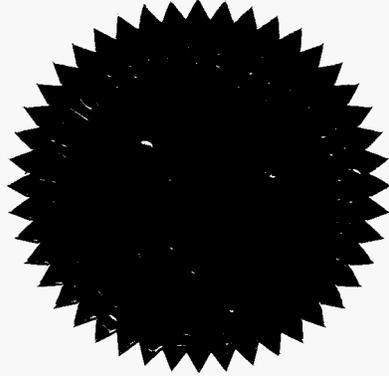


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 100155-EG

PETITION FOR APPROVAL OF
DEMAND-SIDE MANAGEMENT PLAN
OF FLORIDA POWER & LIGHT
COMPANY.



PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 6

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, January 11, 2011

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
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P R O C E E D I N G S

1
2 CHAIRMAN GRAHAM: Let's move to Item
3 Number 6.

4 MR. GARL: Thank you, Mr. Chairman. Good
5 morning, Commissioners. I am Steve Garl from
6 Commission staff.

7 Item 6 is Florida Power and Light
8 Company's petition for approval of its 2010
9 demand-side management plan. Staff's recommendation
10 on FPL's DSM plan is similar to those of other IOUs
11 the Commission considered at the Commission
12 conference on September 14th, 2010. As outlined in
13 staff's memo dated October 5, 2010, to maintain
14 consistency with the votes on other IOU plans,
15 Commissioners may wish to take action on the FPL
16 plan as listed in the memo. Staff is prepared to
17 review the memo at this time if you wish.

18 CHAIRMAN GRAHAM: Thank you.

19 MR. GARL: Specifically, the actions would
20 be to, one, approve the staff recommendation on
21 Issue 1 with the modification that the compliance
22 filing shall also include savings associated with
23 FPL's solar pilot programs. Section 366.82, Sub 2,
24 Florida Statutes, require the Commission to
25 establish goals for demand-side renewable energy

1 systems. To meet the intent of the legislature, the
2 Commission directed the investor-owned utilities to
3 file pilot programs focused on encouraging solar
4 water heating and solar PV technologies in Order
5 Number PSC-09-0555-FOF-EG. The result of this vote
6 would require FPL to file specific program
7 modifications or additions that are needed to make
8 the DSM plan compliant with Order Number
9 PSC-09-0855-FOF-EG. Such a filing would be due
10 within 30 days of the consummating order in this
11 docket.

12 Two, deny the staff recommendation on
13 Issue 2. The result of this vote would be that no
14 new or modified programs would be implemented until
15 after the Commission votes on FPL's compliance
16 filing pursuant to Issue 1.

17 Three, approve the staff recommendation on
18 Issue 3. Such a vote would approve FPL's solar
19 pilot programs and these could move forward without
20 further delay. As discussed at the September 14th,
21 2010, Commission Conference, the allocation of funds
22 to, one, solar thermal versus solar PV, two, private
23 customers versus public institutions, and, 3, low
24 income residential varies widely among the
25 investor-owned utilities. Therefore, the Commission

1 directed staff to conduct a workshop to address how
2 the distribution of funds should be allocated and to
3 determine the appropriate split between these
4 technological and customer categories.

5 Four, Issue 4 would be moot pursuant to
6 the votes in Issue 1 and Issue 2.

7 And finally, 5, approve the staff
8 recommendation on Issue 5 that the docket remain
9 open.

10 Staff is available to answer any questions
11 you may have. Representatives of FPL and the
12 intervenors are also present.

13 CHAIRMAN GRAHAM: Thank you. It sounds
14 like we have a speaker before I got to the
15 intervenors. Somebody from Wal-Mart, Ken Baker.

16 Mr. Baker, are you with us?

17 MR. BAKER: I am. Thank you.

18 CHAIRMAN GRAHAM: I am told that you have
19 some comments for us.

20 MR. BAKER: Yes, I do. Would you like me
21 to proceed?

22 CHAIRMAN GRAHAM: Yes, sir.

23 MR. BAKER: Okay. First of all, I'd like
24 to adopt the testimony filed early by a colleague of
25 mine, Steve Chris. The exception obviously being

1 his credentials, and I will quickly run through
2 those very quickly because they are different from
3 the testimony.

4 I have an Associate of Science Degree in
5 Laboratory Technology. I have a Bachelor of Science
6 degree in Health Science from the College of St.
7 Francis. In 1992, I received my juris doctorate
8 from the UAR School of Law. I practiced law in
9 Little Rock from 1992 through 1999. In October of
10 '99, I came to work for Wal-Mart where my job was
11 siting or finding locations for distribution
12 centers. My obligations there were negotiating the
13 memorandums of understanding responsible for
14 following projects through to their completion. In
15 2007, I came to the Energy Department at Wal-Mart
16 handling non-rate proceedings in all 50 states.
17 Also, all legislation items having an impact on
18 Wal-Mart energy consumption. I helped negotiate and
19 draft renewable energy contracts.

20 I have testified one time before the
21 Florida Commission, and several times in New
22 Hampshire. I have also testified in South Carolina,
23 Colorado, and Arkansas. So with that said -- go
24 ahead, please.

25 CHAIRMAN GRAHAM: You still have the mike.

1 MR. BAKER: Okay. My comment today
2 include should the Commission decide to consider an
3 opt-out for commercial/industrial users, we feel
4 like that would take a large portion of the system
5 benefit charge and it would leave more money for
6 small commercial and residential customers to
7 participate.

8 Additionally, I would ask -- respectfully
9 ask the Commission to determine that inclusion of an
10 opt-out provision for large commercial and
11 industrial customers in the utility energy
12 efficiency programs is in the public interest.
13 Large commercial customers face competition on
14 local, regional, and global scales. Managing energy
15 costs is an important part of staying competitive.
16 Energy efficiency and demand-side management
17 measures are a cost-effective means of reducing
18 energy consumption, demand, and energy costs. And
19 briefly, very briefly I would like to run through
20 very quickly some of the things that Wal-Mart
21 currently includes in its prototype. We have a
22 submetering system in our stores and all of the
23 United States stores are controlled. The heating,
24 cooling, and air conditioning is controlled by a
25 central location in Arkansas or just outside of

1 Arkansas.

2 We also have a daylight harvesting system
3 in which when the lighting intensifies it
4 automatically adjusts the amount of light, incoming
5 light from skylights. We use highly efficient HVAC
6 units that exceed the most stringent energy codes in
7 the United States. We use white membrane roofs that
8 lower cooling costs. We use heat reclaim from our
9 refrigeration equipment to meet approximately
10 70 percent of the hot water needs for supercenters.
11 We use T8 and LED lighting in our refrigeration
12 cases. We actively dehumidify our stores. That
13 enables stores to operate at higher temperatures and
14 use less electricity. We have indirect evaporate
15 cooling and radiant flooring. Each daylight
16 harvesting system that I mentioned earlier is
17 estimated to save an average of 800,000 kWh per year
18 and a total energy savings for the LED refrigerator
19 case is estimated to be more than 90,000 kWh per
20 year.

21 We would, again, respectfully request that
22 the Commission determine that the inclusion of an
23 opt-out provision for large commercial and
24 industrial customers and utility energy efficiency
25 programs is in the public interest. Large

1 commercial customers face competition on local,
2 regional, and global scales, and managing energy
3 costs is an important part of staying competitive.

4 Energy efficiency and demand-side
5 management measures that I have mentioned earlier
6 are cost-effective means of reducing energy demand
7 consumption and energy costs. There are several
8 benefits to a utility's customer, in C&I customers
9 being allowed to opt out. First, when large
10 customers are given the option to opt out of utility
11 programs, those opting out will have more capital
12 available to proactively invest in their own energy
13 efficiency and DSM programs.

14 CHAIRMAN GRAHAM: Mr. Baker.

15 MR. BAKER: Yes.

16 CHAIRMAN GRAHAM: Can I give you about a
17 minute to wrap this up?

18 MR. BAKER: Certainly.

19 Individual customers who best understand
20 their unique business operations are able to create
21 programs tailored to maximize the impact of energy
22 efficiency and DSM programs installed in their
23 facility. Due to the size and scope of the measures
24 that we can implement, those customers will benefit
25 from the competitive marketplace for energy and

1 goods and services as energy services companies
2 compete to provide the most innovative and
3 cost-effective products to those customers.

4 Individual customers assume all of the
5 risk of investment such as the risk that the
6 installed measure will, in fact, conserve and reduce
7 energy as opposed to having that risk passed along
8 to other ratepayers. Because of that, the customer
9 has every incentive to ensure that the implemented
10 measures are cost-effective, and as a result both
11 the individual large customer as well as the
12 utility's other customers benefit.

13 A commercial customer that implements
14 energy efficiency and DSM measures, some yield
15 network benefits for all the utility's other
16 customers. The network benefits include reduced
17 overall energy consumption that results from reduced
18 load and demand on the system, an increased
19 reliability that results from commercial customers
20 reduced energy. The utility's other measures --
21 customers enjoy all of these benefits without having
22 to fund such measures through their rate or
23 additional recovery riders.

24 Additionally, those large customers who
25 have undertaken their own conservation and energy

1 efficiency programs provide these benefits to other
2 customers. And we would recommend -- in closing, we
3 would recommend that the customers for all
4 facilities for which customers seek to opt out have
5 had performed an energy audit or analysis within the
6 last three years, has implemented or plans to
7 implement measures according to the energy
8 efficiency goals determined by the Commission for
9 the jurisdictional utilities.

10 The customer's annual consumption is more
11 than an annual determined by the Commission.
12 Wal-Mart supports a minimum consumption of one
13 million kWh annually per facility, and for customers
14 with multiple facilities, the customer's aggregate
15 annual consumption would be more than amount -- than
16 the annual minimum determined by the Commission.
17 Wal-Mart supports a minimum aggregate consumption of
18 5 million kWh annually.

19 And with that, I will close. Thank you.

20 CHAIRMAN GRAHAM: Thank you, Mr. Baker.

21 And thank you for your time and your
22 information you have put before the board today.

23 MR. BAKER: Thank you.

24 CHAIRMAN GRAHAM: All right. Let's go
25 to -- I am going to go through the intervenors, and

1 I am going to come back to FPL to kind of close out.
2 So we start with Mr. Larson.

3 MR. LARSON: Chairman Graham,
4 Commissioners, my name is Tom Larson. I am the
5 Florida Energy Policy Manager for the Southern
6 Alliance for Clean Energy. Thank you for the
7 opportunity to address you.

8 SACE is a regional nonprofit organization
9 celebrating its 25th year promoting responsible
10 energy choices. SACE participated in the dockets
11 that set the demand-side management goals and at the
12 September Agenda Conference where the DSM plans of
13 Progress Energy, TECO, and Gulf Power were
14 considered by the Commission.

15 SACE strongly advocates for meaningful
16 energy efficiency because it's the lowest cost
17 resource available to a utility. A well designed
18 efficiency program can meet electricity demand at a
19 fraction of the cost of meeting demand through new
20 costly power supply projects.

21 Efficiency measures help customers lower
22 their energy use and save money on their electricity
23 bills; it's important during these economically
24 challenging times. But the utility programs have to
25 be developed in a cost-effective fashion to ensure

1 that customers get the most bang for the buck. To
2 that end, SACE is advocating the same positions with
3 respect to Florida Power and Light that it did in
4 regards to Progress, TECO, and Gulf Power on Issues
5 1, 2, and 4. Those positions are briefly, that we
6 appreciate the staff's recommendation for FPL to
7 correct its deficiencies in meeting its annual DSM
8 goals within 30 days and support it, but Commission
9 action shouldn't end there. SACE recommends that
10 the Commission should direct FPL to make additional
11 revisions to address the issue of cost-effective
12 program design. Energy efficiency programs have to
13 be well designed and managed to ensure that
14 customers get the most energy savings for every
15 ratepayer dollar. That's good for customers, and it
16 ensures the public support for this low-cost
17 resource doesn't erode.

18 We appreciate staff's review of
19 FPL's proposed programs to ensure that they pass the
20 TRC cost-effectiveness test. That's important since
21 it means that the efficiency programs are a more
22 cost-effective way to meet electricity demand than
23 new power generation.

24 We anticipated that the staff would
25 correctly begin with analysis of the standard

1 cost-effectiveness tests, but this is a first tier
2 review. In order to support the public interest,
3 the evaluation shouldn't stop there. The Commission
4 should also receive information to determine if
5 programs are well designed with best management
6 practices to confirm that costs are within national
7 norms, and if not, if those programs need to be
8 modified.

9 The staff analysis only identifies
10 programs that represent the largest contributors to
11 the ECCR clause which could be removed to reduce the
12 rate impact if the Commission wishes to reduce the
13 rate impact of the utility's plan. This approach
14 looks singularly at the rate impact and fails to
15 similarly consider whether the programs and
16 portfolio have been designed to achieve the
17 Commission's goals at the lowest possible cost. You
18 should direct your Staff to evaluate FPL's portfolio
19 to determine if there are opportunities to achieve
20 the same results at lower cost, better maximizing
21 customer benefit. SACE has referred to these
22 cost-conscious program design concerns several times
23 in comments filed in this docket.

24 The only option provided to the Commission
25 by staff is either the wholesale acceptance of

1 programs or the wholesale rejection of programs.
2 Not suggested is the option to modify a program.
3 The staff's recommendation doesn't provide the
4 Commission guidance on the flexibility it can
5 exercise to carry out its statutory duty to modify a
6 program if it so chooses, pursuant to
7 Section 366.82, Part 7.

8 Also, staff recommends that the Commission
9 should approve programs for cost recovery and
10 require the utility to justify its costs later
11 during cost recovery proceedings. Unfortunately,
12 the ECCR docket is a backwards looking process. The
13 only option available to you at that point is to say
14 that the costs were either prudent or imprudent.
15 Are they what the company said they would be?
16 That's not helpful in developing good energy
17 efficiency programs moving forward. Plus, it puts
18 the utilities at undue risk of underrecovery which
19 will deter them from experimenting with new program
20 designs that may be more cost-effective.

21 Therefore, we recommended for the reasons
22 just cited and for consistency with the three other
23 orders that have been previously issued, those for
24 Progress, TECO, and Gulf, that the Commission deny
25 the FPL DSM plan with the exception of the solar

1 programs, and request that the Commission direct FPL
2 to demonstrate that they have analyzed alternative
3 program strategies and are submitting the most
4 cost-effective plan possible when submitting
5 revisions within the 30 days recommended by staff.

6 We also recommend that the Commission
7 direct its staff to conduct an analysis that goes
8 beyond simply removing programs to reduce the rate
9 impact and to provide recommendations to the
10 Commission on options to modify programs to ensure
11 that they are designed with best management
12 practices and that the program costs are within
13 national norms. Thank you.

14 CHAIRMAN GRAHAM: Thank you, Mr. Larson.
15 Ms. Kaufman.

16 MS. KAUFMAN: Thank you, Mr. Chairman.
17 Commissioners, good morning. I'm Vicki Gordon
18 Kaufman; I am with the law firm of Keefe Anchors
19 Gordon and Moyle here in Tallahassee, and I am
20 appearing on behalf of the Florida Industrial Power
21 Users Group, commonly referred to as FIPUG.

22 I wanted to take just a moment for the
23 benefit, perhaps, of some of the newer Commissioners
24 to tell you a little bit about FIPUG. As the name
25 suggests, it's a group of industrial companies and

1 other large consumers of electricity. Our members
2 include companies like Publix, phosphate companies,
3 NASA, hospital groups, and other large businesses
4 who employ many people and who contribute to
5 Florida's tax base in the counties where they are
6 located.

7 FIPUG member's electric bills often
8 represent their largest variable cost each month,
9 and their bills are very, very large, as you might
10 imagine. This is one of the variables that factors
11 into whether FIPUG companies expand, downsize,
12 locate in Florida, go to another state, so it is a
13 critical issue. FIPUG has participated throughout
14 this docket, and you will see us in many other
15 dockets where utility rates and rate design are at
16 issue.

17 Moving on to the recommendation before
18 you, assuming that you approve the staff
19 recommendation as you did for the other utilities
20 that have been before you, and you tell Florida
21 Power and Light to go back to the drawing board and
22 relook at their plans, we wanted to express to you
23 some of our concerns and some of the things we hope
24 that you will ask them to reconsider.

25 First of all, Page 16 of the

1 recommendation talks about Issue 4 and whether the
2 implementation of these plans is going to have an
3 undue rate impact. And, of course, that is
4 something we are very concerned about. Your Staff
5 says, well, no, it won't have an undue rate impact
6 because it implements the goals. We suggest to you
7 that that is a little bit of circular reasoning, and
8 we think that the rate impact of implementation of
9 these programs and the impact on all customers'
10 rates is something that needs to have a lot more
11 analysis done about it.

12 Even your own staff, if you look at Page
13 16 of the recommendation, they will tell you that
14 the plan that is before you now, if it was
15 implemented, would result in a 48 percent increase
16 in the conservation charge in the first year,
17 67 percent in the second, and 82 percent in 2014.
18 Those are pretty big increases in our mind. And we
19 would suggest to you that in the current economic
20 climate, these kind of increases might be a little
21 bit too much to the bear, especially when you
22 consider not only conservation, but all the other
23 pass-through charges that the utilities implement.

24 We think you should carefully consider the
25 reality and the impact that these kind of increases

1 are going to have on your customers. Along those
2 lines, you have heard the representative from
3 Wal-Mart discuss in a lot of detail the idea that
4 perhaps there should be an opt-out provision for
5 customers who implement their own conservation
6 measures on their own, using their own capital.

7 That is true for the FIPUG members. They
8 have all implemented their own conservation
9 measures. They have done it with their own capital,
10 and they are not recovering that capital from any of
11 the other ratepayers. We think that consideration
12 of an opt-out provision is one whose time has come.
13 This provision exists in about half of the states
14 implemented in different ways in different states,
15 and we think that it is a concept that the
16 Commission should carefully consider as it moves
17 forward.

18 Finally, as to the specific programs that
19 Florida Power and Light has put forward, if you look
20 on, I think it is Page 10 of the recommendation, you
21 will see a list of the programs. If you look at
22 Programs 10 and 11, which are the
23 commercial/industrial demand reduction programs
24 which FIPUG members are very interested in, you will
25 see that, for example, for Program Number 10, that

1 is by far the most cost-effective program whether
2 you are measuring it under the TRC test or the RIM
3 test. Program 11, which is commercial/industrial
4 load control, is a program that is closed. That is
5 why there is no entry there. We would suggest,
6 number one, that you require Florida Power and Light
7 to take a look at reopening that program. It is a
8 very cost-effective program, and they did not, to my
9 knowledge, analyze that in their filing.

10 And as to Program Number 10, we also
11 suggest to you that because this is such a
12 cost-effective program, it is one that certainly
13 should be encouraged, and we believe that the
14 incentive that Florida Power and Light offers for
15 that program to get people to participate is too low
16 when you take a look at the benefits that the
17 program brings. And so we would suggest that as to
18 those two programs, Florida Power and Light be
19 required to go back and take a look at them along
20 with the more general comments that I have made.
21 And I thank you. And if you have any questions, I
22 would be glad to answer them.

23 CHAIRMAN GRAHAM: Thank you, Ms. Kaufman.
24 Ms. Brownless.

25 MS. BROWNLESS: Good morning. My name is

1 Suzanne Brownless, and I'm here appearing on behalf
2 of the Florida Solar Energy Industries Association,
3 FLSEIA. As the name suggests, that is an association
4 of solar industry developers, installers,
5 maintenance folks, the people who actually put
6 solar, photovoltaics, and hot water heaters on
7 commercial and residential businesses.

8 We, too, have been in this docket from the
9 very start, and I have just a few brief points to
10 make. With regard to the recommendation that has
11 been given here and your previous votes with regard
12 to Progress, TECO, and Gulf Power, we would note
13 that the administrative and marketing costs that FPL
14 is asking to recover here are 19.3 percent of the
15 funds allocated, and that 19.3 percent is basically
16 \$3 million out of 13.9 million.

17 We would suggest to you that
18 administrative costs should be limited to
19 10 percent. That would be consistent with what
20 Progress Energy has done and TECO has done. That
21 seems awful high to us. And the reason it seems
22 high is because there are, in the solar industry,
23 people who are going to make sure that their
24 customers know about, understand these programs for
25 solar PV. You don't need separate educational

1 efforts or marketing efforts at the IOU level to do
2 that.

3 The second thing is Florida Power and
4 Light was allocated \$15.5 million for four solar
5 pilot programs. The first year of operation they
6 have only allocated 13.9 million for their program.
7 We would ask that the Commission require them to
8 utilize the entire 15.5 million. One of the
9 purposes of putting this money out there was to
10 encourage and stimulate the solar industry. I don't
11 need to tell you about economic times; I don't need
12 to tell you about the need for jobs. These are good
13 jobs. Green energy good jobs. We would like to see
14 the additional \$1.6 million put out.

15 The next thing I would mention is that
16 there is a solar for PV program. Now, everybody has
17 one of these. TECO has one, Progress has one, Gulf
18 Power has one, and now Florida Power and Light has
19 one, as well. This is a redundant program. There
20 is currently a SunSmart school program that is being
21 funded by federal stimulus dollars. That's up;
22 that's operational; that's being put together and
23 run by the Florida Solar Energy Center.

24 So our position is not that we are against
25 schools, not that we don't think there shouldn't be

1 PV on schools, but if you have a program that is
2 already out there supporting that, take the money
3 that has been allocated to the PV for schools, which
4 on behalf of Florida Power and Light is 8.7 percent
5 of their budget, or about \$1.3 million, reduce that
6 because it's redundant. You know, you are
7 replicating a program that is already out there, and
8 reallocate that money back to, for example,
9 residential and commercial PV, or solar water
10 heating, something that there is no current existing
11 program for.

12 And, finally, we'd like to get these solar
13 programs implemented. As you know, the way the
14 process works, there are only seven solar pilot
15 programs. There is a handful of these programs.
16 These programs were proposed in March of 2009. They
17 are substantially the same. There hasn't -- to my
18 knowledge, FPL is not suggesting that they be
19 changed or modified in any way, so they have had a
20 long time to think about these programs and how to
21 implement them, get the software in place to make
22 them available to the public.

23 Right now the way the process works, you
24 have 20 days to get a PAA order issued, 21 days for
25 the protest period, and then usually another 30 days

1 to file participation standards, which are basically
2 the tariffs, the proposed tariffs.

3 What we are suggesting -- and then, of
4 course, after that your staff has to have a period
5 of time to look at the language, make sure. That
6 has been taking the staff about three months. I
7 don't fault them for that. There are many issues
8 that they need to look at. What I'm suggesting is
9 that because these are the same programs, that FPL
10 begin now to be able to file their participation
11 standards within ten days of the consummating order
12 so that we don't have this lag time.

13 I'm sure you are aware that the first year
14 this program was developed was 2010. 2010 is gone.
15 We are now in 2011. If it takes another six months
16 or seven months to actually get these programs on
17 the ground and available to people, we will soon be
18 to 2013, the year that we will be starting this
19 process all over again. So, we urge you to shorten
20 up that time as much as possible, and to ask that
21 Florida Power and Light get their participation
22 standards out there quickly so these programs can
23 get on the ground quickly.

24 Thank you so much.

25 CHAIRMAN GRAHAM: Thank you, Ms.

1 Brownless.

2 Ms. Cano.

3 MS. CANO: Good morning, Mr. Chairman and
4 Commissioners. My name is Jessica Cano, and I am
5 representing Florida Power and Light Company this
6 morning. I'd like to address two aspects of staff's
7 recommendation with which FPL respectfully
8 disagrees, and also briefly respond to the comments
9 filed by SACE in this docket.

10 With respect to staff's recommendation,
11 the first aspect I would like to address is the
12 recommendation to not count solar program savings
13 towards FPL's performance and plan to meet the DSM
14 goals. As staff noted moments ago, to be consistent
15 with the orders and the Commission's vote on this
16 issue for Progress Energy Florida, Tampa Electric
17 Company, and Gulf Power Company, the Commission
18 should reject staff's recommendation on this issue
19 and count FPL's solar program savings towards its
20 plan and its goals.

21 The reasons why it is appropriate to count
22 the solar program savings were discussed at length
23 at the Commission's September 14th, 2010, Agenda
24 Conference. Most importantly, it would be
25 unreasonable to ask customers to pay for the demand

1 and energy savings that the solar programs provide
2 twice; once to meet the solar spending mandate
3 issued by this Commission, which for FPL is
4 approximately \$15 million a year, and again to make
5 up for the demand and energy savings needed to meet
6 the goals.

7 The second aspect of staff's
8 recommendation that I'd like to address is staff's
9 recommendation to judge FPL's DSM plan and DSM
10 performance on an annual incremental basis rather
11 than a cumulative basis. FPL's plan, as filed, is
12 consistent with the Commission's historic
13 application of the Florida Energy Efficiency and
14 Conservation Act and its DSM goals rule which has
15 been to view performance on a cumulative basis.

16 Should the Commission shift to an annual
17 incremental approach, FPL would need to modify and
18 refile its plan in the manner recommended by Staff.
19 However, it is FPL's position that once the solar
20 program savings are appropriately included and FPL's
21 plan is viewed cumulatively as it historically has
22 been, the plan as filed does meet the Commission's
23 ordered DSM goals.

24 Finally, a brief response to the comments
25 that the Southern Alliance for Clean Energy has

1 provided in this docket. SACE's comments, both
2 those filed and those provided today, provide no
3 basis to reject FPL's DSM plan as they offer no
4 program specific criticism of any FPL DSM program.
5 SACE's comments urge the use of a saved energy cost
6 metric to compare the cost effectiveness of Florida
7 utilities' DSM plans, including FPL's, with those
8 across the country. But this is a meaningless
9 exercise. Such a simple calculation fails to take
10 into account important differences between
11 utilities, including geographic location and
12 climate, building codes, and customer segments, all
13 of which affect the cost to implement DSM.

14 Moreover, it is not a Commission-approved
15 cost-effectiveness test, which SACE acknowledges in
16 its comments. It omits the benefits of DSM from the
17 equation further diluting its usefulness, and it
18 focuses solely on energy efficiency, ignoring the
19 significant benefits of demand reduction to FPL's
20 customers. Accordingly, SACE's proposed metric and
21 comments should be disregarded. Thank you.

22 CHAIRMAN GRAHAM: Thank you, Ms. Cano.

23 Now, back to the board up here. Any
24 comments? Mr. Balbis.

25 COMMISSIONER BALBIS: Glad to see our new

1 button worked there. (Laughter.)

2 I have a couple of questions, both for FPL
3 and staff. I guess the first one for FPL. The
4 proposed demand-side management plan, I saw that it
5 includes 15 new programs totalling, I guess, from me
6 looking at it about \$86 million in additional
7 spending for the entire program. Has FPL estimated
8 any new jobs created by the implementation of that
9 program; and if not, is that something that you
10 could grossly estimate if you were to refile?

11 MS. CANO: Give me one second to check
12 with my subject matter expert.

13 We have not at this point in time
14 estimated the job creation impact of the plan. It
15 is certainly something we could look into whether we
16 have the information to do that for our subsequent
17 filing, should we be ordered to file something.

18 COMMISSIONER BALBIS: Okay. Thank you.
19 And not only for the overall program, but at least
20 me personally, I think, I would assume if each
21 individual plan within the overall program passes
22 the E-TRC, the RIM test, and the Participants Test
23 that, therefore, by the measures that we use it is,
24 quote, cost-effective. So is there any additional
25 information for each individual program, so as if

1 the \$86 million is appropriate to meet the goals,
2 can we target those dollars to a program that, one,
3 is cost-effective, but maybe creates more jobs than,
4 say, another program. So, I guess the same comment
5 would be from an individual component basis, could
6 you do the same estimate?

7 MS. CANO: That is certainly something
8 that we could look into, yes.

9 COMMISSIONER BALBIS: Okay. That's all
10 the questions I have.

11 CHAIRMAN GRAHAM: You said you had one for
12 staff?

13 COMMISSIONER BALBIS: I can ask staff, but
14 I think the representative from FPL kind of covered
15 it. But the question for staff would be, again,
16 just a further clarification on the
17 cost-effectiveness with the three tests that we use.
18 And we have discussions about that previously, but I
19 guess for the record if you can kind of go over
20 those three tests and the passing of those, what
21 they indicate for each measure.

22 MR. GARL: Yes, Commissioner. The three
23 tests that are specified for the Commission to use,
24 for the utilities to use in assessing cost
25 effectiveness of the program are the Rate Impact

1 Measure, or RIM test, which looks at a balance of,
2 basically, who pays for it. The nonparticipants in
3 programs, for example, how that impacts them.

4 The Participant test is aimed at those who
5 do participate. Does it make economic sense for
6 them to participate. And the third test is the
7 Total Resource Cost Test, or TRC, which considers
8 the overall system look at cost-effectiveness.

9 Traditionally, the Commission has put
10 heavier weight on the RIM and Participant test.
11 This time around, the Commission chose to put more
12 emphasis on the TRC test and Participant test. And
13 in the case of FPL's programs, only the low-income
14 programs, I believe there's three of them, failed to
15 pass the RIM test. All the other programs passed
16 both RIM, TRC, and Participant tests. If that
17 answers your question.

18 CHAIRMAN GRAHAM: Thank you.

19 Ms. Brown.

20 COMMISSIONER BROWN: This is a question
21 for staff. If we approve the prior order, I guess,
22 consistent with the prior decision, then would that
23 include the solar pilot programs in the plans?

24 MS. FLEMING: Yes, it would. And that is
25 consistent with Issue 3 in staff's introduction. We

1 stated that we recommend that the approval of the
2 solar pilot program be approved under Issue 3. With
3 respect to Issue 2, which I think is where your
4 question is going --

5 COMMISSIONER BROWN: Right.

6 MS. FLEMING: In Issue 2, we are
7 addressing the other programs that are not the solar
8 pilot programs. We are addressing the other
9 programs, and at this time we are saying deny
10 staff's recommendation, do not implement these
11 programs at this time.

12 COMMISSIONER BROWN: Except for solar.

13 MS. FLEMING: Except for solar, that's
14 correct.

15 COMMISSIONER BROWN: Okay. Thank you.

16 CHAIRMAN GRAHAM: I have a question for
17 Ms. Kaufman.

18 Ms. Kaufman, you mentioned the possibility
19 of having an opt-out option.

20 MS. KAUFMAN: Yes, sir.

21 CHAIRMAN GRAHAM: How would you structure
22 that?

23 MS. KAUFMAN: I think that's something we
24 would have to take a look at. It is done different
25 ways in different states, and we have looked at

1 that. Sometimes there is a required filing with the
2 Commission where the entity who seeks to opt out
3 describes its programs and that it has met the
4 standards the Commission sets. Other times there is
5 simply self-certification to the utility. So I
6 think there is a number of ways, and we would be
7 happy to provide more information on that, if you
8 are interested.

9 CHAIRMAN GRAHAM: How was that tracked?
10 How do you know that they are actually doing the
11 things that they claim that they are doing?

12 MS. KAUFMAN: Well, I think depending on
13 which method you choose, for example,
14 self-certification, I believe, usually might be done
15 on an annual basis. And if it's done through the
16 utility, generally there is a certification or
17 something like that. And I imagine that if there
18 were any question, you would have the authority to
19 take a look at it. But generally it is a pretty --
20 I wouldn't say cut and dried, but it's a pretty easy
21 process to do. The company implementing the measure
22 certifies either with the utility or with the
23 Commission as what it is they are doing in a
24 particular time frame.

25 CHAIRMAN GRAHAM: How does Florida Power

1 and Light feel about that idea? Have you guys given
2 it any thought?

3 MS. CANO: Well, to be honest, the idea of
4 having certain customers with the ability to opt out
5 of paying the energy conservation cost-recovery
6 charge is not an issue that has really been
7 presented by our filing or that any record has been
8 developed on up until this point. So at this point
9 in time, it would be hard to say in the abstract
10 what the company's position would be.

11 CHAIRMAN GRAHAM: This is just a curiosity
12 question. I wasn't going to make any changes today.

13 MS. CANO: Right.

14 CHAIRMAN GRAHAM: Mr. Brisé.

15 COMMISSIONER BRISÉ: Thank you, Mr.
16 Chairman.

17 Considering the notion of the opt out,
18 then this question is to staff. Then we would have
19 to go back and then maybe look at our goals if we
20 were taking a certain tier out of the whole
21 demand-side goals.

22 MR. BALLINGER: I'll try to answer that
23 one. Tom Ballinger, Commission staff.

24 I don't know that you have to adopt the
25 goals. If I understand your question, if we went

1 forward with opting out certain customers, would
2 that affect the goals. I think it would, because
3 the goals were envisioned to be placed with all
4 customers participating.

5 What I have heard of the discussion, this
6 opt out is kind of like choosing not to pay a
7 certain tax. And, you know, we heard about the guy
8 who didn't pay his fire services fee and then his
9 house burned down. It didn't work too well.

10 I am not sure how this would play out. As
11 Ms. Cano said, this has not been an issue before us.
12 It is something we could look at. There have been
13 instances where certain classes of customers, for
14 example, interruptible customers for utilities have
15 been granted relief from the ECCR clause, and that's
16 because they are able to be removed at time of peak
17 demand. So they are already providing a demand
18 reduction to all of their customers and receiving a
19 benefit for it, and the theory was why should they
20 pay for additional demand reductions for other DSM
21 programs. But that was a whole class of customers,
22 not a customer within a class, and that gets a
23 little bit tricky from a tariff and a discrimination
24 standpoint.

25 CHAIRMAN GRAHAM: Well, if there's nothing

1 else, can I get a motion? (Pause.) I can't do it.

2 COMMISSIONER BRISÉ: I'll move staff's
3 recommendation.

4 CHAIRMAN GRAHAM: You move their second
5 recommendation, which puts everything in line with
6 what we did with the other utilities?

7 COMMISSIONER BRISÉ: Indeed.

8 COMMISSIONER BROWN: And I second.

9 CHAIRMAN GRAHAM: That has been moved and
10 seconded. Any further discussion on the motion?

11 COMMISSIONER BALBIS: Mr. Chair, just to
12 make the comment. If the maker of the motion would
13 maybe add for FPL to, at least for information
14 purposes on the job creation for each measure of the
15 overall program, if possible, I would appreciate it.
16 But, if not, it is not really substantive at this
17 point, but --

18 CHAIRMAN GRAHAM: Do you accept the
19 friendly amendment?

20 COMMISSIONER BRISÉ: Yes, I will accept
21 the amendment.

22 COMMISSIONER BROWN: Second.

23 CHAIRMAN GRAHAM: Okay. Any further
24 discussion on what is before us?

25 COMMISSIONER EDGAR: I would just ask if

1 the staff is clear as to what it is we are deciding
2 and directing.

3 MS. FLEMING: Yes. But if you wish, staff
4 could go through that one more time prior to the
5 vote.

6 COMMISSIONER EDGAR: I think I'm clear,
7 but I wanted to make sure we all were.

8 MS. FLEMING: We're clear.

9 COMMISSIONER EDGAR: And with that I can
10 concur as appropriate.

11 CHAIRMAN GRAHAM: All right. Well, seeing
12 no further discussion, all in favor say aye.

13 (Vote taken.)

14 CHAIRMAN GRAHAM: Those opposed?

15 By your action you have approved -- let's
16 see, Item Number 6 as amended. Thank you very much.

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

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5 I, JANE FAUROT, RPR, Chief, Hearing Reporter
6 Services Section, FPSC Division of Commission Clerk, do
7 hereby certify that the foregoing proceeding was heard
8 at the time and place herein stated.

9 IT IS FURTHER CERTIFIED that I
10 stenographically reported the said proceedings; that
11 the same has been transcribed under my direct
12 supervision; and that this transcript constitutes a
13 true transcription of my notes of said proceedings.

14 I FURTHER CERTIFY that I am not a relative,
15 employee, attorney or counsel of any of the parties,
16 nor am I a relative or employee of any of the parties'
17 attorney or counsel connected with the action, nor am I
18 financially interested in the action.

19 DATED THIS 14th day of January, 2010.

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JANE FAUROT, RPR
Official FPSC Hearings Reporter
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