mr. Chairman, I don't -- is our
11 Ten-Year Site Plan in the record?

12 MS. FLEMING: This particular schedule is not
13 in the record. Only Schedules 3.1, 3.2, and 3.3 are in
14 the record.

15 MR. CAVROS: Ms. Fleming, what I did is, I
16 gave him a copy of the source documents in case he wants
17 to --

18 CHAIRMAN CARTER: Make sure that the documents
19 are part of the record.

20 MR. YOUNG: I don't think it is. And it's one
21 page of a Ten-Year Site Plan. And again, Mr. Chairman,
22 I asked for this material last night.

23 CHAIRMAN CARTER: Well, let's do this. Hold
24 on. Let's do this. You can ask your question without
25 the information from the document that's not part of the

1 record, so let's just scratch that out.

2 MR. CAVROS: All right.

3 CHAIRMAN CARTER: Commissioners, that part
4 dealing with the Ten-Year Site Plan, that's not part of
5 it. In fact, let's just -- this is just for
6 identification, subject to whatever processes we get to
7 before there's any perspective on introduction. So you
8 may proceed, but let's eliminate that portion.

9 MR. CAVROS: I'm sorry, Chairman. Was the
10 ruling that I cannot refer to a Ten-Year Site Plan
11 number in order to --

12 CHAIRMAN CARTER: The part that's excluded,
13 no, but you can -- you can refer to the part that's
14 included, but not the part that's excluded.

15 MR. CAVROS: Can I ask the witness, subject to
16 check, in order to move along the calculation?

17 CHAIRMAN CARTER: You know, we've been at this
18 all week, and we've been at it for most of the year, and
19 at this point in time, we just really need to stay
20 focused. We really need to stay focused, guys.

21 MR. CAVROS: And, Chairman, I'm trying to stay
22 as focused as I can. That's why I put forth this
23 schedule so he could help me work through this
24 calculation. It goes specifically to the rate impacts
25 of the GDS goals on page 6 of his testimony.

1 CHAIRMAN CARTER: Well, why don't you just ask
2 him about what's on page 6 of his testimony?

3 MR. CAVROS: I am, but it's --

4 CHAIRMAN CARTER: Ms. Helton? Hang on.

5 MR. CAVROS: It's a multi-step process of
6 getting there.

7 CHAIRMAN CARTER: Ms. Helton, I think we're
8 getting far afield here, way far afield.

9 MS. HELTON: Could I confer with Ms. Fleming
10 for one minute?

11 CHAIRMAN CARTER: Okay. Let's take a minute.

12 (Pause in the proceedings.)

13 MS. HELTON: Mr. Chairman.

14 CHAIRMAN CARTER: Yes, ma'am.

15 MS. HELTON: The witness has addressed the
16 goals recommended by Mr. Spellman. We do have a problem
17 with the first line of the GDS-recommended cumulative
18 residential energy savings goal listed there. I think
19 that's not the correct number based on the correct
20 information that was provided earlier today when
21 Mr. Spellman testified. So we do know, number one,
22 there is a problem there.

23 It seems to me that if we could quickly go
24 through this and verify whether the other information is
25 correct or not, we might get to somewhere that's

1 relevant and has been testified to in Mr. Halley's
2 prefiled rebuttal testimony.

3 CHAIRMAN CARTER: Okay. So --

4 MR. CAVROS: Mr. Chairman, could I add that
5 the fact that the numbers have been updated isn't
6 relevant to this calculation.

7 MS. HELTON: Well, then I have to wonder why
8 are we going through the numbers.

9 MR. YOUNG: Mr. Chairman, in the interest of
10 time, if the attorney can properly articulate a
11 question, we would be pleased to try to respond to that
12 question with a late-filed exhibit rather than trying to
13 figure out what these numbers are and if they're correct
14 or not correct and having the witness attempt to do some
15 kind of calculation that is being asked for. We could
16 be here all night trying to figure this out.

17 CHAIRMAN CARTER: I think in fairness to the
18 parties, we do need to have accurate numbers.

19 MR. CAVROS: Mr. Chairman, I'm actually going
20 through the methodology about how these calculations
21 were made, and it's -- I understand that it's a
22 multi-step process to get to where I'm going, but it
23 goes to the accuracy of these rate impacts.

24 CHAIRMAN CARTER: But if the numbers are not
25 -- if you're not dealing with the accurate numbers, how

1 can it possibly be accurate numbers for the rate impact?

2 MR. CAVROS: Because it goes to --

3 CHAIRMAN CARTER: That's antithetical.

4 MR. CAVROS: No, because it goes to the
5 data -- it goes to the data inputs that were used.

6 CHAIRMAN CARTER: Mr. Cavros, I've given you
7 great leeway this afternoon, and I think that we've
8 reached a point of cutting the Gordian knot on this one.

9 MR. CAVROS: Well, let me --

10 CHAIRMAN CARTER: Why don't you use his
11 information? You've got a document here on page 6. Use
12 that. You can get the information you need on that.
13 Let's proceed.

14 MR. CAVROS: Chairman, if I may, to arrive at
15 these rate impacts --

16 CHAIRMAN CARTER: You have to use his numbers.

17 MR. CAVROS: -- you have to go through a
18 series of steps.

19 CHAIRMAN CARTER: You can go through the
20 series of steps, but you have to have the correct
21 numbers. You remember that computer adage, "Garbage in,
22 garbage out"?

23 MR. CAVROS: But I don't need the correct
24 numbers to show that the methodology -- that there was a
25 defect in the methodology. I don't know how much --

1 CHAIRMAN CARTER: Mr. Cavros, we've been
2 beating this issue over the head for the last ten
3 minutes about the numbers, and you want to talk about
4 the methodology. I'm saying if you need the
5 methodology, talk about the methodology, and let's
6 forget the numbers so we can move forward, sir.

7 MR. CAVROS: Okay. Let me see if I can do
8 that.

9 CHAIRMAN CARTER: And I really think it's
10 unfair to this witness, because on Monday, which seems
11 like forever ago, we talked that there was only a couple
12 of questions for this witness. And in fact, he was to
13 be excused from rebuttal, and now here we are today.
14 We're in the swamp, not the one in Gainesville, a
15 different kind of swamp.

16 MR. CAVROS: Well, let me ask you this,
17 Mr. Chairman. Maybe there's a different way to get to
18 this. You know, there seems to be a lot of resistance
19 to doing this, working through all these calculations
20 here. But if --

21 CHAIRMAN CARTER: I'm saying do you need the
22 calculations to ask him about his methodology? And if
23 you need numbers, you've got sworn testimony right here
24 that you can use. I mean, what's -- do you need five
25 minutes?

1 MR. CAVROS: Could I just take a minute?

2 CHAIRMAN CARTER: Okay. Let's take five
3 minutes. Commissioners, let me see. We're at -- 3:15.

4 (Short recess.)

5 CHAIRMAN CARTER: We're back on the record.

6 And when we last left, we were getting ready for a
7 question. Mr. Cavros, you're recognized, sir.

8 MR. CAVROS: Thank you, Mr. Chairman.

9 BY MR. CAVROS:

10 Q. Thanks for your patience, Mr. Halley. If we
11 could go back to page 6 of your testimony, in your table
12 on that page, in the first column for 2010, you have --
13 in the row labeled "Increases Due to GDS Recommended
14 Goals," you have a value there of \$63.

15 A. Correct.

16 Q. Would you be kind enough to walk me through
17 how you got there?

18 A. Absolutely.

19 Q. Thank you.

20 A. What we started with is, when looked at the
21 goals that were provided by GDS, there were no costs
22 associated with them. They were just gigawatt-hour
23 goals. So as a proxy, we went back to the analysis that
24 Itron had done for us on what passes the TRC test and
25 the Participant test to see what savings we would have

1 in that year from the gigawatt-hours from the measures
2 that passed the TRC test. And we also looked at what
3 the costs were for those individual measures and came up
4 with a -- kind of a cost ratio, if you will, based on
5 those number of gigawatt-hour savings. Then we took the
6 gigawatt-hour savings that was proposed in GDS's
7 proposed goals, if you will, and used that same ratio to
8 get a proxy of what that bill impact would be for our
9 customers.

10 Q. Okay. And -- I'm sorry. Were you continuing?

11 A. No. That was it.

12 Q. Okay.

13 A. It's pretty straightforward.

14 Q. Okay. And do you know what that percentage
15 was? You mentioned there was a total gigawatt-hour
16 savings.

17 A. Not off the top of my head I do not.

18 Q. And do you know what the first year -- and do
19 you know what the first year measure costs might have
20 been?

21 A. For GDS?

22 Q. Let me ask you this. How would the first year
23 measure costs play into this equation or the way you
24 calculated it? I guess that's what I'm trying to
25 understand.

1 A. The first year measure costs from GDS or from
2 Itron?

3 Q. From both.

4 A. Well, I didn't have anything from GDS, so from
5 the Itron, we used the ratio of costs that the measures
6 were for that year with the proposed goals, if you will,
7 or proposed savings from the measures that passed the
8 TRC and the Participant tests from Itron's calculations.
9 And that was our cost ratio, if you will, to proxy
10 against the gigawatt-hour savings that GDS proposed in
11 their goals.

12 Q. Okay. And you said that you don't know off
13 the top of your head what that first year measure cost
14 might be?

15 A. No, I do not.

16 MR. CAVROS: Mr. Chairman, is that something
17 that we could get as a late-filed exhibit?

18 CHAIRMAN CARTER: Mr. Young, do you think you
19 can get this to us as a late-filed exhibit?

20 MR. YOUNG: State again what you want as a
21 late-filed exhibit so that we know exactly what it is
22 that you want.

23 MR. CAVROS: Was that a question directed to
24 me?

25 CHAIRMAN CARTER: Yes, sir, for you, yes, sir.

1 MR. CAVROS: Yes, please. We would like the
2 first year measure costs for -- that were used in the
3 calculations to arrive at the increases due to GDS
4 recommended goals.

5 MR. YOUNG: If I may inquire, Mr. Chairman, to
6 my witness, do you understand what he's asking you to
7 do?

8 THE WITNESS: I believe so. Can I repeat it
9 back to you to make sure I'm hearing --

10 MR. CAVROS: Sure, sure.

11 THE WITNESS: So you want the --

12 CHAIRMAN CARTER: Yes, repeat it back so I can
13 write it down.

14 THE WITNESS: For year 2010, you would like
15 the total measure costs that was provided to us by Itron
16 that passed the TRC and the precipitant -- the
17 Participant test, as well as the gigawatt-hour savings
18 that were projected with those same measure costs for
19 the same year, for 2010, as provided by Itron to us?

20 MR. CAVROS: I believe that's correct, yes.

21 THE WITNESS: Yes. Yes, I do understand,
22 Mr. Young.

23 MR. CAVROS: Thank you. And could we get it
24 for the remaining years as well in the schedule?

25 THE WITNESS: Yes.

1 MR. CAVROS: Okay. Thank you.

2 CHAIRMAN CARTER: Okay. We'll do that.

3 (Late-filed Exhibit Number 177 was identified
4 for the record.)

5 CHAIRMAN CARTER: Ms. Brownless, good
6 afternoon.

7 MS. BROWNLESS: Good afternoon, sir.

8 CROSS-EXAMINATION

9 BY MS. BROWNLESS:

10 Q. I'm looking at page 14 of your rebuttal
11 testimony.

12 A. Okay. I'm there.

13 CHAIRMAN CARTER: Excuse me, Ms. Brownless,
14 before you go. Just for the record, Commissioners, for
15 your records, that will be Exhibit Number 177. The
16 late-filed will be Number 177.

17 Thank you, Ms. Brownless, for your courtesy.

18 MS. BROWNLESS: Sure.

19 CHAIRMAN CARTER: You may proceed.

20 BY MS. BROWNLESS:

21 Q. So the testimony beginning on line 9 and
22 continuing through the next page concerns the
23 demand-side renewable dollars suggested by Mr. Spellman
24 be allocated; is that right?

25 A. Yes.

1 Q. Okay. And he calculated figures for the five
2 investor-owned utilities, but he didn't actually
3 calculate any figures for OUC, did he?

4 A. Not that I'm aware of.

5 Q. He just suggested that OUC do something
6 similar?

7 A. That was my understanding, yes.

8 Q. Am I correct that OUC already has several
9 solar thermal and solar PV programs, and therefore
10 already has a pot of money that it is allocating to
11 those types of programs?

12 A. That would be a fair statement, yes.

13 Q. Okay. And when I talked to Mr. Young last
14 night, he agreed to provide those figures with regard to
15 the funds allocated and some other questions that I put
16 to him concerning those funds, incentive levels, number
17 of customers, amount of money allocated to advertising,
18 in a late-filed exhibit; is that right?

19 A. Yes, that's correct.

20 MS. BROWNLESS: And so we would identify that
21 as our Late-filed Exhibit Number 178.

22 CHAIRMAN CARTER: Commissioners, for your
23 records, that would be Number 178, Exhibit Number 178.

24 MS. BROWNLESS: And the short title would be
25 "OUC Renewable Figures."

1 CHAIRMAN CARTER: Excellent.

2 (Late-filed Exhibit Number 178 was identified
3 for the record.)

4 MS. BROWNLESS: And that's all I have,
5 Mr. Halley. Thank you so much.

6 CHAIRMAN CARTER: Thank you so kindly,
7 Ms. Brownless.

8 Commissioners, before I go to staff, anything
9 from the bench?

10 Staff, you're recognized.

11 MR. SAYLER: No questions.

12 MR. YOUNG: I have one question, if I may, on
13 redirect.

14 CHAIRMAN CARTER: Redirect?

15 MR. YOUNG: When we get to that point.

16 CHAIRMAN CARTER: Okay.

17 MR. YOUNG: Are we there?

18 CHAIRMAN CARTER: We are there.

19 REDIRECT EXAMINATION

20 BY MR. YOUNG:

21 Q. You were asked, I think, about -- you were
22 given an example of \$100, with 50 being paid by the
23 participant and 50 being paid by the utility. Isn't it
24 true that the total measure cost remains the same in
25 that example?

1 A. The total measure cost?

2 Q. Yes.

3 A. It does.

4 MR. YOUNG: Okay. Thank you.

5 CHAIRMAN CARTER: Okay. We've got -- let's
6 see here. 176 was -- we decided that you could get what
7 you needed from the late-filed, so we'll deny 176.

8 Mr. Cavros, thank you for your cooperation.
9 Thank you, Mr. Young, for your cooperation.

10 Commissioners, so 177 is what we've
11 supplemented instead, or substituted, and those are the
12 measures for the total measure costs for the Itron, for
13 the Participant's test. And I think Mr. Halley is
14 probably far more familiar with what's required in that
15 than I am, but I think, Mr. Cavros, that covers it.
16 Does that cover what you were asking for?

17 MR. CAVROS: Yes, sir.

18 CHAIRMAN CARTER: Okay. So that will be
19 Late-filed 177.

20 (Late-filed Exhibit Number 177 was admitted
21 into the record.)

22 CHAIRMAN CARTER: 178, Ms. Brownless asked for
23 the OUC renewables. Am I close?

24 MS. BROWNLESS: Renewable figures, yes.

25 CHAIRMAN CARTER: Renewable figures. Okay.

1 (Late-filed Exhibit Number 178 was admitted
2 into the record.)

3 CHAIRMAN CARTER: All right. Okay. Anything
4 further for this witness?

5 Thank you. You may be excused. Have a nice
6 day.

7 THE WITNESS: Thank you.

8 CHAIRMAN CARTER: You did a good job,
9 Mr. Halley. Look forward to seeing you again sometime,
10 at Disney World.

11 (Laughter.)

12 MR. YOUNG: Bring a flashlight, Mr. Chairman.

13 I think Mr. Haddad is next, and I believe he
14 was stipulated out. Mr. Chairman, I would ask that his
15 rebuttal testimony be inserted into the record as though
16 read.

17 CHAIRMAN CARTER: The prefiled testimony of
18 the witness will be inserted into the record as though
19 read. Commissioners, this witness has been stipulated
20 by the parties. Any objections? Without objection,
21 show it done.

22

23

24

25

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **DIRECT TESTIMONY OF FREDERICK F. HADDAD JR.**

3 **ON BEHALF OF**

4 **ORLANDO UTILITIES COMMISSION**

5 **DOCKET NO. 080412 -EG**

6 **JULY 30, 2009**

7

8 **Q. Please state your name and address.**

9 A. My name is Frederick F. Haddad, Jr. My business address is 1310 Winter
10 Springs Boulevard, Winter Springs, Florida 32708.

11

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

13 A. I am the President of Haddad Resources Management LLC.

14

15 **Q. Please describe your responsibilities in that position.**

16 A. Haddad Resources Management, LLC is a consulting firm that provides
17 assistance to public and private utilities and municipal entities on various
18 matters related to the planning and operation of the utility systems owned by
19 such entities. As President of Haddad Resource Management, I am primarily
20 responsible for performing analysis and making recommendations to clients in
21 the areas of rate design, power resource management and operation, need
22 certification and integrated resource management planning that incorporates
23 both traditional and renewable strategies

24

1 **Q. Please state your educational background and professional experience.**

2 A. I have a Bachelor's degree in Engineering from the University of Central
3 Florida, as well as an MBA from Rollins College. I am a licensed professional
4 engineer in the State of Florida. Prior to establishing Haddad Resources
5 Management LLC, I was employed by Orlando Utilities Commission (OUC) as
6 Vice President of the Power Resources Business Unit. In that capacity, I was
7 responsible for all of OUC's power resources including the planning,
8 construction, and operation of OUC's generation portfolio. I also managed the
9 fuel procurement and related financial hedging programs of OUC, and
10 wholesale power marketing. I worked for OUC from 1977 until 2007 and my
11 responsibilities included serving as a Results Engineer, Assistant Superintendent
12 of Operations, Superintendent of Indian River Power Plant in Titusville,
13 Director of Stanton Energy Center near Orlando, Managing Director of
14 Generation, and finally as Vice President of the Power Resources Business
15 Unit. I retired from that position in 2007.

16
17 **Q. On whose behalf are you testifying?**

18 A. I am providing testimony on behalf of the Orlando Utilities Commission (OUC).

19
20 **Q. What is the purpose of your testimony in this proceeding?**

21 A. The purpose of my testimony is to rebut certain evidence offered in the direct
22 testimony of NRDC, SACE and GDS Associates witnesses. More specifically,
23 my testimony will rebut certain erroneous assumptions and statements made by
24 such witnesses which overstate the potential effectiveness of recommended

1 DSM reduction measures as they would apply to OUC and OUC's ability to
2 comply with prudent resource planning to reliably serve its load in the most
3 cost-effective manner. My testimony will also rebut certain statements made by
4 such witnesses which understate the risk of DSM measures relative to supply
5 side alternatives that may be available to OUC.

6

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

8 A. Yes. Exhibit No. __ [FFH-1] is a copy of my résumé.

9

10 **Q. Witnesses Steinhurst and Spellman claim that DSM related reductions have**
11 **value in the wholesale market because power can be resold. Witness**
12 **Steinhurst references an informal bilateral market for wholesale energy**
13 **transactions whereby energy imported from outside Florida is projected to**
14 **be substantial. Do you agree with this wholesale market description?**

15 A. No. Peninsular Florida is essentially an isolated electric grid with the exception
16 of a small amount of import capability as referenced in witness Steinhurst's
17 testimony. The unique characteristics of peninsular Florida are further
18 exemplified by the fact that the FRCC is a separate reliability region from
19 SERC. In recent years, the PSC recognized this exposure by raising the reserve
20 margin requirements for IOU utilities from 15 to 20%.

21

22 **Q. Assuming that DSM measures were imposed and resulted in reduction in**
23 **consumption of energy, would such a reduction have value to OUC in the**
24 **wholesale market?**

1 A. Only limited value. For reduction in consumption resulting from a DSM
2 measure to benefit OUC in the wholesale market, it would first have to be
3 mandated for OUC customers as opposed to being voluntary so that the potential
4 savings to be realized by the measure could be more accurately quantified. If
5 that condition were to be met, the value of the DSM measure would at most be
6 equivalent to non-firm supply resource since consumption levels vary depending
7 upon weather conditions and many other factors. Finally, the value of the DSM
8 measure in the wholesale market would not be based on each and every kWh
9 reduction in consumption, but rather, would have value only in “blocks” of
10 energy equivalent to standard trading blocks utilized for wholesale transactions.
11 Wholesale trading is generally based on 50MW blocks of energy.

12
13 **Q. What significance does the relatively isolated characteristics of Florida’s**
14 **electric grid play in the development and operation of the wholesale**
15 **market?**

16 A. Given the relatively restricted ability to import energy into Florida, in order to
17 maintain the reliability of energy supply in peninsular Florida utility providers
18 must either develop supply side resources located in peninsular Florida or
19 control customer consumption over time or both. For a utility to responsibly rely
20 solely on the wholesale market for firm energy supply resources, the transaction
21 must involve a physical asset located in the state and an approved transmission
22 path from the resource to the utilities service area.

23

1 **Q:** **Are you aware of any plans by transmission owners in the State of Florida**
2 **to increase the capacity of their systems to enhance the import capability**
3 **within the State for wholesale energy?**

4 A. No.

5

6 **Q.** **In your experience as utility executive and consultant, must a retail utility**
7 **be concerned with reliability in planning its generation portfolio?**

8 A. Yes. Reliability of service is not only a high priority for OUC, like other
9 utilities, but is a hallmark of prudent utility planning.

10

11 **Q.** **In the testimony of both witness Steinhurst and witness Spellman, it is**
12 **stated that mandating energy efficiency measures is a less risky strategy for**
13 **a utility than relying on supply side alternatives. Do you agree with this**
14 **position?**

15

16 A. No. In a state such as Florida, where import capability and access to wholesale
17 providers outside the region is severely restricted, access to physical supply is
18 critical to reliability of supply. The risks related to supply side alternatives can
19 be responsibly managed and mitigated through good management practices and
20 qualification of suppliers and contractors. Once the supply side resource is in
21 place, it can physically produce the power needed, or act as a financial ceiling
22 for prices paid in the wholesale market for power that may be available at a
23 lower price.

24

1 In the case of energy efficiency, a utility must rely on the voluntary reduction of
2 consumption by the customer. Market penetration predictions for customer
3 participation carry a significant level of uncertainty from both cost and actual
4 level of achievable reduction. Customer behavior changes and/or switching
5 options can change or eliminate the level of savings achieved through the DSM
6 program. If a utility relies on DSM for reduction in capacity requirements and
7 the prediction is flawed, the utility has two options once its reserve capabilities
8 have been exhausted A utility must either buy what it can in the wholesale
9 market at whatever price the market dictates, or interrupt service to its customers
10 to protect the integrity of the system.

11

12 **Q. Do you feel that relying on energy efficiency at the expense of supply side**
13 **alternatives is prudent utility resource management?**

14 A. No. It exposes a utility to both reliability and cost risk.

15

16 **Q. Are there any other considerations relating to the application of avoided**
17 **cost to the evaluation of DSM programs?**

18 A. Yes. Prudent planning for reliability of supply should consider that unless the
19 aggregate benefit of the DSM programs of a utility are equal or greater than the
20 practical size (or level of participation in the avoided cost unit), capacity cost
21 reductions are not avoided. Considering the forecasted load growth for the
22 State, aggregated DSM benefits will only delay, not eliminate the need for
23 additional units from a planning perspective. Until such time that aggregated

1 DSM measures completely offset new load growth, capital costs for new
2 generation will continue to be incurred.

3

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

5 **A. Yes**

1 MR. YOUNG: He had one exhibit, which I think
2 was his resumé.

3 CHAIRMAN CARTER: That would be Number 127,
4 127 in your records, Commissioners. Without objection,
5 show it done.

6 (Exhibit Number 127 was admitted into the
7 record.)

8 MR. YOUNG: Thank you, sir.

9 CHAIRMAN CARTER: Okay. Mr. Perko.

10 MR. PERKO: Mr. Chairman, I've spoken with
11 Mr. Cavros, and I believe, subject to his confirmation,
12 that if we provide a similar late-filed exhibit
13 corresponding to a similar table in Mr. Vento's
14 testimony, that he doesn't have any further questions
15 for him.

16 CHAIRMAN CARTER: Mr. Cavros?

17 MR. CAVROS: That's correct.

18 MR. PERKO: So with that, I believe we can
19 stipulate the witness, unless the Commission has any
20 questions.

21 CHAIRMAN CARTER: Ms. Brownless, any
22 questions?

23 MS. BROWNLESS: No.

24 CHAIRMAN CARTER: Ms. Kaufman?

25 MS. KAUFMAN: No, sir.

1 CHAIRMAN CARTER: Commissioners? Okay. The
2 prefiled testimony of the witness will be inserted into
3 the record as though read.
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY OF RICHARD J. VENTO

ON BEHALF OF

JEA

DOCKET NO. 080413

JULY 30, 2009

Q. 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 Corporate Data
Integration.

Q. Have you previously submitted testimony in this proceeding?

A. Yes. I submitted pre-filed direct testimony on June 1, 2009

Q. What is the purpose of your rebuttal testimony

A. The purpose of my testimony is rebut the testimony of witnesses Spellman,
Wilson, Cavanagh, Mosenthal and Steinhurst regarding the following subjects:
(1) the appropriate tests for evaluating the cost-effectiveness of DSM measures;
(2) the DSM goals that witnesses Spellman and Steinhurst have recommended
for JEA; (3) Itron's Technical Potential Studies; (4) utilization of the two-year

1 pay-back period in JEA's analyses; (5) consideration of potential greenhouse gas
2 (GHG) costs in JEA's analyses; (6) Itron's cost-effectiveness evaluations; and
3 (7) witness Spellman's proposed funding set-asides for research regarding
4 demand side supply alternatives.

5
6 **Q. Are you sponsoring any exhibits to your testimony?**

7 A. No.

8

9 **APPROPRIATE COST-EFFECTIVENESS TESTS**

10

11 **Q. Do you agree with the assertions of Witnesses Spellman and Wilson that**
12 **use of the RIM test is inconsistent with the intent of Section 366.82, F.S.?**

13 A. No. Section 366.82, F.S., requires the PSC to consider, among other things, the
14 costs and benefits to the participating ratepayers as well as the general body of
15 ratepayers as a whole, including utility incentives and participant contributions.
16 However, Section 366.82 does not dictate which cost-effectiveness test must be
17 used to establish DSM goals. The Commission should use both the RIM and
18 Participants test in setting DSM goals. When used in conjunction with each
19 other, these tests fulfill the Commission's statutory obligations. Specifically, the
20 participant test includes all of the relevant benefits and costs that a customer
21 who is considering participating in a DSM measure would consider; whereas the
22 RIM test includes all of the relevant benefits and costs that all of the utility's
23 customers as a whole would incur if the utility implements a particular measure.

24

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
3 JEA. Local governing is a fundamental aspect of public power. It provides the
4 necessary latitude to make local decisions regarding the community's
5 investment in energy efficiency that best suit our local needs and values. Local
6 decisions are based on input from citizens who can speak out on electric power
7 issues at governing board meetings. State regulation regarding the appropriate
8 level of energy efficiency investment undercuts the local decision-making
9 processes that are the hallmark of municipal utilities. Accordingly, as the
10 Commission has recognized in prior proceedings, it is appropriate to set goals
11 based on RIM, but to defer to the municipal utilities' governing bodies to
12 determine the level of investment in any non-RIM based measures. *See, In re:*
13 *Adoption of Numeric Conservation Goals and Consideration of National Energy*
14 *Policy Act Standards (Section 111)*, Order No. PSC-95-0461-FOF-EG (April 10,
15 1995).

16
17 **Q. Do you agree with Witness Cavanagh's allegation that the RIM test**
18 **discourages the adoption of most energy efficiency measures?**

19 A. No. The RIM test is a determinant of cost-effectiveness that identifies DSM
20 measures that do not increase rates. The intent of the RIM test is to identify
21 DSM measures that would increase rates more than supply-side alternatives.
22 Such measures should not be considered cost-effective. The RIM test is
23 therefore the appropriate test to use as the basis for establishing DSM goals
24 because such a screening process keeps customers' rates as low as possible.

1 **Q. Witness Spellman testified that the RIM test tends to limit investment in**
2 **energy efficiency programs, and is therefore not consistent with the current**
3 **FEECA statutes. Is this an accurate characterization of the RIM test?**

4 A. No. The RIM test screens out DSM measures that will increase customer rates,
5 and in doing so, accounts for costs and benefits to the ratepayers as a whole (as
6 required by the FEECA statutes). The RIM test eliminates DSM measures that
7 would result in utility rate increases for all ratepayers. Customers such as
8 renters who do not or cannot implement a DSM measure and therefore have no
9 corresponding benefit of reduced consumption to offset the rate increase will be
10 subject to increased utility bills. If the RIM test is not applied, the net result for
11 such a customer would be an increase in their electricity bills above what such
12 bills would have been if RIM testing had eliminated the measure.

13
14 **Q. Witness Spellman testifies that use of the TRC test rather than the RIM**
15 **and Participant tests will not likely have significant long-term impacts on**
16 **customers' rates. Do you agree with this conclusion?**

17 A. No. Witness Spellman's conclusions do not differentiate between DSM
18 measures that pass RIM and those that fail RIM, nor are they supported by any
19 sort of comprehensive analysis. As I have testified previously, the RIM test
20 should be used to evaluate the cost-effectiveness of a DSM measure. As shown
21 in Exhibit No. RJV-3 of my pre-filed direct testimony, customer rates are
22 estimated to increase by approximately 12.8 percent by 2019 based on the DSM
23 measures that fail RIM but pass the TRC and Participants test in Itron's
24 analyses. Such increases amount to annual customer bill increases of

1 approximately \$112 per year by 2014 and by \$257 dollars per year by 2019 for
2 the residential customer based on 1,200 kWh monthly consumption. While
3 witness Spellman may view this as an insignificant increase, customers who are
4 currently struggling to pay their utility bills would likely disagree.

5
6 **ALTERNATIVE DSM GOAL RECOMMENDATIONS**

7
8 **Q. Witness Spellman recommends that the Commission establish specific goals
9 for the various FEECA utilities. Do you agree with this suggestion?**

10 **A.** No. As I have stated previously, the RIM and Participant tests are the proper
11 tests to use for evaluating the cost-effectiveness of DSM measures and should be
12 used as the basis for establishing DSM goals. Witness Spellman's testimony
13 does not clearly explain the methodology he used in estimating achievable
14 potential. However, witness Spellman's suggestion of basing goals upon full
15 achievable potential as GDS quantifies it does not account for the impact to our
16 customers' rates that will result from mandating DSM measures that do not pass
17 the RIM test.

18
19 As discussed in my pre-filed direct testimony, Itron's cost-effectiveness analyses
20 indicated that none of the DSM measures analyzed passed the RIM test. Exhibit
21 No. __ [RJV-3] of my pre-filed direct testimony presents projected rate impacts
22 associated with the DSM reductions associated with the measures that passed
23 both the TRC and Participants tests in Itron's cost-effectiveness analyses. The
24 table presented below shows projected annual bill impacts to a residential

1 customer consuming 1,200 kWh per month based on adopting GDS’
 2 recommended cumulative energy goals (including the transition period) as
 3 presented in Exhibit RFS-21 (page 5 of 7) of the testimony of witness Spellman.
 4 The impacts shown in the table below were calculated by determining the annual
 5 ratios of the recommended savings per witness Spellman’s testimony to those
 6 projected by Itron for measures passing both the TRC and Participants tests, and
 7 applying these ratios to the estimated bill impacts shown in Exhibit No. __
 8 [RJV-3]. As shown in the table below, annual bill increases to our residential
 9 customers increase from approximately \$71 per year in 2010 to approximately
 10 \$1,311 per year in 2019.

Projected Customer Bill (Nominal \$/Year) for 1,200 kWh Residential - Without Customer Charge										
Scenario	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
JEA Proposed Goals	\$1,644	\$1,752	\$1,843	\$1,826	\$1,855	\$1,915	\$1,925	\$1,931	\$1,981	\$2,007
GDS Recommended Goals	\$1,716	\$1,923	\$2,132	\$2,222	\$2,370	\$2,582	\$2,741	\$2,895	\$3,122	\$3,318
Increase Due to GDS Recommended Goals	\$71	\$170	\$288	\$397	\$516	\$667	\$816	\$964	\$1,141	\$1,311

12

13

14 **Q. Witness Steinhurst also recommends specific numeric goals (Exhibit WS-1,**
 15 **Page 8 of 9). Do you agree with these recommended goals?**

16 **A.** No. As I have stated throughout my direct and rebuttal testimony, the RIM and
 17 Participant tests are the proper tests to use for evaluating the cost-effectiveness
 18 of DSM measures and should be used as the basis for establishing DSM goals.
 19 Witness Steinhurst’s recommended goals are arbitrary and do not account for

1 the impact to our customers' rates that will result from mandating DSM goals
2 based on measures that do not pass the RIM test.

3
4 As discussed in my direct testimony, Itron's cost-effectiveness analyses
5 indicated that none of the DSM measures analyzed passed the RIM test. Exhibit
6 No. __ [RJV-3] of my direct testimony presents projected rate impacts
7 associated with the DSM reductions associated with the measures that passed
8 both the TRC and Participants tests in Itron's cost-effectiveness analyses. The
9 table presented below shows projected annual bill impacts to a residential
10 customer consuming 1,200 kWh per month based on adopting the energy goals
11 suggested by witness Steinhurst. The impacts shown in the table below were
12 calculated by determining the annual ratios of the recommended savings per
13 witness Steinhurst's testimony to those projected by Itron for measures passing
14 both the TRC and Participants tests, and applying these ratios to the estimated
15 bill impacts shown in Exhibit No. __ [RJV-3].. As shown in the table below,
16 annual bill increases to our residential customers increase from approximately
17 \$45 per year in 2010 to approximately \$1,465 per year in 2019.

Projected Customer Bill (Nominal \$/Year) for 1,200 kWh Residential - Without Customer Charge										
Scenario	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
JEA Proposed Goals	\$1,644	\$1,752	\$1,843	\$1,826	\$1,855	\$1,915	\$1,925	\$1,931	\$1,981	\$2,007
Witness Steinhurst Recommended Goals	\$1,690	\$1,862	\$2,028	\$2,133	\$2,324	\$2,578	\$2,779	\$2,973	\$3,239	\$3,473
Increase Due to Witness Steinhurst Recommended Goals	\$45	\$109	\$185	\$307	\$469	\$663	\$854	\$1,042	\$1,258	\$1,465

1 **Q. Witness Steinhurst's recommended numeric goals appear to be based on**
2 **annual savings of 1 percent forecasted energy requirements. How have**
3 **recent JEA energy sales compared to previous years?**

4 A. For the 12 month period ending June 2009 compared to the 12 month period
5 ending June 2008, JEA's energy sales are down approximately 4.9 percent. The
6 magnitude of the decline energy sales already represents nearly five years of the
7 energy reductions proposed by witness Steinhurst and the decline in energy sales
8 has already contributed to rate increases for JEA's customers. Furthermore, the
9 reduction in sales over the 2007 baseline used by Itron in the studies results in
10 the Itron's savings being overstated compared to the current economic
11 conditions being experience by JEA's customers.

12

13 **TECHNICAL POTENTIAL STUDIES**

14

15 **Q. How would you respond to the allegations of witnesses Spellman and**
16 **Wilson that the scope of the Technical Potential Study was insufficient and**
17 **did not adequately assess the full technical potential of demand-side and**
18 **supply-side conservation and energy efficiency systems, including demand-**
19 **side renewable energy systems?**

20 A. I disagree with witnesses Wilson and Spellman's allegations. The technical
21 potential study performed by Itron, as described in the testimony of Mike Rufo,
22 considered 267 unique measures known to the FEECA utilities and provided an
23 adequate assessment of the full technical potential of available demand-side and
24 supply-side conservation and efficiency measures, including demand-side

1 renewable energy systems. The scope of the study, the measures to be analyzed,
2 and the assessment techniques were fully vetted through the Collaborative
3 process which included input from all of the FEECA-regulated utilities and
4 other interested parties including SACE and NRDC. I think it is worth noting
5 that, while raising these allegations, witness Wilson simultaneously praises the
6 study, stating "Overall, the technical potential study was conducted in a
7 professional and thorough manner. The collaboration between utilities and our
8 organizations was generally productive and communications were effective for
9 the most part." (Wilson testimony, Page 26, Lines 7-9).

10

11 As members of the Collaborative, SACE and NRDC agreed to the scope of the
12 Technical Potential Study and agreed that there was insufficient data to analyze
13 four sectors. SACE and NRDC did not protest any sort of "omission" of the
14 four measures, as they argue in the testimony of witness Wilson (Page 26, Line
15 12).

16

17

MINIMUM PAYBACK PERIOD

18

19 **Q. Witness Spellman's testimony indicates that the 2-year minimum payback**
20 **criterion should not be used for all customer segments, specifically**
21 **residential and small commercial. Is this suggestion consistent with the**
22 **DSM goals setting process in Florida?**

23

24

A. No. Use of different payback criterion for different customer classes is not
consistent with the requirements of the DSM goals setting process. The DSM

1 goal setting process does not and should not differentiate between customer
2 segments while requiring that free-ridership be recognized.

3

4 **Q. Why was a 2-year payback period selected for the purposes of screening out**
5 **DSM measures from further consideration?**

6 **A.** The 2-year payback period provides for a reasonable method for minimizing
7 free ridership when evaluating the cost-effectiveness of DSM measures. The
8 types of measures that were screened out using the 2-year payback criterion are
9 already the focus of existing educational programs and other efforts. Among
10 other things, JEA has undertaken the following efforts to educate and inform
11 customers about measures which have a payback period of less than two years:

- 12 ● Producing and distributing a series of factsheets on these low cost high
13 impact measures;
- 14 ● Posting information on our website;
- 15 ● Conducting outreach efforts at a variety of community events;
- 16 ● Providing information in our k-12 educational materials for teachers and
17 their students;
- 18 ● Providing information in Train-the-Trainer sessions to a large number of
19 community non-profits;
- 20 ● Provided information to all potential Low Income Home Energy Assistance
21 Program (LIHEAP) candidates; and
- 22 ● Providing information to Weatherization clients.

23

24

1 **ITRON'S COST-EFFECTIVENESS EVALUATIONS**

2

3 **Q. Were incentives properly considered by Itron in their cost-effectiveness**
4 **evaluations?**

5 **A. Yes. Itron properly considered incentives provided from the utility to the**
6 **participating customer in the RIM and Participants tests.**

7

8 **Q. Did Itron's cost-effectiveness evaluations reflect the inclusion of**
9 **administrative costs at the DSM measure level, as alleged in the testimony**
10 **of witness Mosenthal?**

11 **A. No. Itron did not consider the inclusion of administrative costs at the DSM**
12 **measure level.**

13

14 **CONSIDERATION OF POTENTIAL GREENHOUSE GAS (GHG) COSTS**

15

16 **Q. Witness Spellman suggests that DSM goals be based upon the maximum**
17 **achievable cost-effective potential under the E-TRC and Participant tests**
18 **with GHG cost estimates based upon most recent CBO costs estimates.**

19 **Why is this not appropriate?**

20 **A. As I previously discussed in my direct and rebuttal testimony, the RIM and**
21 **Participant tests are the proper tests to use for evaluating the cost-effectiveness**
22 **of DSM measures and should be used as the basis for establishing DSM goals.**

23

1 Greenhouse gases are not currently regulated at either the State or Federal level,
2 and there currently are no costs imposed on the emissions of greenhouse gases.
3 While there is much speculation on the potential for greenhouse gas emissions
4 regulation, JEA does not believe it is appropriate to establish DSM goals that
5 would increase customer rates based on speculation related to yet-to-be defined
6 potential regulations of emissions of greenhouse gases. However, for
7 informational purposes, Itron performed additional analyses related to several
8 different combinations of fuel and carbon dioxide (CO₂) emissions allowance
9 prices. The rebuttal testimony of witness Kushner discusses the CO₂ emissions
10 allowance price projections used in these analyses and how they compare to
11 recent CBO estimates.

12

13

FUNDING SET-ASIDES

14

15 **Q. Do you agree with witness Spellman's suggestion that utilities should be**
16 **required to set aside a specific amount of funds to encourage demand-side**
17 **renewable energy?**

18 **A.** No. I don't believe there should be Commission-mandated requirements as to
19 the amount of funds set aside to encourage technologies that are not shown to be
20 cost-effective. All goals should be established to promote cost-effective DSM
21 without bias to any particular technology. Furthermore, if demand-side
22 renewable energy systems are cost-effective, utilities should have the flexibility
23 to include such systems either as part of their renewable portfolios or as part of
24 their DSM programs.

1 Consistent with established Commission policy that municipal utilities may, at
2 their own discretion, choose to implement non-RIM based measures, in response
3 to input from our community JEA does offer limited demand-side renewable
4 energy programs such as our Solar Incentive program, which encourages
5 installations of solar thermal water heating systems. However, witness
6 Spellman cites no basis whatsoever to require a municipal utility to invest
7 unspecified research and development into measures that he admits have been
8 shown to not be cost-effective.

9

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

11 **A. Yes it does.**

1 CHAIRMAN CARTER: Are there any exhibits for
2 Mr. Vento?

3 MR. PERKO: Just the late-filed.

4 CHAIRMAN CARTER: The late-filed. Okay.
5 Let's take that up now. That will be -- Commissioners,
6 for your record, that will be Number 179, late-filed.
7 Short title, please. Help me, somebody.

8 MS. HELTON: First year measure costs for JEA.

9 CHAIRMAN CARTER: First year measure costs for
10 JEA. I like it.

11 (Late-filed Exhibit Number 179 was identified
12 and admitted into the record.)

13 CHAIRMAN CARTER: Commissioners, and to the
14 parties, for your records, that will be Number 179.
15 Mr. Vento, the prefiled testimony of the witness will be
16 inserted into the record as though read. The exhibit
17 will be entered as Number 179. Without objection, show
18 it done.

19 Call your next witness, Mr. Perko. Well, we
20 did Mr. Kushner already, didn't we?

21 MR. PERKO: Yes, sir, I believe we did. No.
22 I apologize. I don't believe we did.

23 CHAIRMAN CARTER: Well, we had exhibits on the
24 direct, and we had some on the rebuttal.

25 MS. FLEMING: Mr. Horton also moved in

1 Mr. Kushner's rebuttal testimony when he moved in
2 Mr. Eysie's rebuttal.

3 MR. YOUNG: Mr. Chairman, in order to be
4 efficient, as we all are in this proceeding, we used the
5 same witness, and he filed three different rebuttals,
6 and we want to make sure that all three get in.

7 CHAIRMAN CARTER: Moved by FPUC, OUC, JEA for
8 witness Kushner on his rebuttal, the prefiled testimony
9 of the witness will be inserted into the record as
10 though read.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION
REBUTTAL TESTIMONY OF BRADLEY E. KUSHNER
ON BEHALF OF
ORLANDO UTILITIES COMMISSION
DOCKET NO. 080412
JULY 30, 2009

Q. Please state your name and business address.

A. My name is Bradley E. Kushner. My business address is 11401 Lamar Avenue,
Overland Park, Kansas 66211.

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

A. I am employed by Black & Veatch Corporation as a Manager.

Q. Have you previously provided testimony in this proceeding?

A. Yes. I provided pre-filed direct testimony on behalf of the Orlando Utilities
Commission (OUC) and my credentials are provided in that testimony.

Q. On whose behalf are you testifying?

A. I am providing this rebuttal testimony on behalf of OUC.

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

A. The purpose of my testimony is to rebut certain evidence offered in the direct
testimony of NRDC, SACE and Commission Staff witnesses. More

1 specifically, my testimony will rebut certain statements made by such witnesses,
2 regarding the use of CO₂ emissions allowance price projections in the analysis
3 of DSM measures and goals for OUC.
4

5 **Q. Did OUC consider CO₂ emissions allowance prices in its DSM analyses?**

6 A. Yes.
7

8 **Q. What was the basis for the CO₂ emissions allowance prices considered in**
9 **your analyses?**

10 A. The CO₂ emissions allowance price projections considered in my analyses for
11 OUC were based on those presented in the US Energy Information
12 Administration's (EIA) April 2008 *Energy Market and Economic Impacts of*
13 *S.2191, the Lieberman-Warner Climate Security Act of 2007* report.
14

15 **Q. Why was this report chosen as the basis for your CO₂ emissions allowance**
16 **price projections?**

17 A. The *Energy Market and Economic Impacts of S.2191, the Lieberman-Warner*
18 *Climate Security Act of 2007* report represented the most recent detailed
19 analyses of proposed legislation to regulate emissions of CO₂ with
20 corresponding annual emissions allowance price projections beyond 2019
21 developed by a US governmental entity at the time we began developing
22 avoided costs for use in this Docket. Furthermore, these same CO₂ emissions
23 allowance price projections were considered in the JEA Greenland Energy

1 Center Combined Cycle Need for Power Application, which was approved by
 2 the Commission February 25, 2009 (Order No. PSC-09-0111-FOF-EM).

3

4 **Q. Did witness Steinhurst present any alternative CO₂ emissions allowance**
 5 **price projections?**

6 A. Witness Steinhurst only suggests a low-case CO₂ emissions allowance price of
 7 \$15 per ton, a mid-case allowance price of \$30 per ton, and a high-case
 8 allowance price of \$78 per ton, all levelized over the period of 2013-2030, in
 9 2007 dollars.

10

11 **Q. How do the CO₂ emissions allowance price projections used in OUC's**
 12 **analyses compare to those suggested by witness Steinhurst?**

13 A. The three CO₂ emissions allowance price projections considered in OUC's
 14 analyses range from approximately \$16 per ton in the low-case to approximately
 15 \$37/ton in the mid-case to approximately \$96/ton in the high case, all levelized
 16 over the period of 2012-2027, in 2007 dollars. As shown in the table below,
 17 these align well with those suggested by witness Steinhurst.

Comparisons of CO ₂ Emissions Allowance Price Projections (Levelized \$/ton)			
Source	Low	Mid	High
Witness Steinhurst	15	30	78
Witness Kushner	16	37	96

18

19 **Q. How do the CO₂ emissions allowance price projections used in your**
 20 **analyses compare to any more recent price projections developed by US**
 21 **governmental entities?**

1 A. I have reviewed the projections developed by the US Environmental Protection
2 Agency (EPA) in their report titled *EPA Analysis of the American Clean Energy*
3 *and Security Act of 2009 H.R. 2454 in the 111th Congress* (dated 6/23/09) and
4 the Congressional Budget Office (CBO) cost estimate of H.R. 2454 (dated
5 6/5/09). It is difficult to do a direct comparison between the CO₂ emissions
6 allowance prices considered in my analyses for OUC to those projected by either
7 EPA or CBO, since the basis of the projections in the EPA and CBO reports (i.e.
8 real or nominal dollars in either the EPA or CBO analysis, metric or short tons
9 in the EPA analysis, etc.) is not clear. However, in general, the range of CO₂
10 emissions allowance prices considered in my analyses encompass those
11 presented in both the EPA and CBO reports.

12
13 **Q. Witness Steinhurst suggests that the potential for state rather than federal**
14 **regulation of greenhouse gases in Florida was not considered in OUC's**
15 **analyses. Is this a distinction of any significance?**

16 A. No. It is irrelevant whether or not the CO₂ emissions allowance price
17 projections were based on potential Federal- or State-level regulations of
18 greenhouse gases. What is relevant is that an appropriate range of possible costs
19 were considered. Based on the range of emissions allowance prices
20 recommended by witness Steinhurst, and in light of my previous discussion of
21 comparison of CO₂ emissions allowance price projections, it would appear that
22 he would agree the price projections considered in my analyses were reasonable
23 and appropriate, a conclusion that appears to be substantiated by the testimony
24 of witness Spellman (Page 50, Lines 6-7).

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

2 A. Yes.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY OF BRADLEY E. KUSHNER

ON BEHALF OF

JEA

DOCKET NO. 080413

JULY 30, 2009

Q. Please state your name and business address.

A. My name is Bradley E. Kushner. My business address is 11401 Lamar Avenue,
Overland Park, Kansas 66211

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

A. I am employed by Black & Veatch Corporation as a Manager.

Q. Have you previously submitted testimony in this proceeding?

A. Yes. I submitted pre-filed direct testimony on June 1, 2009

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

A. The purpose of my testimony is to discuss the carbon dioxide (CO₂) emissions allowance price projections considered in my analyses as they relate to those suggested by witness Spellman and witness Steinhurst.

Q. Are you sponsoring any exhibits to your testimony?

A. No.

1 **Q. Witness Steinhurst alleges that the cost-effectiveness analyses did not**
2 **appropriately account for costs associated with regulation of greenhouse**
3 **gases (i.e. CO₂) emissions? How were such costs considered in your**
4 **analyses?**

5 A. The CO₂ emissions allowance price projections considered in our analyses were
6 based on those presented in the US Energy Information Administration's (EIA)
7 April 2008 *Energy Market and Economic Impacts of S.2191, the Lieberman-*
8 *Warner Climate Security Act of 2007* report.

9
10 **Q. Why was this report chosen as the basis for your CO₂ emissions allowance**
11 **price projections?**

12 A. The *Energy Market and Economic Impacts of S.2191, the Lieberman-Warner*
13 *Climate Security Act of 2007* report represented the most recent detailed
14 analyses of proposed legislation to regulate emissions of CO₂ with
15 corresponding annual emissions allowance price projections beyond 2019
16 developed by a US governmental entity at the time we began developing
17 avoided costs for use in this Docket. Furthermore, these same CO₂ emissions
18 allowance price projections were considered in the JEA Greenland Energy
19 Center Combined Cycle Need for Power Application, which was approved by
20 the Commission February 25, 2009 (Order No. PSC-09-0111-FOF-EM).

21

22 **Q. How do the CO₂ emissions allowance price projections used in your**
23 **analyses compare to those suggested by witness Steinhurst?**

1 A. The three CO₂ emissions allowance price projections considered in my analyses
 2 range from approximately \$16 per ton in the low-case to approximately \$36/ton
 3 in the mid-case to approximately \$94/ton in the high case, all levelized over the
 4 period of 2012-2027, in 2007 dollars. As shown in the table below, these align
 5 well with and are actually slightly higher than those suggested by witness
 6 Steinhurst.

Comparisons of CO ₂ Emissions Allowance Price Projections (Levelized \$/ton)			
	Low	Mid	High
Witness Steinhurst	15	30	78
Witness Kushner	16	36	94

7
8

9 **Q. How do the CO₂ emissions allowance price projections considered in your**
 10 **analyses compare to any more recent price projections developed by US**
 11 **governmental entities?**

12 A. I have reviewed the projections developed by the US Environmental Protection
 13 Agency (EPA) in their report titled EPA Analysis of the American Clean Energy
 14 and Security Act of 2009 H.R. 2454 in the 111th Congress (dated 6/23/09) and
 15 the Congressional Budget Office (CBO) cost estimate of H.R. 2454 (dated
 16 6/5/09). It is difficult to do a direct comparison between the CO₂ emissions
 17 allowance prices considered in my analyses to those projected by either EPA or
 18 CBO, as the basis of the projections in the EPA and CBO reports (i.e. real or
 19 nominal dollars in either the EPA or CBO analysis, metric or short tons in the
 20 EPA analysis, etc.) is not clear. However, in general the range CO₂ emissions
 21 allowance prices considered in my analyses encompass those presented in both
 22 the EPA and CBO reports.

1 **Q. Witness Steinhurst suggests that the potential for state regulation of**
2 **greenhouse gases in Florida was not considered in your analyses. Is this an**
3 **important consideration?**

4 A. No. It is irrelevant whether or not the CO₂ emissions allowance price
5 projections were based on potential Federal- or State-level regulations of
6 greenhouse gases. What is relevant is that an appropriate range of possible costs
7 were considered. Based on the range of emissions allowance prices
8 recommended by witness Steinhurst, and in light of my previous discussion of
9 comparison of CO₂ emissions allowance price projections, it would appear that
10 he would agree the price projections considered in my analyses were reasonable
11 and appropriate, a conclusion that appears to be substantiated by the testimony
12 of witness Spellman (Page 50, Lines 6-7).

13

14 Witness Steinhurst's testimony acknowledges that there are numerous different
15 values of ranges of CO₂ emissions allowance price projections that have been
16 adopted by various state regulators across the country, which further
17 demonstrates the magnitude of the speculation related to yet-to-be defined
18 potential future regulations that do not currently exist.

19

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

21 A. Yes it does.

22

1 CHAIRMAN CARTER: Are there any -- and that
2 would be Exhibits Number 128 and 129. Without
3 objection, show it done.

4 (Exhibits Number 128 and 129 were admitted
5 into the record.)

6 CHAIRMAN CARTER: Anything further from any of
7 the parties on Mr. Kushner?

8 MR. PERKO: No, sir.

9 CHAIRMAN CARTER: Does that cover all parties?
10 Okay. Who's -- Mr. --

11 MR. PERKO: Mr. Chairman?

12 CHAIRMAN CARTER: Yes, sir, Mr. Perko.

13 MR. PERKO: May I be excused to attend to a
14 personal matter?

15 CHAIRMAN CARTER: Absolutely, yes, sir.

16 MR. PERKO: Thank you.

17 CHAIRMAN CARTER: And convey our condolences.

18 MR. PERKO: Thank you.

19 CHAIRMAN CARTER: Thank you. Okay. We need
20 Mr. Dean; is that right?

21 MR. GUYTON: The four major IOUs call
22 Mr. Dean.

23 CHAIRMAN CARTER: Jim Dean. I was going to
24 have something clever to say, but I don't eat breakfast
25 anymore, so I don't eat your sausage. So, you know,

1 what can I say about Jimmy Dean sausage.

2 THE WITNESS: And you do not want to hear me
3 sing.

4 CHAIRMAN CARTER: No, no, no, definitely not.
5 That much I do remember.

6 MR. GUYTON: Your reputation precedes you.
7 Thereupon,

8 JAMES W. DEAN

9 was called as a rebuttal witness on behalf of Florida
10 Power & Light Company, Progress Energy Florida, Tampa
11 Electric Company, and Gulf Power Company, and, having
12 been first duly sworn, was examined and testified as
13 follows:

14 DIRECT EXAMINATION

15 BY MR. GUYTON:

16 Q. Mr. Dean, are you the same James Dean who
17 filed direct testimony in this case and was previously
18 sworn?

19 A. Yes, sir.

20 Q. And did you have occasion to file rebuttal
21 testimony in this case consisting of 52 pages?

22 A. Yes, sir.

23 Q. And do you have any corrections to make to
24 your prefiled rebuttal testimony?

25 A. I have two small changes, and that would be on

1 page 16, line number 13. The word "Participant test"
2 should be replaced by the "E-TRC and E-RIM" -- or, I'm
3 sorry, "E-TRC or E-RIM." I beg your pardon.

4 And then on line 21, between the words
5 "tangible" and "benefits," insert the word "net," n-e-t.

6 Q. With those two changes that you've made today,
7 if I were to ask you the same questions as appear in
8 your prefiled rebuttal testimony, would your answers be
9 the same?

10 A. Yes, sir.

11 MR. GUYTON: We would ask that Mr. Dean's
12 rebuttal testimony be inserted into the record as though
13 read.

14 CHAIRMAN CARTER: The prefiled testimony of
15 the witness will be inserted into the record as though
16 read.

17

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

REBUTTAL TESTIMONY OF JAMES W. DEAN

DOCKET NO. 080407-EG (Florida Power & Light Company)

DOCKET NO. 080408-EG (Progress Energy Florida, Inc.)

DOCKET NO. 080409-EG (Tampa Electric Company)

DOCKET NO. 080410-EG (Gulf Power Company)

DOCKET NO. 080411-EG (Florida Public Utilities Company)

DOCKET NO. 080412-EG (Orlando Utilities Commission)

DOCKET NO. 080413-EG (JEA)

JULY 30, 2009

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Q. Please state your name and business address.

A. My name is James W. Dean. My business address is 2227 Shirley Ann Court, Tallahassee, Florida, 32308.

Q. Have you previously submitted direct testimony in this proceeding?

A. Yes.

Q. Are you sponsoring any rebuttal exhibits?

A. Yes. I am sponsoring the following rebuttal exhibits:

- Exhibit JWD - 2 Rate Impacts of GDS Proposal
- Exhibit JWD - 3 Tax Impacts of GDS Proposal
- Exhibit JWD - 4 Comparison of FPL's Systems and Planning Methodologies

1 **Q. What is the purpose of your rebuttal testimony?**

2 A. My rebuttal testimony is being offered on behalf of Florida Power & Light
3 Company, Progress Energy Florida, Inc., Tampa Electric Company and Gulf
4 Power Company. I address five areas in my rebuttal testimony.

5

6 First, I first respond to the extreme goals proposed by GDS. They are premised
7 upon erroneous statutory and rule interpretations; they disregard significant
8 analytical work performed by the Collaborative; they are based on an unusual and
9 unsubstantiated “gross-up to goals” method seemingly designed solely to increase
10 the resulting goals; they are offered with little if any consideration of the utilities’
11 planning processes; and they completely fail to quantify the enormous rate
12 impacts customers would face if they were adopted.

13

14 Second, I respond to the testimony of Witness Steinhurst who argues the entire
15 goal setting methodology used by the Collaborative is fundamentally flawed and
16 should be rejected in favor of goals set as a fixed percentage of future utility sales
17 growth. Witness Steinhurst’s proposal is devoid of analyses. Witness Steinhurst’s
18 recommended goals are as extreme as GDS’s and suffer from even less analytical
19 basis. They are premised upon an even more flawed legal analysis than GDS’s
20 proposal, and they are inconsistent with the Commission’s DSM Goals Rule and
21 FEECA as amended by HB 7135. They are completely at odds with twenty-nine
22 years of well reasoned implementation of FEECA by this Commission and
23 provide no information for the Commission to assess customer rate impacts.

1 Third, I address the self-acknowledged narrow interest of the Southern Alliance
2 for Clean Energy (SACE) and the National Resource Defense Council (NRDC) in
3 this proceeding and how their singular interest of reducing greenhouse gas
4 emissions through conservation causes them to disregard completely, (a) the DSM
5 Goals Rule, Rule 25-17.0021, Florida Administrative Code (F.A.C.), which the
6 Commission must follow in this proceeding (b) the statute governing this
7 proceeding, the Florida Energy Efficiency and Conservation Act (FEECA)
8 (Sections 366.80-366.85 and 403.519, Florida Statutes (F.S.)), and (c) the
9 remainder of Chapter 366, F.S., which gives the Commission the fundamental
10 responsibility of assuring customers are charged fair, just and reasonable rates by
11 public utilities. In that discussion, I point out that Witness Wilson's testimony
12 represents a selective and ultimately misleading interpretation of various Florida
13 statutes, including the recent additions to 366.82(3)(a)-(d), F.S.. I also address his
14 inappropriate invitation for the Commission to use DSM goals to create a carbon
15 dioxide reduction regime, any consideration of which has been entrusted to
16 another legislative agency.

17
18 Fourth, I rebut NRDC/SACE Witnesses Wilson, Cavanagh, and Mosenthal
19 testimony that the new, statutory language in 366.82(3)(a) and (b), Florida
20 Statutes has superimposed a new Total Resource Cost (TRC) standard that the
21 Commission must use exclusively in establishing DSM goals. Likewise, I
22 challenge GDS's argument that while perhaps the statute does not "require" the
23 exclusive use of the TRC test, these changes "give the Commission broader

1 authority to maximize the achievement of energy efficiency in Florida” and create
2 a new standard of “maximum achievable” savings for approving FEECA goals.
3 Their interpretation of these changes would preclude the Commission from even
4 considering the Rate Impact Measurement (RIM) in establishing FEECA goals.
5 These witnesses fundamentally mischaracterize the additional factors the
6 Commission is only called upon to consider under Section 366.82(3)(a) – (b),
7 Florida Statutes as part of the DSM goal setting process.

8
9 Finally, I offer some observations addressing NRDC/SACE Witness Mosenthal’s
10 criticism of the use of the two year payback. In that discussion, I note that (a) the
11 DSM Goals rule requires a consideration of free riders when setting goals, (b)
12 NRDC/SACE agreed to the use of this analytical technique to address free-
13 ridership, and (c) free-ridership is not a matter that can be ignored for later
14 treatment in program design.

15
16 Because my rebuttal testimony is responsive to several witnesses who have
17 testified on multiple topics, it is structured by topic areas and by the name of the
18 witness’s testimony that I rebut. However, the absence of a response to any
19 particular argument offered by the NRDC/SACE or GDS witnesses should not be
20 construed as agreement or acquiescence on my part.

1 this citation is original to the 1980 Act. Given the unabridged language has been
2 interpreted by this Commission for almost 29 years to mean “reasonably
3 achievable”, as specified in the Commission’s rule, GDS’s not so subtle
4 implication is that the Commission has incorrectly interpreted the FEECA statute
5 and has not adopted the appropriate rules to implement the FEECA. Despite the
6 deliberations of five different Commissions and over 400 orders that the
7 Commission has issued addressing this statute, GDS believes the Commission has
8 gotten it wrong the entire time.

9
10 With these interpretations of FEECA under their belt, GDS concludes that only
11 the TRC test should be used to evaluate cost-effective goals and thereby
12 implement the maximum achievable standard. Presumably adopting the TRC
13 standard remedies the errors the Commission has made in every previous FEECA
14 docket by not correctly interpreting the original intent language.

15 **Q. Does GDS’s “maximum achievable” standard agree with existing**
16 **Commission rules?**

17 A. It certainly does not. Commission Rule 25-17.0021(3) requires the Commission
18 to set goals based on “...winter and summer peak demand (kW) and annual energy
19 (kWh) savings reasonably achievable in the residential and commercial/industrial
20 classes through demand side management.” Obviously, the Commission has not
21 initiated a rule change to this section replacing the “reasonably achievable”
22 standard with the “maximum achievable” standard articulated by GDS.

1 Q. Does GDS's "maximum achievable" standard ignore other relevant sections
2 of 366, F.S.?

3 A. Yes. GDS conveniently overlooks several statutes that do not comport with its
4 interpretation. As I discuss in detail in my rebuttal of Witness Wilson, GDS first
5 assumes that the new statutory language that the Commission "shall take into
6 consideration" means a new mandatory standard is in place. This construction
7 somehow leads to their new "maximum achievable" standard. I am puzzled why
8 the Legislature was so subtle in articulating what GDS believes is a watershed
9 new standard. If the new language at 366.82(3)(b) is a clarion's call for a new
10 standard, the statute is not very forceful in announcing it.

11
12 Second, since its inception FEECA has contained the language that it is to be
13 "liberally construed in order to meet the complex problems of reducing and
14 controlling the growth rates of electric consumption and reducing the growth rate
15 of electric demand...." That language remains unchanged by HB 7135, and it has
16 historically been construed by the Commission, the agency charged with
17 implementing the statute, as calling for reasonably achievable goals. The
18 Commission has further implemented that statutory language by setting goals that
19 were based on the use of the RIM and Participant tests. GDS's suggestion that a
20 new standard has been promulgated (without even being mentioned) and that the
21 new standard requires exclusive use of the TRC test (which also is not mentioned)
22 strains credulity given that the Commission's statutory interpretation mandate
23 remains unchanged.

1 But far more deleterious to GDS's construction is the language that was not
2 modified in Chapter 366. Section 366.81, F.S., the legislative intent section of
3 FEECA, refers twice to the electricity consumption goals to be addressed. The
4 second sentence of the section states: "Reduction in, and control of, the *growth*
5 *rates* of electric consumption and of weather-sensitive peak demand are of
6 particular importance." (emphasis added.) The last sentence of Section 366.81,
7 F.S., also speaks of "reducing and controlling the growth rates of electric
8 consumption...." Similarly, Section 366.82, F.S., which is the Commission's
9 explicit authority to adopt the goals in this proceeding, authorizes the Commission
10 to adopt goals designed, among other things, "to reduce and control the growth
11 rate of electric consumption...."

12 **Q. And why does this language conflict with GDS's new construction of**
13 **FEECA?**

14 **A.** This language is important because of its legislative history. The original FEECA
15 statute passed in 1980 called for goals to "reduce the growth rates of electric
16 consumption and especially of weather sensitive peak demand." 366.82(2), F.S.
17 (1981). In 1989, the legislature revised this statute to include the additional
18 focus to "reduce and control" consumption; it left untouched the language
19 addressing the Commission's focus to reduce the growth rate of "weather
20 sensitive peak demand". Nowhere does the language speak to reducing "off-
21 peak" demand which is exactly the consequences of implementing programs that
22 overly focus on saving energy instead of reducing weather driven peak demand.

1 Furthermore, the statute was changed in 1989 to provide the Commission with
2 direction not to waiver from its existing policy that placed a higher emphasis on
3 reducing “the growth rate” of weather sensitive peak demand over that of
4 reducing “the growth rate” of consumption. The legislature did not intend that
5 goals be so aggressive that electric demand or consumption growth would be
6 negative. The addition of the modifier “control” was even more directive that
7 energy savings goals should not result in negative energy growth.

8 **Q. And why did the legislature want to ensure that consumption not be**
9 **negative?**

10 A. The Commission’s original FEECA implementation rules adopted for the period
11 from 1980 to 1989 included a mathematical formula that resulted in goals that
12 reduced peak demand growth rates faster than the energy growth rates. Under
13 both goals, energy and demand were allowed to grow, albeit at lower rates.
14 There was a concern with the expiration of the Commission’s goals in 1989, that
15 the Commission might require such unreasonable goals as to threaten the
16 construction of new generating units or new natural gas capacity that would be
17 needed for economic growth and provide much needed fuel diversity. Florida was
18 trying to diversify its generation fleet from an over dependence on oil. This is
19 similar to the current legislative expression in several recent new statutes that
20 Florida diversify its generating fuel mix.

21 **Q. You characterized GDS’s goals as extreme. Please elaborate.**

22 A. GDS’s goals are extreme in their magnitude and create huge uncertainty as to
23 their effects. As previously stated, after criticizing Itron’s methodology and the

1 utilities' goal setting methodologies, GDS appears to use some parts of those
 2 analyses, adds some measures, makes some poorly explained and ill-conceived
 3 "adjustments," and then grosses up the respective market sector goals to reach
 4 what I refer to as a "gross-up to goals" recommendation.

5
 6 One obvious problem, besides the very incomplete description how GDS
 7 performed the adjustments, is the notable absence of any analyses describing the
 8 economic consequences in adopting these goals. The sheer magnitude of their
 9 proposal is audacious. Just to convey the size of the differences, the following
 10 table is taken directly from GDS's numbers in Exhibit SRS-21 and compares the
 11 winter, summer and energy goals recommended by Witness Spellman to the four
 12 investor-owned utilities' proposed goals.

	2019 Winter MW Goal	2019 Summer MW Goal	2019 GWh Goal
GDS Proposed Goals	4368.3	6442.3	17,667
IOU Proposed Goals	984.4	1277.9	1852.7
Factor Difference	4.43X	5.04X	9.53X

13
 14 The winter and summer demand goals are four to five times greater than the goals
 15 derived from the goals setting process used by the four largest investor owned
 16 utilities, and the energy goals are a factor of nine times greater than the goals
 17 based on individual utility achievable results. Accepting these levels of proposed
 18 goals without a shred of documentation as to their impact or detailed evaluation of

1 their reasonableness would be a risky proposition for this Commission to
2 entertain.

3
4 It is exactly this “make up any goals you want” kind of approach to goal setting
5 dockets that the Commission was trying to avoid by adopting Rule 25-17.0021,
6 Florida Administrative Code, which requires goals to a) be based on each utility’s
7 most recent planning process and b) be based on the cost-effective savings
8 reasonably achievable over a ten year period. In addition, many specific issues
9 are to be addressed when proposing goals such as free-riders, specific customer
10 sectors and technologies, building codes, mandatory appliance standards,
11 overlapping measures, and rebound effects. GDS’s proposal does not address any
12 of these required topics; it is just silent on them. The rule was adopted to require
13 a predictable, deliberative process for determining if the goals the utilities
14 proposed were reasonable and accounted for the important variables that would
15 determine what amount of DSM savings was reasonably achievable and cost-
16 effective. It is clear that GDS’s proposal fails to comply with many of the
17 requirements prescribed by 25-17.0021, F.A.C.

18 **Q. You have mentioned cost impacts several times. Please articulate the likely**
19 **rate impacts of these kinds of goals.**

20 A. I will describe and partially quantify the likely rate impacts and the probable
21 direction of these rate impacts from GDS’s proposal. Even this incomplete
22 assessment shows that the rate impacts will be enormous.

1 Almost by definition, customer rates would be higher. There are two reasons this
2 is the case. First, achieving DSM goals this severe would require a massive
3 expansion of utility resources to design, implement and manage the new
4 generation of DSM programs. Moreover, to encourage participation, incentives
5 such as rebates would also be dramatically larger. Second, reduction in energy
6 sales and associated revenue over the goals horizon would force the utilities to
7 seek rate relief to support their continued obligation to reliably serve the public.
8 With GDS's dramatic reduction in sales, the fixed costs to operate a utility would
9 not disappear and some means to recover these costs would be needed. I refer to
10 this shortfall as unrecovered Commission approved revenue.

11 **Q. Why would the utilities need rate relief?**

12 A. The amount of revenue required by a utility to provide service is established by
13 the Commission during each rate case. Recurring expenses such as fuel,
14 environmental costs, and capacity costs are recovered each year through
15 adjustment clauses subject to the Commission's review and approval. Base rate
16 revenue and annual expenses taken together comprise the required revenue to
17 provide service. The extreme DSM energy goals proposed by NRDC/SACE and
18 GDS would substantially reduce the number of kilowatt-hours the utility sells.
19 Therefore, the rate for each kilowatt-hour that is sold must be reset higher through
20 some mechanism to collect enough money to meet the required revenue. The
21 math is indisputable.

1 **Q. Wouldn't the utility's revenue requirements go down because of fuel savings**
2 **and potential demand savings?**

3 A. Yes, fuel expenses would go down since the utility would be purchasing less fuel.
4 But the other components of the revenue requirements would not disappear when
5 fewer kilowatt-hours are sold. Remember, the rate must be set to recover such
6 things as transmission and distribution costs, customer service costs, billing and
7 metering, certain unavoidable annual expenses like environmental costs, and
8 DSM program costs must be recovered. These costs are not typically reduced
9 when customers use less energy.

10 **Q. Then who benefits from energy efficiency programs?**

11 A. Those customers who participate in a utility program and receive an incentive.
12 They generally will use less energy and even though rates are higher for everyone,
13 program participants purchase less energy and thus are net beneficiaries of the
14 program because their lower consumption lowers their total bill. This is why the
15 intervenors always like to say that bills would be lower. Bills would be lower for
16 *some*, but rates would be higher for *everyone*.

17

18 Thus, there are two issues that create fairness or equity problems with DSM
19 programs -- the use of incentives (subsidies) to benefit some customers and the
20 increase in rates that affect all customers. These costs disproportionately fall
21 upon those who are unable to participate in programs. Examples of these kinds of
22 customer would include lower income customers, seasonal customers, or renters.

1 Using the RIM test, or as I called it in my pre-filed testimony, the “no losers” test,
2 assures that all customers benefit, those who participate in the program and those
3 who do not. That is why I recommend this remain the standard for establishing
4 goals.

5 **Q. Have you quantified the impact on rates of GDS’s proposed goals?**

6 A. Yes. My attached Exhibit JWD-2 compares the GDS energy goals with the four
7 investor owned utilities proposed E-RIM goals over the ten-year horizon. Let me
8 emphasize that this is just an estimate of the magnitude of the required rate
9 increases. I made a number of very conservative assumptions. First, I took the
10 current residential rates for the four investor owned utilities and subtracted those
11 items that do not have to be recovered or may not be on future bills. The
12 excluded items were fuel charges, storm recovery charges, and the gross receipts
13 tax. Next, I assumed that the Energy Conservation Cost Recovery Clause would
14 not increase. We know this is not true because to achieve the goals proposed by
15 the intervenors large increases in DSM program costs will be necessary. Finally,
16 I assumed that the base rates currently in effect and other approved expenses
17 collected through clauses would not increase over the next ten years. Thus, my
18 estimate of the unrecovered Commission approved revenues resulting from the
19 GDS goals is a conservative, lower end magnitude estimate.

20

21 My Exhibit JWD-2 shows that the total 10 year reduction in Commission
22 approved revenue that would have to be recovered through higher rates is about
23 \$3.8 billion. Through base rate proceedings or higher recovery charges, the

1 utilities would require on average about \$380 million per year in additional
2 revenue to recover their Commission approved revenue requirement.

3 **Q. Are there other impacts because of these extreme goals?**

4 A. Yes, there would be direct losses in state and local revenue. The legislature and
5 local governments tax electric sales. The gross receipts tax (GRT) is 2.5 percent
6 of all electric bills and these funds are earmarked for the Public Education Capital
7 Outlay and Debt Service Trust (PECO) to fund public education. With a few
8 statutory exceptions commercial and industrial sales are taxed at 7 percent. Most
9 municipal governments impose franchise fees and local sales tax on the bill.
10 Many franchise fees are up to 10 percent of the total bill. Some local
11 governments impose a municipal services tax. The bottom line is revenue to
12 public entities will go down because of the proposed GDS goals. Given the
13 current economic climate and the formidable funding challenges facing the
14 legislature and local government as they seek to maintain funding of essential
15 public services, it is important the Commission be aware of these economic
16 impacts on state and local revenue.

17 **Q. Have you quantified the impact of the GDS goals on local and state
18 revenues?**

19 A. Yes and I have again been extremely conservative in estimating this impact. It is
20 conservative because I ignored municipal taxes and franchise fees since, while
21 they are imposed on most customer bills, there are some customers in rural areas
22 who do not pay them. In addition, I only applied the sales tax to commercial sales
23 and not industrial sales. There are a number of agricultural and manufacturer

1 exemptions that apply to some customers in the industrial class, but to be overly
 2 cautious in my lost public revenue estimate, I assumed the entire industrial sector
 3 was exempt. Thus, my Exhibit JWD-3 only includes the loss of public revenue
 4 to the state of Florida from the GRT and the sales tax on commercial electric
 5 accounts. The estimated loss in state taxes over the ten-year goals period is at
 6 least \$183 million. If one assumed conservatively that even half of lost electric
 7 sales would be subject to franchise fees and local sales tax, then foregone public
 8 revenue could easily top \$276 million.

9 **Q. Should the Commission adopt Mr. Spellman's recommendation to require**
 10 **customers to spend over \$24 million annually to fund photovoltaic (PV) and**
 11 **solar thermal programs?**

12 A. The Commission should dismiss this proposal. Even Mr. Spellman admits that
 13 neither of these programs passes the ^{E-TRC or E-RIM} ~~Participant~~ test implying the program costs
 14 are never recovered by the long term energy savings. Nonetheless, he defends
 15 ratepayer funding because he perceives these two products need additional
 16 research and development support. He claims that by providing such support the
 17 ratepayers will enjoy environmental benefits and reduced petroleum use.

18 **Q. Why should the Commission not fund these kinds of programs?**

19 A. There are numerous reasons. First of all, the 10 percent funding formula is
 20 completely arbitrary. It has no basis for even being considered and the proposal
 21 does not result in any tangible ^{net} benefits for the ratepayers. Moreover, these kinds
 22 of technologies are being supported by a variety of sources including the
 23 Department of Energy, the Florida Energy Office, economic stimulus money, tax

1 credits, and equity capital from the private sector. Finally, PV and solar thermal
2 are not experimental or embryonic technologies warranting R&D funding. The
3 PV industry is running at near full capacity and attracts investment capital. Solar
4 thermal is a well established technology and can and does compete in niche
5 markets.

7 REBUTTAL OF WITNESS STEINHURST'S ARBITRARY ENERGY

8 GOALS

9
10 **Q. Please summarize your rebuttal to Witness Steinhurst's proposed DSM**
11 **goals.**

12 **A.** Witness Steinhurst asserts that the entire goals setting methodology employed by
13 the FEECA utilities, Itron and NRDC/SACE as part of the collaborative is so
14 flawed it should be rejected by the Commission. The FEECA utilities have
15 invested almost a year of work effort (including presentations and workshops with
16 the Commission and its staff), engaged a well-respected outside consulting firm to
17 assist in developing DSM goals, worked in good faith with a collaborative
18 including NRDC/SACE, and followed every requirement of the Commission's
19 DSM Goals Rules in proposing goals. Witness Steinhurst rejects all of this and
20 recommends a one percent of annual electricity sales energy goal with a ramp up
21 rate of either two or three years for all seven utilities. Over the ten-year goals
22 period he proposes an energy reduction that is actually more extreme than GDS's
23 proposal. He does not even bother to quantify his companion demand reduction

1 goals, which could be developed any number of different ways depending upon
2 what measures and programs were used to meet energy goals.

3
4 Witness Steinhurst's proposal is, at best, arbitrary. It is entirely devoid of any of
5 the analytics or evaluation required by the DSM Goals rule. It even fails to meet
6 the DSM goals standard of Section 366.82(3) which he and other NRDC/SACE
7 witnesses seemingly champion. His recommendation should not be adopted by
8 this Commission. Most importantly, this proposal has an even greater adverse
9 impact on customer rates than the GDS goals.

10 **Q. Doesn't Witness Steinhurst base his recommendation to reject FPL's**
11 **proposed goals on the experiences of the Northwest Power Planning Council?**

12 **A.** Not exactly. He seemingly discusses the Northwest Power Planning Council
13 (NWPPC) for the purposes of highlighting the exemplary way they do
14 conservation planning and to serve as a counterpoint to his perceived flaws in the
15 Collaborative used in Florida. However, what Witness Steinhurst fails to identify
16 is that the NWPPC is not even a utility – it is a federally mandated planning
17 agency housed operationally within the Bonneville Power Authority (BPA). Its
18 statutory mission is to make recommendations in the four northwestern states
19 (Washington, Idaho, Montana, and Oregon) to balance the use of water resources
20 for hydro-electric production with the protection of fish and wildlife. While BPA
21 is a wholesale utility serving about 148 wholesale customers such as distribution
22 cooperatives and municipal systems, it only has some 5 retail customers, mostly
23 legacy aluminum smelters from the 1940s. It does not directly deliver DSM

1 programs and services to retail customers because it has no residential or
2 commercial retail customers.

3
4 Moreover, the NWPPC Sixth Power Plan is not binding on utilities that BPA
5 serves. It assumes an integrated transmission grid and a centralized, generation
6 dispatch for the entire Northwest states (which is not true), and there are no
7 mandatory goals implemented from the plan subject to regulatory review. In sum,
8 the entire Sixth Power Plan is an "advisory" document. The FEECA utilities'
9 goals, on the other hand, are mandatory and the utilities can be penalized for
10 failing to meet them.

11
12 This is not to diminish some innovative planning concepts used by the NWPPC.
13 In fact, FPL has studied the Plan and talked with staff of the NWPPC. The
14 important point is that neither the design nor purpose of the NWPPC plan is
15 applicable to utilities in Florida who are required to adopt DSM goals specific to
16 their own service area and integrate the goals with their individual resource plans.

17 **Q. Have you prepared a document describing the differences between the**
18 **advisory plan of the NWPPC and FPL's Commission reviewed planning**
19 **process?**

20 **A.** Yes. I have attached Exhibit JWD - 4 labeled Comparison of Systems and
21 Planning Methodologies which illustrates many differences between the two
22 planning approaches. It is attached to this testimony.

1 **Q. Do you believe the planning approach recommended by Witness Steinhurst**
2 **and used by the New England ISO is appropriate for Florida?**

3 A. One cannot tell from the very brief characterization of the New England ISO's
4 planning approach in witness Steinhurst's testimony if it is better or worse than
5 the approach used in Florida. Most, if not all of the states in this region, have
6 unbundled the integrated utilities as part of the process of adopting retail
7 competition in the late 1990s. Typically under deregulation, there is no direct
8 linkage between the generating, wholesale utility and the end use customer. Thus,
9 an unbundled utility model creates some strange incentives in pursuing DSM
10 between the customer, retail distribution utility and wholesale generator. I would
11 not recommend the Commission require Florida utilities to adopt the New
12 England ISO collaborative approach without careful consideration of how their
13 goals setting process would work in Florida where vertically integrated utilities
14 continue to have the obligation to plan for and serve their native load in a cost-
15 effective manner. Indeed, given NRDC/SACE's apparent willingness to attack
16 decisions to which they agreed during the most recent Collaborative, I am not
17 certain I would encourage any Florida utility to participate in a Collaborative.

18 **Q. Should the Commission accept Witness Steinhurst's proposal to reject FPL's**
19 **proposed DSM goals and instead establish a fixed percentage energy goal**
20 **with a ramp up rate?**

21 A. Absolutely not. The Commission should reject this proposal for many reasons.
22 Witness Steinhurst's proposal represents a repudiation of the many months of
23 work by the FEECA utilities, Itron and the Commission staff. In addition, the

1 very parameters for performing the technical and achievable potential that
2 Witness Steinhurst criticizes in his testimony are the ones agreed to by
3 NRDC/SACE when they participated in the Collaborative.

4
5 The entire goals Collaborative/development process was done with full disclosure
6 and inclusion, and now that the achievable goals have been filed, witness
7 Steinhurst, on behalf of NRDC/SACE, wants to disregard the results, start the
8 process over, and in the interim arbitrarily establish a one percent of annual sales
9 energy goal. His demand goals are equally arbitrary and devoid of any type of
10 evaluation.

11
12 As with GDS, Witness Steinhurst's arbitrary proposal is submitted without any
13 information as to the economic consequences on rates, changes in supply resource
14 options, environmental emissions, and DSM program implementation costs of
15 imposing such goals. The Commission is ill-served by such incomplete and
16 unsupported recommendations.

17 **Q. Are you familiar with the requirements of the Commission's DSM Goals**
18 **Rule?**

19 A. Yes, I am familiar with the requirements of Rule 25-17.0021, Goals for Electric
20 Utilities, F.A.C. Witness Steinhurst's proposal conflicts with almost all of these
21 requirements.

1 Q. Which of the specific requirements in 25-17.0021 are in conflict with Witness
2 Steinhurst's recommended goals?

3 A. Section (1) of the Rule requires, "The goals shall be based on an estimate of the
4 total cost effective kilowatt and kilowatt-hour savings reasonably achievable
5 through demand-side management in each utility's service area over a ten-year
6 period." Witness Steinhurst's proposed goals are not based on any demonstration
7 of what savings are reasonably achievable.

8
9 Section (3) requires, ". . . each utility shall propose numerical goals for the ten
10 year period and provide ten year projections, based upon the utility's most recent
11 planning process, of the total, cost-effective, winter and summer peak demand
12 (kW) savings reasonably achievable in the residential and commercial/industrial
13 classes through demand-side management." Witnesses Steinhurst's proposed
14 goals are not based on any specific utility planning process, he makes no
15 analytical demonstration that the savings are reasonably achievable, and while he
16 suggests that goals be allocated between residential and commercial/industrial
17 sectors, he provides no analysis of the reasonably achievable savings between
18 these sectors.

19
20 Section (3) also requires, "Each utility's projection shall reflect consideration of
21 overlapping measures, rebound effects, free riders, interactions with building
22 codes and appliance efficiency standards, and the utility's latest monitoring and

1 evaluation of conservation programs and measures. Witness Steinhurst's
2 proposed goals fail to incorporate any of these considerations.

3
4 Section (3) also requires, "Each utility's projections shall be based upon
5 assessment of, at a minimum, the following market segments and major end-use
6 categories.

7 Residential Market Segment:

8 (Existing Homes and New Construction should be separately
9 evaluated)

10 Major End-Use Category

11 (a) Building-Envelope Efficiencies (b) Cooling and Heating
12 Efficiencies (c) Water Heating Systems (d) Appliance Efficiencies
13 (e) Peak load Shaving (f) Solar Energy and Renewable Energy
14 Sources (g) Renewable/Natural gas substitutes for electricity (h)

15 Other."

16 Witness Steinhurst's proposed residential goals are not based on projections of
17 any of these mandatory end use categories.

18
19 Section (3) has a similar directive to develop commercial and industrial goals for
20 13 major end-use categories. Witness Steinhurst's proposed commercial/industrial
21 goals are not based on projections of any of these mandatory end-use categories.

1 Q. Does witness Steinhurst's proposal evaluate the full technical potential of any
2 or all Florida utilities?

3 A. No.

4 Q. Does Witness Steinhurst's proposal consider, "the costs and benefits to
5 customers participating in the measure?"

6 A. Again, no.

7 Q. Does Witness Steinhurst's proposal consider, "the costs and benefits to the
8 general body of ratepayers as a whole, including utility incentives and
9 participant contributions?"

10 A. Clearly not.

11 Q. Does Witness Steinhurst's proposal consider "the need for incentives to
12 promote customer-owned and utility-owned energy efficiency and demand-
13 side renewable energy systems."

14 A. No, once again.

15 Q. Does Witness Steinhurst's proposal consider, "the costs imposed by state and
16 federal regulations on the emission of greenhouse gases?"

17 A. No. His proposal does a clean sweep of ignoring statutory consideration.

18 Q. Does Witness Steinhurst's proposal meet any of the criteria set forth in
19 Section 366.82(3)?

20 A. No. Witness Steinhurst's proposal does not meet the criteria set forth in section
21 366.82(3) as adopted in HB 7135, a statute that both NRDC/SACE championed in
22 this proceeding.

1 **Q. Is Witness Steinhurst's proposal essentially the advocacy of an Energy**
2 **Efficiency portfolio standard for Florida?**

3 A. Yes, without specific statutory authority. Indeed, it should be noted that the
4 Legislature considered and specifically rejected such an Energy Efficiency
5 portfolio standard in the session in which it passed HB 7135. So, Witness
6 Steinhurst's proposal is both inconsistent with Section 366.82(3) created by HB
7 7135 and has been rejected before by the Legislature.

8 **Q. What is the likely rate impact of the NRDC/SACE recommended goals?**

9 A. I used the same procedure that I used with Mr. Spellman's goals to calculate the
10 unrecovered Commission approved revenue and the uncollected public revenue.
11 Since the total energy savings goals are higher for the NRDC/SACE proposal, the
12 revenue impacts are commensurately larger. The utility would need to recover
13 around \$4 billion in unrecovered revenue requirements and Florida tax collections
14 would be reduced by some \$186 million over this time period not including
15 foregone local taxes and franchise fees.

16 **Q. Please summarize your rebuttal testimony of Witness Steinhurst?**

17 A. Witness Steinhurst's proposed goals are not based on any analyses; the states he
18 selects as examples to arrive at the one percent figure are not valid comparisons to
19 Florida; his proposed goals violate the standards for establishing FEECA goals
20 required by the Commission's rules and Section 366.82(3), F.S. as adopted by HB
21 7135; and his proposal is nothing more than an Energy Efficiency Portfolio
22 Standard, which has previously been rejected by the Florida Legislature. His
23 arbitrary and baseless proposal should be rejected out of hand. It is far inferior to

1 the deliberative, utility specific process used by the Collaborative and presented in
2 the testimony of the FEECA utilities and Witness Rufo.

3
4 **REBUTTAL OF WITNESS WILSON'S TESTIMONY ON THE**
5 **APPLICABILITY OF THE STATE COMPREHENSIVE PLAN**

6
7 **Q. Please address Witness Wilson's attempt to invoke the State Comprehensive**
8 **Plan as guidance to the Commission in interpreting the recent amendments**
9 **to FEECA.**

10 **A.** Witness Wilson begins his testimony not with the Commission Rule being
11 implemented, the DSM Goals Rule, and not the statute being implemented,
12 FEECA. Instead, he begins with selective excerpts of the State Comprehensive
13 Plan. I found this curious since even he acknowledged that the State
14 Comprehensive Plan is merely a "direction-setting document" which, as he fails
15 to acknowledge, "does not create regulatory authority or authorize the adoption of
16 agency rules, criteria, or standards not otherwise authorized by law."

17
18 I remained puzzled by this focus on essentially inapplicable statutes until I read
19 further and found a concise statement of NRDC/SACE's interest in this
20 proceeding. Once one understands what NRDC/SACE hope to accomplish
21 through this proceeding, it becomes clear why they refer to inapplicable statutes
22 and only selective portions of recently amended statutes rather than the
23 requirements of the rule actually being implemented, which has not been amended

1 at all, and the statute being implemented, FEECA, only small portions of which
2 were even amended.

3
4 Witness Wilson states NRDC/SACE's interest in this proceeding very clearly on
5 Page 5, Lines 9 – 11, of his Testimony:

6 *“NRDC/SACE advocate for the reduction in greenhouse gas*
7 *emissions, and share a history of advocating for energy*
8 *conservation in the interests of reducing air pollution and*
9 *protecting consumers from unnecessary, risky and costly energy*
10 *choices.” (emphasis added).*

11 This statement is reiterated at the NRDC's national web page where they list
12 curbing global warming as their first mission priority. Indeed, Witness Cavanagh
13 confirms this narrow interest in his testimony. When asked why NRDC/SACE
14 intervened in this proceeding he responded: *“Energy efficiency is the most cost-*
15 *effective way to reduce greenhouse gas emissions and other pollutants associated*
16 *with power generation, while also strengthening our economy, improving our*
17 *energy security and reducing costs for consumers.” (Cavanagh, Page 2, Lines 12 –*
18 *16).*

19
20 Thus, the testimony of all of NRDC/SACE witnesses must be viewed with their
21 narrow objective of reducing greenhouse gas emissions through DSM. They want
22 to maximize DSM in Florida to maximize reductions of greenhouse gas
23 emissions. They do not advocate for lower rates; indeed what they propose would

1 result in higher rates, which, in turn, would reduce consumption and greenhouse
2 gas emissions. They advocate against the Commission even considering rate
3 impacts of DSM, saying that such a consideration is against the law. They reject
4 the rule-prescribed goal setting process in which they actively participated and
5 advocate a goal setting approach that is without analytical support, at odds with
6 the DSM goals rule, at odds with FEECA and even at odds with the portions of
7 HB 7135 they seemingly champion. Why? I conclude that they are only being
8 true to their self-acknowledged, narrow focus, because their approaches maximize
9 DSM and reduce greenhouse gases. I urge the Commission to carefully consider
10 the myopic goal of these groups and whether it will allow its prescriptive and well
11 reasoned DSM Goals Rule and the FEECA goal setting to become instruments
12 solely for reducing greenhouse gas (GHG) emissions.

13 **Q. Please evaluate Witness Wilson's citation of statutory authority and claim**
14 **that the Commission has authority to make GHG reductions the priority goal**
15 **when setting DSM goals.**

16 **A.** Witness Wilson bases his argument primarily on statutes that provide no authority
17 to the Florida Public Service Commission. For example, he carefully selects
18 sections from 187.201(11)(b), F.S.. Chapter 187 is identified as the State
19 Comprehensive Plan. The chapter identifies 24 goals with over 277 policies that
20 cover everything from children's issues to urban revitalization to public safety.
21 There is an "Energy" section of the statute, Section 187.201(11). In subsection
22 187.201(11)(b) there are 10 "policies" listed, but Witness Wilson only identifies
23 seven he believes to be relevant to this proceeding.

1 Witness Wilson only quotes the subsections that appear to apply to electricity
2 without ever noting that the entire section applies not just to electricity, but to all
3 energy consumption in the state. If he had included the subsections he left out,
4 that would have been clear, but, instead, he left the reader with the impression that
5 this statute was only directed to the consumption of electricity.

6
7 He does provide a brief disclaimer on Page 4 of his testimony that the State
8 Comprehensive Plan is only a “direction-setting document,” but that disclaimer is
9 woefully incomplete and hardly a fair summary of the various statutory
10 limitations found in the statute.

11 **Q. What are the specific limitations contained in Chapter 187, State**
12 **Comprehensive Plan with respect to agencies adopting the policies?**

13 **A. No summary I could provide would be as descriptive as the plain language in the**
14 **statute. Here is the entire section of 187.101, F.S.:**

15 187.101 Description of plan; legislative intent;
16 construction and application of plan.--

17 (1) The State Comprehensive Plan shall provide long-
18 range policy guidance for the orderly social, economic,
19 and physical growth of the state. *It shall be reviewed*
20 *biennially by the Legislature, and implementation of its*
21 *policies shall require legislative action unless otherwise*
22 *specifically authorized by the constitution or law.*

1 (2) The State Comprehensive Plan is intended to be a
2 direction-setting document. Its policies may be
3 implemented only to the extent that financial resources
4 are provided pursuant to legislative appropriation or
5 grants or appropriations of any other public or private
6 entities. *The plan does not create regulatory authority or*
7 *authorize the adoption of agency rules, criteria, or*
8 *standards not otherwise authorized by law.*

9 (3) The goals and policies contained in the State
10 Comprehensive Plan shall be reasonably applied where
11 they are economically and environmentally feasible, not
12 contrary to the public interest, and consistent with the
13 protection of private property rights. *The plan shall be*
14 *construed and applied as a whole, and no specific goal or*
15 *policy in the plan shall be construed or applied in*
16 *isolation from the other goals and policies in the plan.*

17 (emphasis added)

18 **Q. Does Witness Wilson rely on other statutory authority outside Chapter 366**
19 **which he believes directs the Commission to adopt energy consumption goals**
20 **to achieve a carbon reduction policy for Florida?**

21 A. Yes. Witness Wilson again selectively takes language from Chapter 377.601(2),
22 F.S., which, among other things, established the Florida Energy and Climate
23 Commission (FECC). He assigns particular weight to the Legislative intent

1 section of 377.601(1), F.S., and two policy goals described in 377.601(2), F.S..
2 These two statutory subsections are essentially the preamble provisions of the
3 statute establishing the FECC.

4
5 Once again Witness Wilson only quotes two of eleven policies mentioned in
6 Section 377.601(2), F.S., leaving the reader with the mistaken impression that this
7 statute is only about energy conservation. Of course, the statute and its policies
8 are much broader. While Witness Wilson is correct that this statute creating the
9 FECC was a modest part of HB 7135, what Witness Wilson completely overlooks
10 and fails to disclose to the reader is that this portion of HB 7135 pertaining to
11 Chapter 377, F.S., did not extend any new statutory authority to the Florida Public
12 Service Commission.

13 **Q. Does Witness Wilson mention that the Florida Public Service Commission is**
14 **specifically exempted from this the statute creating and governing the**
15 **FECC?**

16 **A. No. He completely ignores 377.703, F.S., which is fully cited here:**

17 377.703 Additional functions of the Florida Energy and Climate
18 Commission.

19 (1)LEGISLATIVE INTENT.--Recognizing that energy supply and
20 demand questions have become a major area of concern to the state
21 which must be dealt with by effective and well-coordinated state
22 action, it is the intent of the Legislature to promote the efficient,
23 effective, and economical management of energy problems,

1 centralize energy coordination responsibilities, pinpoint
2 responsibility for conducting energy programs, and ensure the
3 accountability of state agencies for the implementation of s.
4 377.601(2), the state energy policy. *It is the specific intent of the*
5 *Legislature that nothing in this act shall in any way change the*
6 *powers, duties, and responsibilities assigned by the Florida*
7 *Electrical Power Plant Siting Act, part II of chapter 403, or the*
8 *powers, duties, and responsibilities of the Florida Public Service*
9 *Commission.* (emphasis added.)

10 **Q. What Commission obligations would be overlooked if the Commission were**
11 **to adopt Witness Wilson's interpretation that the Florida Legislature has**
12 **given a new mandate to pursue an energy reduction/carbon reduction**
13 **program by use of the FEECA statute?**

14 A. The Commission would essentially have to ignore most of its statutory
15 ratemaking responsibilities under Chapter 366; disregard its own rules in 25-
16 17.001 through 25-17.008, Florida Administrative Code, particularly its DSM
17 Goals rule that is being implemented here; disregard the portions of FEECA that
18 were not amended by HB 7135; and reject a 29 year history of legal precedents
19 and orders implementing the FEECA statute.

20 **Q. Are there any especially misleading aspects of Witness Wilson's discussion of**
21 **the recent statutory changes?**

22 A. There are four I would like to discuss.

1 First, I take issue with Witness Wilson's leaving the erroneous impression that the
2 State Comprehensive Plan calls for the reduction in the use of electricity or in the
3 per capita consumption of electricity. It does not. The two subsections quoted by
4 Witness Wilson, that refer to "reducing energy requirements" (Section
5 187.201(11)(a)) and continuing "to reduce per capita energy consumption"
6 (section 187.201(11)(b)(1)), address all cumulative uses of energy in Florida and
7 not just the consumption of electric energy. But even if leaving the impression
8 that this statute applied only to electricity consumption and not overall energy
9 consumption was unintended, it is misleading. It is particularly misleading when
10 one reads the applicable provisions of FEECA that apply to electricity
11 consumption and finds that they do not call for reducing overall energy
12 consumption or per capita energy consumption. Instead, they call for growth in
13 consumption, only at a lower rate due to conservation. That leads me to the most
14 egregious flaw in Witness Wilson's legal "analysis."

15
16 Second, instead of quoting Section 187.201(11) and its inapplicable references to
17 reducing energy consumption, Witness Wilson should have quoted the applicable
18 sections of FEECA that were not amended by HB 7135. It is those provisions
19 which govern the Commission's interpretation of FEECA, not Section 187.201.
20 The FEECA provisions that address the electricity or energy consumption goals
21 under FEECA are found in Section 366.81 (1) and 366.82(2), F.S., which Witness
22 Wilson conveniently ignored.

1 Section 366.81, F.S., the legislative intent section of FEECA, refers twice to the
2 electricity consumption goals to be addressed by the Commission. The second
3 sentence of the section states: “Reduction in, and control of, the *growth rates* of
4 electric consumption and of weather-sensitive peak demand are of particular
5 importance.” (emphasis added.) The last sentence of Section 366.81, F.S., also
6 speaks of “reducing and controlling the growth rates of electric consumption....”
7 Similarly, Section 366.82, F.S., which is the Commission’s explicit authority to
8 adopt the goals in this proceeding, authorizes the Commission the adopt goals
9 designed, among other things, “to reduce and control the growth rate of electric
10 consumption....” These standards do not call for the reduction in electricity
11 consumption, a matter repeatedly suggested by Witness Wilson. They call for a
12 reduction in the *growth rate* of electricity consumption due to DSM. This is a
13 much different standard than what Witness Wilson suggests, and it is a standard
14 unchanged by HB 7135, yet Witness Wilson looks to inapplicable standards that
15 speak of reductions in energy requirements. Ignoring the specific language of the
16 applicable statute, FEECA, and focusing on the language of an inapplicable
17 statute, Section 187.201(11), is at best, disingenuous.

18
19 Third, in dismissing the use of the RIM test by the Commission, Witness Wilson
20 offers the following incomplete and highly misleading observation: “in my
21 review of the new statutory language and legislative history relating to the
22 FEECA goals, I see nothing to suggest that the PSC should focus on lost
23 revenues, electricity rates or impacts to non-participants and accordingly, nothing

1 to suggest that the PSC should employ the RIM test in the FEECA goal-setting
2 process.” (Wilson, page 22, lines 13-16). Why is this misleading? It is
3 misleading because he treats the language of HB 7135 and the underlying staff
4 legislative analyses as the only applicable legal authority. This ignores (a) the
5 Commission’s significant rate authority under Chapter 366 to assure fair, just and
6 reasonable rates, (b) the provisions of FEECA that were not amended by HB 7135
7 (most of the FEECA statute, including rate recovery of conservation program
8 costs), and (c) the Commission’s DSM cost-effectiveness rule that requires the
9 use of the RIM, TRC and Participant tests in analyzing DSM programs. If he had
10 looked beyond the selective statutory sections that he cobbled together to support
11 his myopic approach and looked at FEECA in context, his “analysis” might not
12 have been so misleading.

13
14 Finally, in their lengthy discussion of the law they consider to be applicable,
15 neither Witness Wilson nor the other NRDC/SACE Witnesses make a single
16 reference to the Commission’s DSM Goals Rule, Rule 25-17.0021, and the very
17 specific goal setting requirements it contains. That is the fundamental legal
18 requirement being implemented in this proceeding. It is unchanged by the recent
19 adoption of HB 7135. The Commission has chosen not to amend that rule in
20 response to HB 7135, and that fact alone tells me that the Commission either
21 believes the rule complies with HB 7135 or that the Commission does not care
22 about statutory compliance, which I do not believe. I read the Commission’s
23 decision not to amend Rule 25-17.0021 as an interpretation that it considers its

1 rule to be in compliance with FEECA as amended by HB 7135. What I find
2 incredible is that there is not a single mention of this rule and its legal
3 requirements in their testimony. That alone is misleading.

4 **Q. What would be the effect of the Commission following Witness Wilson's**
5 **proposals?**

6 A. Acceptance of Witness Wilson's argument would require the Commission to
7 abandon its obligations under Chapter 366, F.S., and in its place use 187.101 and
8 377.601, F.S., to set energy reduction goals to pursue a carbon dioxide reduction
9 regime. The FPSC is not even mentioned in 187.101, F.S., and the Commission is
10 expressly exempted from any requirements identified in 377.601, F.S. FEECA
11 does not call for DSM to be used for the exclusive purpose of reducing carbon
12 dioxide emissions; at most it requires Commission consideration of prospective
13 greenhouse gas regulation costs when considering goals, something that the
14 FEECA utilities did for the first time in their analyses in this proceeding and for
15 which NRDC/SACE completely fail to give them credit.

16
17 Development of regulations establishing carbon reduction goals is currently being
18 undertaken by the Florida Department of Environmental Regulation (FDEP). As
19 Witness Wilson must be aware, HB 7135 requires that any FDEP rules addressing
20 carbon reduction be ratified by the Florida legislature. Yet, Witness Wilson and
21 the NRDC/SACE witnesses want this Commission to use its authority to establish
22 energy and peak demand goals to indirectly adopt energy reduction goals for the
23 purpose of advancing a carbon reduction agenda which has statutorily been

1 assigned to the FDEP, subject to legislative review. I urge the Commission to be
2 extremely cautious given SACE's and NRDC's invitation to act where the
3 Legislature has authorized another agency to act.

4 **Q. Please summarize your rebuttal of Witness Wilson's testimony?**

5 A. Witness Wilson of NRDC/SACE has one paramount interest - to reduce the
6 consumption of electric energy for the sake of reducing greenhouse gases. He
7 clearly states this in his testimony. He tries to use non-applicable, selective
8 statutory references and a fanciful interpretation of legislative actions with HB
9 7135 to conclude that the Commission's required role of balancing the goal
10 setting process with cost impacts, rate impacts, system reliability, utility resource
11 needs and reductions in the growth rates of demand and electricity consumption is
12 no longer required. A simple reading of the relevant sections of Chapter 187 and
13 377, F.S. makes clear that the Florida Legislature did not superimpose these
14 statutes above or instead of the Commission's lawfully delegated goal setting
15 authority as contained in FEECA and the remainder of Chapter 366, nor did the
16 new additions to FEECA limit the Commission's authority to use its own
17 discretion in deciding the standards to be used in establishing DSM goals.
18 Witness Wilson's selective statutory review is as misleading as it is myopic. As
19 laudable as reducing GHG emissions may be, it is not the be all and end all of
20 FEECA and the DSM goals rule, and that rule is the basic legal requirement this
21 Commission is called to implement in this proceeding.

1 **REBUTTAL OF WITNESSES ADVOCATING THE**
2 **EXCLUSIVE USE OF THE TOTAL RESOURCE COST TEST**

3
4 **Q. Please summarize your rebuttal to GDS that the TRC test be used as the**
5 **primary determinant of cost-effective, achievable goals.**

6 **A. The GDS witnesses cite a GDS survey of the different states and describe which**
7 **states rely on the different cost effectiveness tests. (Page 43 – 45, Line 9). They**
8 **report that some 12 states rely on the TRC as the “primary” test and this practice**
9 **is codified by rule in 9 of these states. In addition, 9 other states use the Societal**
10 **Cost test. They point out that only two jurisdictions use the RIM test -**
11 **Washington D.C. and Florida – as the primary mandated standard.**

12
13 However, a more careful reading of their Exhibit RFS-12 and testimony indicates
14 far more diversity exists with respect to which tests are used. Four other states in
15 addition to the District of Columbia and Florida use the RIM test as the primary
16 standard in evaluating cost-effectiveness. Eight other states give equal or near
17 equal weight to the RIM test along with the other tests. In total, 23 other states as
18 a matter of practice use or consider the RIM test as one standard to evaluate
19 programs. GDS’s witness continues highlighting his preference for the TRC test
20 by noting that the National Action Plan for Energy Efficiency Report (NAPEE)
21 commends the use of the TRC test because the RIM test is the most restrictive.

22 GDS does not yet recommend that the Commission change its existing goals and
23 program approval criteria to require the TRC test based on what other states are
24 doing or what the NAPEE recommends. Apparently, his treatise on other states is

1 intended to leave the Commission with the impression that Florida is some kind
2 of outlier state because it uses RIM as one of three cost-effectiveness standards
3 used to evaluate DSM goals and programs. Notwithstanding Witness Spellman's
4 criticisms, the truth of the matter is it does not matter what other states are doing
5 as long as what this Commission and the utilities it regulates are doing is
6 consistent with Florida law.

7
8 The successful history of the Florida Commission in setting DSM goals and the
9 utility's acknowledged efforts to meet those goals bear witness to the RIM test
10 being a fair and successful test. According to GDS, this Commission can also
11 take comfort that far from being some kind of outlier, Florida is one of 23 other
12 states that rely on the RIM test as a DSM evaluation tool. And in fact, in this
13 proceeding, DSM Goals are based on an enhanced version of the RIM test, which
14 includes prospective GHG costs.

15
16 Later in its testimony GDS unequivocally recommends that the E-TRC test be the
17 primary cost-effectiveness standard. (Page 50, Line 11-12). Florida's utilities
18 should be unapologetic for the historical use of the RIM test, and the Commission
19 can take pride in focusing first and foremost on not increasing customer rates
20 while pursuing aggressive DSM goals. It is the RIM standard that successfully
21 helps make all of Florida ratepayers' beneficiaries under DSM programs. Now
22 the customers of utilities stand to be the beneficiaries of the E-RIM test, which
23 retains the myriad benefits of the RIM test while also recognizing GHG costs.

1 Q. Is GDS wrong in its conclusion that the Commission required TRC programs
2 as part of the 2004 goals proceedings?

3 A. Yes. The GDS witnesses state on Page 50, Line 16- 19, that in the 2004 goals
4 docket the Commission ordered that “energy savings programs that did not have
5 significant impact on rates should be included in the goals of the FEECA
6 utilities.” They are mistaken. For example, the Commission approved FPL’s
7 goals in Docket No. 040029 with this language:

8 FPL appropriately used the RIM and participant tests to
9 determine the cost-effective level of achievable DSM goals.
10 Therefore, we find that FPL’s proposed annual residential
11 and commercial/industrial winter and summer kW and
12 annual kWh conservation goals for the period 2005 through
13 2014 shall be approved.

14

15 Perhaps what GDS meant to address was a statement in the final order from the
16 1994 DSM Goals proceeding. Because of its historic import, I attached a
17 complete copy as an exhibit to my direct testimony. The language they
18 selectively quote is indeed found in that order, but the quoted language is badly
19 taken out of context. The language selectively quoted is an observation by the
20 Commission that if utilities choose to propose TRC based programs, then the
21 savings of such programs would be counted toward their RIM-based goals. See
22 page 26 of Exhibit JWD-1. What is omitted from this selective quote is an entire
23 paragraph on the prior page of the order where the Commission explained that it

1 was consciously choosing to set goals based upon the RIM and Participant test
2 rather than upon the TRC test. It was this language, which is quoted below, that
3 was appealed to and affirmed by the Supreme Court of Florida:
4

5 We will set overall conservation goals for each utility based in
6 measures that pass both the participant and RIM tests. The record
7 in this docket reflects that the difference in demand and energy
8 savings between the RIM and TRC portfolios are negligible. We
9 find that goals based on measures that pass TRC but not RIM
10 would result in increased rates and would cause customers who do
11 not participate in a utility DSM measure to subsidize customers
12 who do participate. Since the record reflects that the benefits of
13 adopting TRC goals are minimal, we do not believe that increasing
14 rates, even slightly, is justified.

15 **Q. Why do you recommend that the Commission reject GDS's**
16 **recommendation to adopt a TRC only standard for establishing**
17 **goals?**

18 A. As described in my pre-filed direct testimony and supported by numerous other
19 utility witnesses, the RIM test is the appropriate test to use to establish goals. It
20 completely reveals the cost of the DSM programs by accounting for the cost of
21 incentives and the potential increase in rates due to the utility's declining energy
22 sales. Because of the full disclosure of these impacts, the Commission is in a
23 position to evaluate the equity consequences or fairness to all customers of DSM

1 programs and can appropriately balance the costs that will be passed through the
2 ECCR clause and ultimately be paid by customers, and the RIM test appropriately
3 treats loss revenues as a cost since these too must be recovered in the form of
4 higher rates.

5
6 In addition, as discussed in my pre-filed testimony, RIM based goals more closely
7 align the interest of the customer and the utility and avoid the need to
8 “incentivize” utilities to aggressively implement DSM programs. Florida utilities
9 widely acknowledged success over the last 29 years to implement aggressive
10 DSM goals without the need for financial incentives is evidence of the wisdom of
11 not abandoning this standard.

12 **Q. Please summarize your rebuttal of the NRDC/SACE witnesses regarding**
13 **their advocacy of a TRC only standard?**

14 A. Unlike the GDS witnesses who recommend the Commission voluntarily adopt
15 the TRC standard, Witnesses Cavanagh, Wilson and Mosenthal all argue that the
16 Commission is bound by new statutory language that requires the Commission to
17 use the TRC test as the “only” standard in setting DSM goals. (Witness Wilson,
18 Page 22, Lines 18-20). NRDC/SACE would have the Commission believe that a
19 watershed change in FEECA regulatory policy was precipitated by the modest
20 changes to FEECA in HB 7135. One of those modest changes was the
21 amendment of F.S. 366.82(3) to require the Commission’s consideration of four
22 new items when adopting DSM goals. My rebuttal responds to NRDC/SACE’s
23 interpretation of one of these four new items.

1 The first amendment at 366.82(3)(a), requires the Commission, in establishing
2 goals, to consider, “The costs and benefits to customers participating in the
3 measure.” There is not a lot of disagreement about this language. The
4 Commissions Cost- Effectiveness Reporting Rule (25-17,008, F.A.C.) already
5 prescribes this kind of analysis. This test is generically called the Participant Cost
6 test and the parties generally agree that this new statutory language, while not
7 specifically mentioning the Participant test captures the information required by
8 the Commission’s cost-effectiveness reporting rule. The NRDC/SACE witnesses
9 would argue that this is now a mandatory test. I do not share their conclusion that
10 the Participant test is a mandatory test. I do agree that the Commission is required
11 to give consideration to it, which it does and always has done.

12
13 The second amendment in question is the addition of Section 366.82(3)(b), which
14 calls for the Commission to consider, “The costs and benefits to the general body
15 of ratepayers as a whole, including utility incentives and participant
16 contributions.” It is the import of this amendment upon which NRDC/SACE and
17 the four largest investor-owned utilities dramatically disagree.

18
19 The NRDC/SACE witnesses all argue that this new language is not only a
20 statutory enactment of the Total Resource Cost test, but also a statutory rejection
21 of the Rate Impact Measure test. How they get to this strained conclusion is
22 telling.

1 First, they argue this is apparent on the plain language of the statute. That is
2 easily rebutted. The statute does not mention either the TRC or the RIM test.

3
4 Second, implicitly acknowledging that their “plain language” interpretation does
5 not hold water, they invoke two parenthetical references in two legislative staff
6 analyses that refer to this language as being “(similar to a Total Resource Cost test
7 or TRC test but including the cost of incentives).” This is their only evidence of
8 legislative intent – a parenthetical observation of the legislative analyst and whose
9 observation neither defines the test as a “TRC” nor precludes the use of the RIM
10 test.

11
12 Third, they then impugn the staff analyses on which they rely, saying that the
13 unidentified authors and the legislature were under a “misimpression” when they
14 wrote this seemingly definitive parenthetical phrase. Witness Wilson and Witness
15 Cavanagh say that the Legislature and the legislative analysts did not understand
16 the TRC test, because if they had, they would not have included “utility
17 incentives” as an element in this supposedly new test, because the TRC test
18 already includes “utility incentives.” So, their argument is that the Commission
19 should rely upon a legislative staff analysis that was wrong in its understanding
20 and characterization of the TRC test. This hardly requires rebuttal.

21
22 The parenthetical reference in the staff analysis does not say this is the TRC test,
23 but if, as Witness Wilson and Witness Cavanagh suggest, neither the legislative

1 staff nor the Legislature understood the TRC test and the Staff analysis is flawed,
2 how can the Commission rely on the analysis as evidence of legislative intent?
3 Clearly, if the Legislature had intended these changes to be a direct reversal of 29
4 years of Commission's regulatory decisions and an equal number of years of
5 legislative oversight with respect to the FEECA, it would have been less subtle
6 and more direct in transforming the regulatory landscape. It could have and
7 should have included findings that the current FPSC practice was inappropriate or
8 that a different standard was being provided to supplant existing Commission
9 policy or practice. Surely if it had intended that the Commission no longer
10 consider the rate impact of conservation it would have explicitly banned the RIM
11 test. It did none of these straightforward things. The NRDC/SACE interpretations
12 of what this statute says and does not say are simply not credible.

13 **Q. Does the NRDC/SACE interpretation limit the Commission's ability to**
14 **consider other tests in approving DSM goals?**

15 A. Yes. It is important for the Commission to appreciate the consequences of
16 NRDC/SACE's interpretation of the legislative changes. Witness Cavanagh
17 argues on Page 5, Lines 1 – 5 that the RIM test is not consistent with the changes
18 brought about by HB 7135. Therefore, rate impacts on customers would not be a
19 criterion for the Commission to consider in establishing goals. As discussed at
20 length in my direct, pre-filed testimony and the testimony of other FEECA utility
21 witnesses, the impact of DSM goals on rates and the amount of subsidies that
22 transfer between participants and non-participants are critical public policy issues
23 for this Commission to consider. As evidenced by Witness Wilson's testimony

1 quoted above, the NRDC/SACE interpretation would prohibit the Commission
2 from taking such impacts into consideration in establishing goals and approving
3 programs. Furthermore, the NRDC/SACE construction of this statute would
4 preclude the Commission from using any other type of cost-effective evaluation
5 such as the Societal Cost test or the Utility test.

6 **Q. What do you believe the limited amendments to FEECA require?**

7 A. I believe the only thing we know with certainty is the Commission is required to
8 give "consideration" to four new items. I cannot conclude from Witness Wilson's
9 tortured portrayal of legislative history or the plain language in the act that a
10 mandatory new standard has been imposed on this Commission.

11 **Q. Do you believe 366.82(3)(b) requires the Commission to give consideration to**
12 **the TRC test?**

13 A. I believe the language is vague and can be read in several ways. For example,
14 both the TRC test and the RIM test look at costs and benefits to the general body
15 of ratepayers. But within that broad group of a general body of ratepayers are two
16 subgroups – customers who participate in the program and those who do not
17 participate in a utility program. The participant group receives a disproportionate
18 share of the benefits; the non-participant group pays a disproportionate share of
19 the costs.

20

21 The TRC test lumps these two groups together and evaluates if the program is
22 cost effective for the two groups combined. Incentives are not identified as a cost
23 in the TRC test as they are in the RIM test and as such are not revealed. They are

1 part of the analysis but are “hidden” by being included as part of what participants
2 would pay to install a utility recommended efficiency measure. This is what the
3 PSC staff person stated to the legislature and perhaps is better described in the
4 Commission’s 2008 FEECA Conservation Report to the legislature. It reads:

5 *TRC test* – The TRC test measures the overall economic
6 efficiency of a DSM program from a societal perspective. This
7 test measures the net costs of a DSM program based on its total
8 cost, including both the participant’s and utility’s costs. Unlike
9 the RIM test, however, incentives and decreased revenues are not
10 included as costs in the TRC; instead, these factors are treated as
11 transfer payments among ratepayers.

12
13 Thus, the TRC test does not provide full disclosure on how much of the
14 participant’s share of installing the program measure will ultimately be paid for as
15 an incentive. The RIM test does this by again using the perspective of the general
16 body of ratepayers but separately identifying incentives and unrecovered revenues
17 as costs. Thus, the RIM evaluation fully reveals the impact of incentives and
18 unrecovered Commission approved revenues on the overall cost-effectiveness of
19 the program to the general body of ratepayers.

20 **Q. Does this mean that the language in 366.82(3)(b) requires the Commission to**
21 **consider the RIM test?**

22 **A.** Given the legislative language to consider incentives as either a cost or benefit
23 one could plausibly argue that this implies the consideration of a RIM type of

1 analysis because before one can consider incentives as a cost or benefit, they must
2 be fully disclosed. However, even if this were the clear intent of the Legislature,
3 and I will be the first to admit the language is extraordinarily vague, this would
4 not bind the Commission to use the results of the RIM type of evaluation as a
5 mandatory standard. The Commission has always used the RIM test as one of the
6 three required evaluation tools. I do not believe this statutory change requires the
7 Commission to depart from this practice.

8
9 I believe the RIM standard, and now the E-RIM standard, has a number of
10 attributes that makes it a superior standard for establishing DSM goals and
11 approving programs. These benefits are elaborated on in my pre-filed direct
12 testimony.

13 **Q. Does the NRDC/SACE argument that this new consideration mandates a**
14 **TRC standard create conflicts with other statutory language?**

15 **A.** Yes. There are several sections of 366, F.S. that were not amended by HB 7135.
16 Several of these unequivocally focus on costs to customers, not lowering bills.
17 The interveners ignore the Commission's authority to deny or modify programs
18 once goals are set. At 366.82(7), F.S., the Commission is granted authority to
19 "modify or deny plans or programs that would have an undue impact on costs
20 passed to customers." The Commission has always used the RIM standard as a
21 basis to prevent such "undue" costs from occurring.

1 The interveners ignore the directive reflected in 366.051, F.S., which was not
2 amended or affected by HB 7135. In my pre-filed testimony I noted that the Cost
3 Effectiveness Reporting format as required by Rule 25-17.008, F.A.C. calls for a
4 similar cost-effectiveness reporting format to be used to provide information for
5 the Commission to evaluate both DSM programs and self-service wheeling
6 proposals. However, Section 366.051, F.S. specifically requires that self-service
7 wheeling proposals can only be approved if, “the commission finds that the
8 provision of this service, and the charges, terms, and other conditions associated
9 with the provision of this service, are not likely to result in higher cost electric
10 service to the utility's general body of retail and wholesale customers or adversely
11 affect the adequacy or reliability of electric service to all customers.”

12
13 What is significant about this charge is that unlike DSM programs, self-service
14 wheeling programs do not involve any utility incentives being paid by the utility
15 to the customer requesting wheeling. However, self-service wheeling proposals
16 involve a reduction in revenues because the customer is essentially asking to serve
17 his own electric load elsewhere on the grid with his own generation. This impact
18 on the general body of ratepayers must be considered when evaluating whether
19 the 366.051, F.S., criterion for approval has been met.

20
21 If the legislature had meant for the new cost and benefits “consideration” to
22 become the new mandatory TRC standard, then it would have also modified this
23 statute to make them compatible since unrecovered revenues would not be

1 considered as a cost under the TRC evaluation standard. Consequently, all self-
2 service requests would automatically pass the test and there would be no need for
3 366.051, F.S.

4
5 **REBUTTAL OF WITNESS MOSANTHAL'S CRITICISM**
6 **OF THE TWO YEAR PAYBACK SCREENING CRITERIA**

7
8 **Q. Please summarize your rebuttal of Witness Mosenthal's criticism of the**
9 **Collaborative's use of the two year payback criterion.**

10 **A.** Witness Mosenthal expounds for many pages in his testimony about his perceived
11 flaws of using a two-year payback criterion to account for free riders in proposing
12 DSM goals. Ultimately, he argues that free riders should be addressed in program
13 design rather than in goal setting.

14
15 Once again a NRDC/SACE witness fails to understand the context of this
16 proceeding. The Commission's DSM Goals Rule requires utilities to address free
17 riders in setting goals. Addressing free riders cannot wait until the later program
18 design stage, because that would not be in compliance with the DSM goals rule.
19 The utilities are required by Commission rule to account for free riders. They did
20 this through a Commission-approved vehicle, use of the two year payback
21 criterion. To suggest it should have been done in program design is to disregard
22 the DSM Goals Rule.

1 Perhaps not quite as important, but I think of real significance is the fact that
2 NRDC/SACE agreed to the use of the two year payback criterion as the
3 Collaborative's means of addressing free riders. So, Witness Mosenthal's lengthy
4 attack on the use of the two year payback is either a fairly critical discussion of
5 Witness Wilson's agreement to using the two year payback as a means of
6 addressing free riders or an after the fact change in the position of NRDC/SACE.
7 Neither picture is very flattering.

8
9 It should be noted that this is the fourth goal setting process where the two-year
10 criterion has been used. It was initially used in the 1994 goal setting process
11 (Docket 930548-EG and other dockets and whose order is included in as Exhibit
12 JWD-1 of my pre-filed direct testimony). The Legal Environmental Assistance
13 Foundation (LEAF) took issue with the use of this criterion, and the Commission
14 approved DSM goals based upon the use of the two year payback. This criterion
15 was again used in the 1999 and 2004 goal setting dockets. No challenges were
16 forthcoming to the criterion and Commission staff was fully aware of the reasons
17 it was used. So, this is not a novel issue, and the Collaborative's decision to use
18 the two year payback is consistent with prior Commission approvals of DSM
19 goals.

20
21 Witness Mosenthal concludes that the use of this screening measure is not
22 consistent with the language in the FEECA statute. He fails to elaborate on his
23 unsupported legal conclusion, but the decision in at least three prior FEECA goals

1 proceedings, one of which was appealed to the Florida Supreme Court on other
2 grounds and was affirmed, seem to put that argument to rest.

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

4 **A. Yes, it does.**

1 BY MR. GUYTON:

2 Q. Mr. Dean, did you prefile Exhibits JDW-2
3 through JDW-5 with your rebuttal testimony?

4 A. I believe it's --

5 Q. I'm sorry, JDW-4.

6 A. Yes, that's correct.

7 Q. And is the information on those exhibits true
8 and correct to the best of your knowledge and belief?

9 A. Yes, sir.

10 MR. GUYTON: Mr. Chairman, I believe they've
11 been identified in Staff's exhibit list as Exhibits 130
12 through 132.

13 CHAIRMAN CARTER: Commissioners, for the
14 record, for identification purposes, Exhibits 130, 131,
15 and 132.

16 (Exhibits Number 130, 131, and 132 were marked
17 for identification.)

18 BY MR. GUYTON:

19 Q. Mr. Dean, would you please summarize your
20 rebuttal testimony?

21 A. Yes, sir. Thank you. And I am well aware of
22 the time, Commissioners.

23 My rebuttal addresses several issues that have
24 been discussed throughout the proceeding, and in an
25 effort to be brief, I'm going to concentrate on two

1 statutory interpretations proposed by the intervenors.
2 While slightly different in their prescription, both
3 constructions would radically change how the Commission
4 can proceed in this DSM goals docket and all future
5 goals dockets.

6 The most radical construction is that of the
7 SACE/NRDC. They essentially argue that the Total
8 Resource Cost test is now a mandatory standard mandated
9 by the Legislature. More than that, the Commission is
10 essentially forbidden to consider other tests that
11 examine incentives paid by utilities, nor can they look
12 at unrecovered fixed revenue. This interpretation
13 forbids you from looking at rate impacts on customer
14 bills. You must blindly accept the results of the Total
15 Resource Cost test, which neither discloses incentives
16 nor counts unrecovered fixed revenues.

17 My rebuttal exhibit indicates that unrecovered
18 lost revenues alone, forget incentives, could amount to
19 almost \$4 billion over the ten-year horizon, but you
20 cannot consider this if you accept the interpretation of
21 SACE/NRDC. You must put on regulatory blinders. If a
22 group of customers such as low-income or hard-to-reach
23 or at-risk customers are adversely affected under the
24 RIM test, you cannot consider that.

25 GDS offers a somewhat less restrictive, but

1 nonetheless equally flawed construction. They argue
2 that the statute has not mandated that you use TRC, but
3 you now are authorized to create a new standard, what
4 they define as a maximum achievable standard in setting
5 goals. In fact, the GDS witness states, I quote, "The
6 RIM test is not consistent with the FEECA statute as
7 amended," and by implication imposes essentially the
8 same regulatory blinders as the SACE/NRDC
9 interpretation.

10 How do these parties reach this conclusion? I
11 will not belabor the interpretation of 366.82(b), but it
12 essentially says you are to consider in setting goals
13 the costs and benefits to the general body of
14 ratepayers, including incentives and participant
15 contributions. That's it. The entire basis that you
16 can no longer use the RIM test, you are bound to look at
17 the TRC test, is based on that statutory language alone.
18 And as we discussed, there's huge sections of 366 that
19 were not amended.

20 If you do this, you will be adopting a goals
21 standard never required before; (2) you ignore all rate
22 impacts; (3) you ignore the integration of DSM into the
23 resource plans, when is it needed, how does it benefit
24 the customers; and (4) you ignore other relevant
25 statutory responsibilities dealing with rates in 366,

1 and basically, you have to amend or revoke your entire
2 DSM goals rule that's currently in place.

3 I urge you to reject the intervenor view of
4 what is implied by the changes at 366 and thereby
5 maintain the Commission's authority in all of these
6 important and appropriate regulatory areas.

7 That concludes my summary.

8 MR. GUYTON: We tender Mr. Dean.

9 CHAIRMAN CARTER: Ms. Kaufman.

10 MS. KAUFMAN: No, sir.

11 CHAIRMAN CARTER: Mr. Cavros.

12 MR. CAVROS: (Shaking head.)

13 CHAIRMAN CARTER: Ms. Brownless, come on down,
14 Suzanne Brownless.

15 MS. BROWNLESS: Yes, sir. And I'll just
16 briefly go through the few questions I had that I tried
17 to ask yesterday.

18 CROSS-EXAMINATION

19 BY MS. BROWNLESS:

20 Q. I want to make sure I follow up on something
21 you just said in your opening statement. You mentioned
22 about the fact that the interpretations being advanced
23 by both NRDC's witness and GDS would require the
24 Commission to revoke or amend its current DSM rule; is
25 that right?

1 A. I believe that's correct.

2 Q. Okay. And I think that's Rule 25-17.2001,
3 something like that?

4 A. It starts at 25-17.001, and it picks up the
5 cost-effectiveness formula at .08. But the prescribed
6 DSM goal-setting standards I think are in 25-17.0021,
7 where there's a series of prescribed procedures and
8 analysis that have to be done.

9 Q. Okay. And is it your testimony today that the
10 Commission could not change its policy with regard to
11 the tests in this proceeding, that they would have to
12 engage in a 120.54 rulemaking proceeding first?

13 A. I believe that the interpretation offered by
14 SACE would be inconsistent with the prescribed analyses
15 that are currently required in that rule. So to the
16 extent that the rule would have to be compatible with
17 SACE's new interpretation, I guess there would have to
18 be some rule amendments advanced.

19 Q. Okay. But you're not saying that the
20 Commission isn't free in this proceeding, if the proper
21 factual findings are made, to engage in incipient
22 rulemaking? You're not saying that, are you? The
23 Commission has the authority to modify the application
24 of its rules through incipient rulemaking; right?

25 A. Well, I'm not sure what you mean by cipient

1 rulemaking.

2 Q. Incipient.

3 A. But the Commission has wide discretion in this
4 area. It can modify its rules, and I will agree to that
5 immediately.

6 Q. Okay. Without going through a rule hearing if
7 the proper foundation is laid?

8 A. I can't speak to the last question. Remember,
9 I don't have the J.D.

10 Q. I remember that. That wasn't offered at the
11 Suzanne Brownless College of Law?

12 CHAIRMAN CARTER: You need to teach him
13 spelling too. He missed "incipient."

14 BY MS. BROWNLESS:

15 Q. Turning now to page 9 of your testimony, and
16 I'm looking at lines 4 through 7.

17 A. Okay.

18 Q. And if I -- I just want to make sure I
19 understand what you're saying here. You're saying that
20 if the recommendations of NRDC were put in place, there
21 would be negative consumption, negative growth? In
22 other words, there would be fewer kWh utilized by
23 Florida Power & Light than is utilized now?

24 A. I have not run the analysis year by year to
25 see if it actually goes negative or not. This was more

1 for interpretation than it was any characterization of
2 the year-to-year impact of their proposed rules. There
3 has been a lot of fluidity to what those goals are, so I
4 can't --

5 Q. So you haven't done a specific study to show
6 that if NRDC's goals were put in place, there would be a
7 net reduction in kWh?

8 A. By net, do you mean actually go negative?

9 Q. Yes, I mean, as you've discussed here,
10 negative growth.

11 A. No, I have done a year-by-year analysis to see
12 if the proposal goals would result in any singular year
13 negative growth rate.

14 Q. And I assume that's also true if the goals
15 suggested by Mr. Spellman were implemented.

16 A. That's correct.

17 Q. On the next page, on page 10, you've got a box
18 there between lines 12 and 13. And this is a
19 calculation based upon GDS's numbers; is that correct?

20 A. Yes, ma'am, that's correct.

21 Q. Okay. And do these figures include the -- any
22 demand-side renewable reductions associated with
23 Mr. Spellman's recommendations with regard to the
24 demand-side renewable technologies?

25 A. I don't know. I simply took the proposed

1 gigawatt-hour goals -- and perhaps that question could
2 be directed to Mr. Spellman. The component parts of how
3 he made those adjustments in those spreadsheets I cannot
4 speak to, but at the time that he filed Exhibit SR-21,
5 he had a goal year by year of gigawatt-hour proposed
6 reductions. I took that from his exhibit. So if that
7 included renewable energy systems, I can't speak to
8 that.

9 Q. Well, subject to check, my impression was that
10 that did not include any reductions associated with the
11 solar technologies, because he didn't propose any goals
12 for those. So if that's true, this doesn't reflect --

13 A. I'll accept that, yes.

14 Q. And now I'm looking at page 13 of your
15 testimony up there at line 5.

16 A. Okay.

17 Q. Okay. And basically, if I understand your
18 discussion on this page, you're talking about what
19 happens when there are kWh reductions and how that
20 affects revenues; correct?

21 A. Yes, ma'am.

22 Q. Okay. And if I get what you're saying here,
23 simplistically stated, you're saying there are certain
24 fixed expenses that are in place for a utility that are
25 not -- that don't go away when consumption decreases?

1 A. Yes, ma'am.

2 Q. Okay. So if -- and those costs, we might term
3 them to be stranded costs. If consumption decreases,
4 you still have to recover those costs; correct?

5 A. I think the phase I use is "unrecovered
6 authorized fixed revenue."

7 Q. Right. And in other proceedings, sometimes
8 we've called that stranded investment.

9 Okay. Whatever savings are associated with
10 energy efficiencies or demand-side renewable energies
11 always are going to result in a decrease in kWh;
12 correct? If you institute those types of programs, the
13 kWh is going to be decreased in most instances?

14 Well, I'll tell you what. Forget energy
15 efficiency. We'll make this simple. For renewable
16 technologies, solar renewable technologies, solar hot
17 water, solar PV, the whole point of those technologies
18 is to produce kWh for their owners and therefore
19 decrease kWh purchased from the utility; right?

20 A. Yes, ma'am.

21 Q. Okay. So they make the demand on the utility
22 side go down. In that sense, they are able to defer
23 future investment in plant, transmission and
24 distribution, O&M, administrative costs; correct?

25 A. Yes, they can if their production patterns

1 happen to coincide with those periods where demand is
2 growing and they provide future capacity deferral
3 benefits.

4 Q. Right. They certainly cannot affect costs
5 that are already in place right now. Well, fuel costs,
6 perhaps, but --

7 A. I would agree with that characterization.

8 Q. Okay. So would you also agree that these
9 programs can defer future generation, can defer the
10 construction of future generation, no matter what kind
11 of generation that is?

12 A. As a generic statement, yes, conceptually,
13 they could certainly do that.

14 Q. Okay. So is part of the problem here kind of
15 a chicken and egg deal? If there's a certain amount of
16 investment that's in place right now and kilowatt-hours
17 are reduced, then revenues are reduced, then there's
18 some pressure to make rates go up to recover the
19 revenues that were reduced; right?

20 A. I believe that tension does exist. That is
21 particularly acute when the goals are as extreme as that
22 proposed by the intervenors, because there is an ability
23 to effectively implement DSM, energy efficiency, and
24 demand-side renewable systems and match it with the
25 necessary resource requirements so that you minimize, if

1 not eliminate, that adverse rate impact.

2 Q. Okay. And is it correct that kind of the only
3 way to get out of this chicken and egg problem is to set
4 a goal, recognizing a certain amount of savings, so that
5 the utility will not incur greater investment that then
6 has the potential to be stranded when the kilowatt-hour
7 reduction happens?

8 A. I totally agree. And one of the points I make
9 in both my direct and I believe in my rebuttal is that
10 -- what I call the alignment of interest issue. And by
11 that I mean the utility does have an interest in not
12 spending capital for new construction projects. They've
13 got other construction needs, you know, new meters, new
14 poles, new -- you know, maintenance, et cetera.
15 Building power plants is not their first priority, and
16 to the extent that they can defer construction of new
17 power plants up to the point that they're needed for
18 reliability or for fuel savings is something completely
19 in the interest of the utilities.

20 At the same time, it's also in the interest of
21 the utilities not to spend that capital. And one thing
22 Florida has done very well -- and the RIM test I believe
23 is principally responsible -- is that they've aligned
24 those incentives. You don't have to incentivize our
25 utilities to aggressively pursue demand-side management

1 in this state because their interests are aligned. So I
2 think I can agree completely with your premise question
3 that that helps solve the lost revenue issue.

4 Q. But it is true that were the goals adopted
5 here, the utilities would minimize their expenditures
6 and therefore minimize any adverse rate impacts that
7 would result from implementing the goals?

8 A. With the utilities' proposed E-RIM goals, I
9 can agree. They have minimized the adverse rate
10 impacts, integrated it with their resource plans, and
11 produced winners on both sides. The customers are
12 better off, and the utilities will willingly implement
13 and seek to achieve those goals.

14 Q. Well, I guess -- here's the conundrum as far
15 as I can see. Everyone has testified here, all the
16 utilities have told us that if these goals suggested by
17 GDS are implemented, there will be adverse rate impacts
18 -- I think that's a fair characterization of their
19 testimony -- because rates will go up. There will be
20 pressure to send rates up.

21 Now, I know that you will agree with me that
22 in order for rates to go up, you have to -- rates don't
23 go up automatically. There's all kind of things that go
24 into a rate increase. But that would -- but the
25 tendency would be to push rates up because of

1 unrecovered revenue.

2 But doesn't there have to be some point in
3 time -- in other words, all demand-side measures, my
4 companies' solar measures will be saving kWh in the
5 future, so there's got to be a catch-up time. If you
6 don't start to implement goals, you never realize those
7 savings. If you don't realize those savings, you don't
8 avoid the stranded cost issue; is that right?

9 A. I believe what you're saying is, is there a
10 timing connection of when the benefits of the avoided
11 unit happen and when you have to start the program, and
12 the answer is absolutely.

13 Q. Right.

14 A. The programs start some years before the
15 in-service date of when the unit was being planned for
16 construction and we hope to defer --

17 Q. And that's going to be independent of any test
18 that you use to measure --

19 A. That's correct, and that's the individual
20 utility resource plan that the RIM test uses to
21 integrate.

22 Q. So some of these effects on rates can be
23 mitigated by the mere fact that you have a goal in place
24 and that the utility fashions its integrated resource
25 plan with that goal in mind?

1 A. Yes, ma'am.

2 Q. So it wouldn't be necessarily that if these
3 goals are implemented, it would necessarily result in a
4 rate increase?

5 A. If the intervenors' proposed goals, either
6 GDS's or NRDC/SACE's goals are adopted, my expectation
7 would be that that rate pressure would occur much, much
8 sooner, because the magnitude --

9 Q. But you have no way of knowing, because --

10 MR. GUYTON: May he finish his answer, please.

11 MS. BROWNLESS: Sure.

12 A. Because even with a phase-in, there's a
13 considerable amount of energy that will be required to
14 be reduced, and the pressure on the utility will occur
15 at the point that those reductions start happening.
16 Will they come in that first year for a rate case? I
17 don't know. Will they ask for some sort of true-up
18 procedure to be made whole? I don't know the mechanism.

19 I can tell you without question that the more
20 dramatic the goals, the more severe the goals, the
21 faster that rate pressure will happen, the faster the
22 return on equity will be degraded, the faster there will
23 be probably adverse bond ratings as the utility looks
24 like its capital structure couldn't support its existing
25 infrastructure costs.

1 But again, I cannot tell you how fast they
2 would have to respond, and I've certainly not done a
3 detailed analysis of what those magnitudes would be for
4 any year.

5 My testimony indicates, using the GDS
6 proposal, subject to the changes that have been
7 occurring by the hour with it, that it approaches
8 \$3.8 billion with very conservative estimates on my
9 part, what the ten-year total would be of that rate
10 pressure.

11 Q. But you have no way of telling us today that
12 that will in fact result in a rate increase, because you
13 don't have all the factors at hand?

14 A. I think I disagree with that. If the
15 Commission mandates these goals, the utilities will do
16 their very best effort to meet them. Those reductions
17 will likely occur regardless of the impact, because
18 they're not going to not abide by the Commission's order
19 telling them to achieve this.

20 Q. But you have no way of knowing what other
21 factors go into the determination of a rate increase.
22 You don't know those other factors. There are other
23 factors other than this.

24 A. There are other factors that go into future
25 rate increases, but my analysis uses today's rates with

1 today's fixed charges that they already have on the
2 books now. So I made a very conservative estimate there
3 would be no future rate pressure upward. I used today's
4 infrastructure and the required revenue that's in place
5 now. So mine is conservative. If there's rate
6 pressures for additional expenditures, the rate impact
7 would be even more adverse to customers.

8 Q. But if for whatever reason there were forces
9 acting in the other direction, then there would be
10 pressure in the other direction; right?

11 A. Rates typically go up.

12 Q. Well, so far. We'll see. Sometimes rates go
13 down.

14 Looking on page 16 of the testimony -- and
15 this refers to Mr. Spellman's recommendation. Now, with
16 regard to FP&L, it's 15.5 million; is that right? I
17 think I gave you a chart.

18 A. I'll accept that, yes. I know the total for
19 the four IOUs is approximately 25 million.

20 Q. Okay. In your testimony, you discuss down at
21 the bottom here that you disagree with Mr. Spellman's
22 recommendation for this fund, and you cite the reasons
23 why. First of all, you say that there's a variety of
24 sources to incent this market; is that correct?

25 A. Yes, ma'am.

1 Q. Okay. And one is money from the Florida
2 Energy Office?

3 A. Yes, ma'am.

4 Q. Okay. Do you know how much money is available
5 from the Florida Energy Office at this time?

6 A. Subject to check, I believe that Mr. Susac
7 indicated there would be through the Stimulus Act
8 approximately 174 million, but I do not remember the
9 allocation of how much of that would be dedicated to
10 renewables and demand-side energy systems.

11 Q. Would you take, subject to check --

12 MR. GUYTON: I'm sorry. Had you finished your
13 answer, Mr. Dean?

14 THE WITNESS: Yeah.

15 MR. GUYTON: I apologize. I thought you had
16 cut him off, Suzanne.

17 MS. BROWNLESS: No, I did not, no, sir.

18 BY MS. BROWNLESS:

19 Q. Would you accept, subject to check, that it
20 will be about 14.4 million of stimulus money allocated?

21 A. Yes, ma'am, I will.

22 Q. Do you know whether that money has already
23 been subscribed?

24 A. No, ma'am. I don't know the status of the
25 grant applications.

1 Q. Do you how much money was appropriated in
2 2008?

3 A. No, ma'am, I do not.

4 Q. Would you accept, subject to check, that that
5 was 5 million?

6 A. Yes, ma'am.

7 Q. Okay. And that would have been through a
8 budget appropriation; correct?

9 A. I presume. If it was general revenue as
10 opposed to federal grant money, I assume that would be
11 the case.

12 Q. Do you know if that money was completely
13 spent?

14 A. In what year?

15 Q. 2008. Is that money all gone?

16 A. Was that for the solar PV buy-downs?

17 Q. For rebates, for all types of rebates.

18 A. Yes. My understanding is that those funds
19 were quickly, quickly used.

20 Q. Okay. And they were quickly used because they
21 were already subscribed before the money actually became
22 available; is that right?

23 A. I believe that's correct. I'll accept that.

24 Q. Have you done any studies -- you also cite
25 equity capital from the private sector. Have you done

1 any studies that indicate how much of that type of money
2 is available?

3 A. No, ma'am, I've not done a formal market
4 assessment of the capital available in that market. I
5 did, for example, however, go to four domestic solar
6 manufacturers and look up their current capitalization,
7 and they were First Solar, Sun Power, Sun Tech, and
8 Evergreen Energy. The market capitalization of those
9 four domestic companies, forgetting the Chinese and the
10 European companies, is \$18 billion of current market
11 value.

12 And that value is down a bit because of the
13 recession. I know last year in May of 2008, First Solar
14 had a market capitalization of \$24 billion, which was
15 larger than FPL Group.

16 So, no, ma'am, I haven't done a formal
17 analysis of all the companies.

18 Q. Okay. And even if -- I mean, I accept your
19 numbers, Mr. Dean. Whatever equity capital might be
20 available for the industry would not necessarily be
21 equity capital or investment capital available for
22 Florida vendors or installers of this equipment, would
23 it?

24 A. I'm not familiar with the funding sources for
25 installation of these products.

1 Q. Okay. You indicate that PV and solar thermal
2 are not experimental or embryonic technologies
3 warranting R&D funding; is that right?

4 A. That would be my opinion, because they're both
5 well established technologies that have market share and
6 by all accounts have plenty of customers, especially in
7 the world markets.

8 Q. Okay. Would you be surprised to know that the
9 Itron study, the economic -- I mean the technical
10 potential study, classified all solar technologies, both
11 solar thermal and PV, as, quote, emerging technologies?

12 A. I'll accept that.

13 MS. BROWNLESS: If you'll give me a minute, I
14 may be done.

15 CHAIRMAN CARTER: Yes, ma'am.

16 (Pause in the proceedings.)

17 BY MS. BROWNLESS:

18 Q. One final question. Do you believe that the
19 Commission has the ability to approve -- the authority,
20 the statutory authority to approve Mr. Spellman's
21 recommendations of a incentive program, a pot of money
22 for incentives without goals?

23 A. Yes, I do.

24 MS. BROWNLESS: Thank you.

25 CHAIRMAN CARTER: Thank you. Commissioners?

1 Staff?

2 MS. FLEMING: Chairman, we had a line of
3 questions, but I think -- we've spoken to the utility.
4 In lieu of cross, we've just asked for an exhibit to
5 have moved into the record.

6 It's related to Mr. Dean's JWD-2, where he
7 shows the estimated unrecovered revenues based on the
8 difference between the four IOU goals and witness
9 Spellman's proposed goals. And so what we were asking
10 for was just the revenue impact of the difference. And
11 I believe FPL has prepared that exhibit, if I'm not
12 mistaken.

13 MR. GUYTON: We have.

14 CHAIRMAN CARTER: Do you have that available?

15 MR. GUYTON: We have that.

16 CHAIRMAN CARTER: That will be --
17 Commissioners, for your records, that will be 180,
18 Number 180. Ms. Fleming, short title, please.

19 MS. FLEMING: Estimated revenue impact, 2010
20 revenue impact?

21 CHAIRMAN CARTER: Estimated 2010 revenue
22 impact. For IOUs; is that right?

23 MS. FLEMING: That is correct.

24 CHAIRMAN CARTER: Okay. Thank you.

25 (Exhibit Number 180 was marked for

1 identification.)

2 CHAIRMAN CARTER: Let's do this. Now,
3 Mr. Dean was a witness for FPL, Progress, TECO, and
4 Gulf?

5 MR. GUYTON: That's correct.

6 CHAIRMAN CARTER: Okay. Any redirect?

7 MR. GUYTON: No redirect.

8 CHAIRMAN CARTER: Okay. So the parties move,
9 so that we can -- okay. You're recognized.

10 MR. GUYTON: We'll move Exhibits 130 through
11 132 as well as 180.

12 CHAIRMAN CARTER: Okay. Are there any
13 objections? Without objection, show it done.

14 (Exhibits Number 130, 131, 132, and 180 were
15 admitted into the record.)

16 CHAIRMAN CARTER: Commissioners, anything
17 further for this witness?

18 Thank you, Jim Dean. Have a good evening.

19 THE WITNESS: Thank you. Appreciate it.

20 CHAIRMAN CARTER: Staff, you're recognized.

21 MS. FLEMING: I just wanted to note for the
22 record that transcripts are expedited, and I believe
23 that Volumes 1 and 2 are available today. Each day will
24 be -- each transcript will be three days later than the
25 actual hearing day. Briefs are due August 28th, and

1 staff is scheduled to file its recommendation October
2 15th, with a scheduled agenda date of October 27th.

3 CHAIRMAN CARTER: Thank you. Let me just say,
4 Commissioners, how much I appreciate staff's efforts to
5 expedite the transcripts for the parties. We want to as
6 much as possible try to accommodate everyone.

7 And thank you to all the parties for
8 participating. We appreciate that everyone had a heavy
9 lift there, and it's a very dynamic area, and it's a
10 very significant area for our state, and I appreciate
11 that.

12 Would you give us critical dates, now?

13 MS. FLEMING: The brief dates?

14 CHAIRMAN CARTER: Yes, ma'am.

15 MS. FLEMING: Briefs are due August 28th. The
16 scheduled recommendation filing date is October 15th,
17 tentatively planned for the October 27th agenda.

18 CHAIRMAN CARTER: Okay. Ms. Brownless, did
19 you get that?

20 MS. BROWNLESS: Yes, sir. And may I just ask,
21 the transcripts will be posted on the website?

22 MS. FLEMING: Yes. Volumes 1 and 2, which are
23 from Monday's hearing, are available -- currently
24 available on the website. I believe Tuesday's will be
25 available tomorrow.

1 CHAIRMAN CARTER: And again, Commissioners, I
2 really want to thank our staff for their yeoman's
3 efforts to get that out to the parties as soon as
4 possible. And also, thank you to the parties.

5 Commissioners, anything further for the good
6 of the order? Staff, any concluding matters other than
7 what we've covered? Any concluding matters of the
8 parties?

9 MR. YOUNG: Mr. Chairman, I --

10 CHAIRMAN CARTER: Who's on first?

11 MR. GUYTON: Go ahead.

12 MR. YOUNG: On behalf of the munis, we want to
13 thank you very much for the patience you've shown us and
14 all the cooperation and assistance that we got from
15 staff and the professionalism that has been shown by all
16 the attorneys and others that participated in this
17 proceeding. Thank you very much.

18 CHAIRMAN CARTER: Thank you, Mr. Young.

19 Mr. Guyton.

20 MR. GUYTON: I would simply add the same thing
21 that Mr. Young expressed. Thank you, Commissioners.

22 CHAIRMAN CARTER: Mr. Cavros, any concluding
23 thoughts?

24 MR. CAVROS: I was just going to offer my
25 thanks to the Commission, and especially to staff. I've

1 seen the schedule that you have before you, and I'm sure
2 they've got a lot on their plates. Thanks for
3 accommodating us.

4 CHAIRMAN CARTER: Thank you. Ms. Kaufman,
5 Ms. Brownless.

6 MS. BROWNLESS: It's my pleasure to appear
7 before the Commission, as always, and we certainly
8 appreciate you.

9 CHAIRMAN CARTER: You know, you derived a
10 certain level of pleasure crossing Jim Dean, didn't you?

11 MS. BROWNLESS: Yes, sir.

12 CHAIRMAN CARTER: Commissioners, if there's
13 nothing further, we are adjourned.

14 (Proceedings concluded at 4:05 p.m.)

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