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December 11, 2009

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COMMISSION
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BY HAND DELIVERY

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

Re: Docket No. 080413-EI

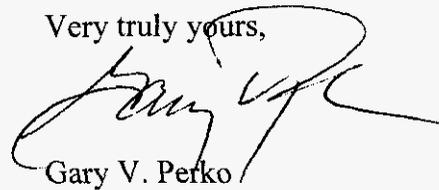
Dear Ms. Cole:

Please find enclosed the original and seven copies of JEA's Motion for Limited Reopening of Record and For Consideration and JEA's Corrected Responses to Staff's Seventh Set of Interrogatories (Nos. 41a and 50).

By copy of this letter, the Motion and corrected responses have been furnished to all parties of record.

If you have any questions regarding this filing, please give me a call at 425-2359.

Very truly yours,



Gary V. Perko

GVP/dg
Enclosures
cc: Certificate of Service

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric conservation goals (JEA). DOCKET NO. 080413-EG

DATE: December 11, 2009

**JEA'S MOTION FOR LIMITED REOPENING
OF RECORD AND FOR RECONSIDERATION**

JEA, by and through undersigned counsel, hereby moves to reopen the record of this proceeding to correct certain discovery responses that inadvertently presented inaccurate information regarding JEA's historical conservation savings. Because the Commission relied upon such information in establishing JEA's conservation goals, JEA respectfully requests reconsideration of the Commission's decision and adjustment of JEA's goals based on the correct information. In support, JEA states:

1. On June 13, 2009, Staff served its Seventh Set of Interrogatories (Nos. 33-50) on JEA. Staff Interrogatory No. 50 requested that JEA provide "the actual annual savings achieved for summer (MW), winter (MW), and as annual energy savings (GWh) *incrementally* for each year." (Emphasis added). Similarly, Staff Interrogatory No. 41a requested JEA to provide *incremental* annual kWh savings of JEA's energy efficiency programs since 2005. JEA served its response to Staff's Seventh Set of Interrogatories, including Interrogatory Nos. 41a and 50, on July 13, 2009.

2. During the final evidentiary hearing conducted in August, 2009, JEA's response to Staff Interrogatory No. 50 was submitted and accepted into the record as part of Staff Composite Exhibit No. 2 (Bates #754). JEA's response to Staff Interrogatory No. 41a was not admitted in to the record.

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

3. After the evidentiary hearing, Commission Staff recommended that the Commission establish conservation goals for JEA based on the average of annual conservation savings achieved over the past four years, as presented in JEA’s Response to Staff Interrogatory No. 50. See Staff Recommendation (Oct. 15, 2009) (DN 10584-09) and “Staff Supplemental Recommendation (Nov. 20, 2009) (DN 11503-09). Staff reasoned that “setting goals at the average achieved level in the last four years is a reasonable means of satisfying the intent of the statute, while precluding an impact on rates.” Staff Recommendation, at p. 56 (Oct. 15, 2009).

4. At its agenda conference on December 1, 2009, the Commission voted to approve Staff’s recommended goals for JEA.

5. Since the Commission’s vote, JEA has discovered that it inadvertently provided incorrect information in its response to Staff Interrogatories No. 41a and 50. Specifically, whereas the interrogatories requested annual savings on an *incremental* basis for each year, JEA provided *cumulative* values for each year. As shown in the following tables comparing the cumulative values provided in response to Staff Interrogatory No. 50 and the correct incremental values actually requested, this error overstated JEA’s annual savings for all but the first year (2005).

CUMULATIVE VALUES

(Incorrectly provided in JEA Response to Staff Interrogatory No. 50)

Residential - Cumulative		
Winter Peak (MW)	Summer Peak (MW)	Energy (GWh) Svngs.
0.3	0.5	0.9
0.7	1.1	2.0
1.1	1.7	3.2
4.1	4.8	21.5
1.5	2.0	6.9

INCREMENTAL VALUES

(Requested in Staff Interrogatory No. 50)

	Residential - Incremental		
	Winter Peak (MW)	Summer Peak (MW)	Energy Svngs. (GWh)
2005	0.3	0.5	0.9
2006	0.4	0.6	1.1
2007	0.4	0.6	1.1
2008	3.0	3.1	18.4
Avg.	1.0	1.2	5.4

Commercial - Cumulative		
Winter Peak (MW)	Summer Peak (MW)	Energy (GWh) Svngs.
0.9	1.1	3.7
1.7	3.3	16.0
1.5	2.6	27.9
1.6	2.6	40.6
1.4	2.4	22.1

2005
2006
2007
2008
Avg.

Commercial - Incremental		
Winter Peak (MW)	Summer Peak (MW)	Energy Svngs. (GWh)
0.9	1.1	3.7
0.9	2.2	12.3
-0.3	-0.7	11.9
0.1	0.0	12.7
0.4	0.6	10.1

Total - Cumulative		
Winter Peak (MW)	Summer Peak (MW)	Energy (GWh) Svngs.
1.2	1.6	4.6
2.4	4.4	18.0
2.6	4.3	31.0
5.7	7.4	62.1
3.0	4.4	28.9

2005
2006
2007
2008
Avg.

Total - Incremental		
Winter Peak (MW)	Summer Peak (MW)	Energy Svngs. (GWh)
1.2	1.6	4.6
1.3	2.7	13.4
0.1	-0.1	13.0
3.1	3.1	31.1
1.4	1.8	15.5

As a result of this error, through no fault of the Commission or Staff, the average savings values used by Staff to develop JEA's goals and the resulting goals are overstated..

6. To ensure that the Commission establishes JEA's conservation goals based on the most accurate information available, JEA hereby serves the corrected responses to Staff Interrogatories Nos. 41a and 50 (attached hereto) and respectfully requests that the Commission reopen the record of this proceeding for the limited purpose of admitting the corrected response to Interrogatory No. 50. Furthermore, because the goals established for JEA were based on incorrect information, JEA respectfully moves for reconsideration of the Commission's decision on Issues 9 and 10 regarding JEA's residential and commercial/industrial conservation goals.¹

¹ The standard of review for a motion for reconsideration is whether there was some point of fact or law that the Commission overlooked or failed to consider in rendering its decision. See Diamond Cab Co. v. King, 146 So.2d 889 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 Fla. 1st DCA 1981). In this case, the Commission based its decision on the evidence of record, but new information has come to light indicating that such evidence was inaccurate. In similar circumstances, the Commission has reopened the record to receive corrected evidence to ensure that its decision is based on accurate information. See, e.g., Order No. PSC-07-0483-PCO-EU, Docket No. 060635-EU (June 8, 2007) (reopening record to allow new evidence correcting

Specifically, JEA requests that the Commission establish the following goals based on the average of incremental annual savings over the past four years (as reflected in the corrected response to Staff Interrogatory No. 50):

Residential

	Summer MW	Winter MW	Annual GWh
2010	1.2	1.0	5.4
2011	1.2	1.0	5.4
2012	1.2	1.0	5.4
2013	1.2	1.0	5.4
2014	1.2	1.0	5.4
2015	1.2	1.0	5.4
2016	1.2	1.0	5.4
2017	1.2	1.0	5.4
2018	1.2	1.0	5.4
2019	1.2	1.0	5.4
Total	12.0	10.0	54.0

Commercial/Industrial

	Summer MW	Winter MW	Annual GWh
2010	0.6	0.4	10.1
2011	0.6	0.4	10.1
2012	0.6	0.4	10.1
2013	0.6	0.4	10.1
2014	0.6	0.4	10.1
2015	0.6	0.4	10.1
2016	0.6	0.4	10.1
2017	0.6	0.4	10.1
2018	0.6	0.4	10.1
2019	0.6	0.4	10.1
Total	6.0	4.0	101.0

discrepancy in cost modeling where the revised information provided new evidence material to the Commission's decision); Order No. 10963, Docket No. 810136-EU(PR) (July 7, 1982) (reopening record to allow additional evidence on billing determinants where an error was made in reading the numbers from a worksheet as the billing determinants were being prepared).

Revising JEA's goals in this manner will ensure that they are consistent with Commission's apparent intent (as stated in the adopted Staff Recommendation) to satisfy the intent of the statute while precluding an impact on rates. Furthermore, revising JEA's goals in this manner will not affect JEA's commitment to continue offering conservation programs to its customers.

7. In accordance with Rule 28-106.204(3), Fla. Admin. Code, counsel for the JEA has attempted to contact counsel for all of the parties to the consolidated proceedings regarding this motion. Counsel for Staff, Florida Industrial Power Users Group, Florida Power & Light Company, Tampa Electric Company, and Florida Public Utilities Company took no position on the motion. Counsel for Orlando Utilities Commission, Gulf Power Company and Florida Solar Coalition stated they had have no objection to the motion. Counsel for Natural Resources Defense Council and Southern Alliance for Clean Energy ("NRDC/SACE") indicated that his clients do not oppose the reopening of the record to admit the corrected interrogatory response, but they reserve position on whether JEA's goals should be adjusted. Undersigned counsel was unable to reach counsel for Progress Energy Florida, Inc., or a representative of Intervenor Florida Energy and Climate Commission to obtain their position on the motion.

WHEREFORE, JEA, for the reasons stated above, respectfully requests that the Commission: (1) reopen the record of this proceeding for the limited purpose of correcting certain evidence; and (2) reconsider its decision in the proceeding to adjust JEA's conservation goals based on the corrected evidence.

RESPECTFULLY SUBMITTED this 12 day of December, 2009.

HOPPING GREEN & SAMS, P.A.



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Attorneys for JEA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and ~~correct~~ copy of the foregoing has been furnished electronically and by United States mail this 17th day of December, 2009, to the following:

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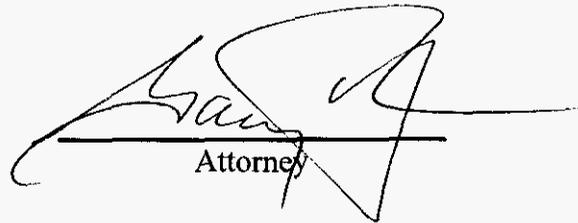
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Attorney

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Commission review of numeric
conservation goals (JEA).

DOCKET NO. 080413-EG

DATED: DECEMBER 11, 2009

**JEA'S CORRECTED RESPONSES TO STAFF'S SEVENTH SET
OF INTERROGATORIES (NOS. 41a AND 50)**

JEA, by and through its undersigned counsel, pursuant to Rule 1.340, Florida Rules of Civil Procedure, hereby submits its corrected response to Interrogatories Nos. 41a and 50 of Staff's Seventh Set of Interrogatories to JEA (Nos. 33-50).

CORRECTED RESPONSES

41. Please refer to page 4, lines 10-18, of the direct testimony of witness Richard J. Vento. Please supply the following information:
- a. the incremental annual kWh savings of JEA's energy efficiency programs since 2005.

Original Response: Annual kWh savings resulting from JEA's quantifiable DSM programs are presented below. The kWh savings information is based on information included in JEA's Annual Conservation Report (Annual Summary Table, page 6 of 16), filed with the Public Service Commission in March 2009.

- 2005 – 4,600,000 kWh
- 2006 – 18,000,000 kWh
- 2007 – 31,100,000 kWh
- 2008 – 62,100,000 kWh

Corrected Response: Annual kWh savings resulting from JEA's quantifiable DSM programs are presented below. The kWh savings information is based on information included in JEA's Annual Conservation Report (Annual Summary Table, page 6 of 16), filed with the Public Service Commission in March 2009.

- 2005 – 4,600,000 kWh
- 2006 – 13,400,000 kWh
- 2007 – 13,000,000 kWh
- 2008 – 31,100,000 kWh

CORRECTED RESPONSES TO STAFF'S SEVENTH SET
 OF INTERROGATORIES TO JEA (NOS. 41A AND 50)
 DOCKET NO. 080413-EG
 PAGE 2

50. Please complete the table below by providing the existing and proposed annual demand goals for summer (MW), winter (MW), and as annual energy (GWh) incrementally for each year. Please also provide the actual annual savings achieved for summer (MW), winter (MW), and as annual energy (GWh) incrementally for each year.

Original Response: Please see the completed table below, which includes the requested information.

Year	Summer Demand (MW)			Winter Demand (MW)			Annual Energy (GWh)		
	Existing Goals	Proposed Goals	Actual Savings	Existing Goals	Proposed Goals	Actual Savings	Existing Goals	Proposed Goals	Actual Savings
2005	0		1.6	0		1.2	0		4.6
2006	0		4.4	0		2.4	0		18.0
2007	0		4.3	0		2.6	0		31.1
2008	0		7.4	0		5.7	0		62.1
2009	0			0			0		
2010	0	0		0	0		0	0	
2011	0	0		0	0		0	0	
2012	0	0		0	0		0	0	
2013	0	0		0	0		0	0	
2014	0	0		0	0		0	0	
2015		0			0			0	
2016		0			0			0	
2017		0			0			0	
2018		0			0			0	
2019		0			0			0	

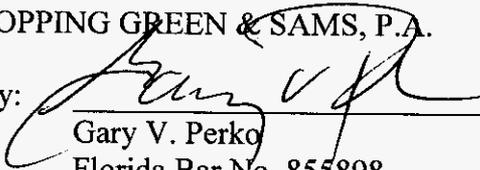
Corrected Response: Please see the completed table below, which includes the requested information.

Year	Summer Demand (MW)			Winter Demand (MW)			Annual Energy (GWh)		
	Existing Goals	Proposed Goals	Actual Savings	Existing Goals	Proposed Goals	Actual Savings	Existing Goals	Proposed Goals	Actual Savings
2005	0		1.6	0		1.2	0		4.6
2006	0		2.7	0		1.3	0		13.4
2007	0		-0.1	0		0.1	0		13.0
2008	0		3.1	0		3.1	0		31.1
2009	0			0			0		
2010	0	0		0	0		0	0	
2011	0	0		0	0		0	0	
2012	0	0		0	0		0	0	
2013	0	0		0	0		0	0	
2014	0	0		0	0		0	0	
2015		0			0			0	
2016		0			0			0	
2017		0			0			0	
2018		0			0			0	
2019		0			0			0	

SERVED this 11th day of DECEMBER, 2009.

HOPPING GREEN & SAMS, P.A.

By:


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Attorneys for JEA

AFFIDAVIT

STATE OF FLORIDA)

COUNTY OF DUVAL)

I hereby certify that on this 9th day of December, 2009, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Richard J. Vento, who is personally known to me, and he acknowledged before me that he provided corrected answers to interrogatory numbers 41a and 50 from STAFF'S SEVENTH SET OF INTERROGATORIES TO JEA (NOS. 33 - 50) in Docket No. 080413-EG, and that the corrected responses are true and correct based on his personal knowledge.

In Witness Whereof, I have hereunto set my hand and seal in the State and County aforesaid as of this 9th day of December, 2009.

Nancy S. Nesbitt

Notary Public
State of Florida, at Large

My Commission Expires:

May 16, 2013

