

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 100160-EG

PETITION FOR APPROVAL OF DEMAND-  
SIDE MANAGEMENT PLAN OF PROGRESS  
ENERGY FLORIDA, INC.

PROCEEDINGS: AGENDA CONFERENCE  
ITEM NO. 5

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

DATE: Tuesday, July 26, 2011

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

REPORTED BY: JANE FAUROT, RPR  
Official FPSC Reporter  
(850) 413-6732

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P R O C E E D I N G S

**CHAIRMAN GRAHAM:** All right. Let's get to Item Number 5.

**MS. LEWIS:** Good morning, Chairman; good morning, Commissioners. Kathy Lewis, Commission staff. I'm here for Progress Energy's demand-side management plan.

Progress has proposed two DSM plans for the Commission's consideration: The compliance plan, which meets the Commission-established goals, and the rate mitigation plan which does not fully meet the goals, but has a lower rate impact.

In Issue 1, staff recommends that the compliance plan imposes an undue rate impact on customers, noting that Florida Statutes give the Commission flexibility to modify or deny plans that would have an undue rate impact on costs passed on to customers. Staff recommends denial of the compliance plan.

In Issue 2, staff recommends that the Commission approve the rate mitigation plan. The monthly bill impact for the rate mitigation plan would be about \$6 by 2014, which is more in line with the DSM plans the Commission has approved for the other investor-owned utilities to date. If you approve Issue

1 2, the goals previously established for Progress in the  
2 2009 goal-setting order remain in effect, and staff  
3 recommends that Progress should strive to meet those  
4 goals.

5 Also, Progress Energy will not be eligible  
6 for any financial reward unless its achievements exceed  
7 the Commission-established goals. And Progress could  
8 face financial penalties if its achievements fall below  
9 the projections contained in the rate mitigation plan.

10 Finally, Progress must demonstrate during  
11 energy conservation cost-recovery proceedings that its  
12 expenditures for implementing these programs are  
13 reasonable and prudent. And staff is ready to answer  
14 your questions.

15 **CHAIRMAN GRAHAM:** Thank you, Ms. Lewis.  
16 Let's start with SACE.

17 **MR. JACOBS:** Good morning, Mr. Chairman,  
18 Commissioners. My name is Leon Jacobs. I'm here on  
19 behalf of Southern Alliance for Clean Energy. I'm  
20 making an appearance today; I haven't been in the  
21 docket before. Also with me today is Mr. Tom Larson,  
22 who will also be addressing you.

23 Thank you.

24 **CHAIRMAN GRAHAM:** FIPUG.

25 **MS. KAUFMAN:** Mr. Chairman, Commissioners.

1 Vicki Gordon Kaufman. I'm here on behalf of the  
2 Florida Industrial Power Users Group.

3 **MS. TRIPLETT:** Good morning, Commissioners.  
4 Dianne Triplett on behalf of Progress Energy Florida.

5 **CHAIRMAN GRAHAM:** All right.

6 Commissioners? Commissioner Edgar.

7 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

8 And I'm glad to see that we have  
9 representatives from a number of the parties that  
10 participated in this docket and in this effort. As we  
11 all know, this has been a multi-step and now a  
12 multi-year process to get us to this point. And I  
13 think that we have all learned a lot, but yet I know in  
14 my mind I still have some questions. And I'm hoping  
15 that we can have a good discussion and that I can learn  
16 from the thoughts and questions and maybe even answers  
17 that we get today.

18 You know, recognize that in my mind the  
19 purpose of the statute that we are operating under has  
20 a number of pieces, one of which is to increase  
21 conservation and to, therefore, decrease the use of  
22 expensive resources, fuel in particular. Also,  
23 particularly to help lower peak demand and the growth  
24 rate in consumption, and certainly to help us encourage  
25 efficiencies in the use of demand-side renewables, all

1 of which I know I strongly favor, and probably  
2 everybody in this room does, but yet we also recognize  
3 that with all of it there are costs involved.

4 I know that when the Commission first took up  
5 this effort, we had at least, I think, seven dockets  
6 that were going forward looking toward setting goals  
7 and then coming back. I know I asked questions at the  
8 time, as did a number of the Commissioners who are not  
9 here with us today, but who participated in the steps  
10 to get us to this process, about what will the costs be  
11 and will we have the chance to evaluate those costs and  
12 weigh in.

13 I have gone back and looked at the  
14 transcripts, and I know that one Commissioner, in  
15 particular, made numerous comments about wanting to  
16 make sure that the Commission retains some flexibility,  
17 that our hands were not tied as we went forward and  
18 gained additional information. So here we are today.  
19 We have approved plans in the past for the municipals  
20 that are included under the statute, and also for the  
21 smaller IOUs, for TECO, for Gulf, and for FPUC with the  
22 two IOUs that have larger geographic service area and  
23 larger number of customers, those are now before us  
24 today. And I will point out that I don't have in front  
25 of me the date that we started with the technical

1 feasibility study steps, but I do know that the docket  
2 that first came before us to establish the goals was  
3 back in November of 2009. And here we are over a year  
4 and a half later, and we are still looking at the first  
5 round of new plans or programs under those new goals as  
6 we were directed under the statute to review and to  
7 establish.

8           So with all of that said, I think this is a  
9 good opportunity for us to take a little time this  
10 morning to look back at the steps that we took as a  
11 Commission and the policy decisions that were inherent  
12 in that, realizing that each step of the way we all  
13 receive a little more information and times change. I  
14 know that, gosh, I think it was my first or second year  
15 here we had an issue in telecom that, as required under  
16 the statute, there was going to be a short-term  
17 additional charge of 30 cents per bill. And we  
18 agonized about how and when and how to reduce the  
19 timing of the impact of that, and that was for a  
20 short-term finite period of time.

21           As time has marched on, I'm sure we all have  
22 stories like this, but I know in my own personal life,  
23 I have more friends and colleagues and family members  
24 and acquaintances and family members of friends who are  
25 out of work, certainly to a degree that I have never

1 experienced in my lifetime. And I'm sure we all have  
2 similar experiences. And so when I put that on top of  
3 the realization that if we are to adopt programs and  
4 plans today that will result in some additional monthly  
5 costs, recognizing, of course, the ultimate goal to be  
6 savings over the long-term both in demand and in  
7 consumption. And ultimately, hopefully, that will  
8 weigh out.

9 But usually, Commissioners, in situations  
10 like that, you know, there are -- I hesitate to use the  
11 terms winners and losers, so let me rephrase and say  
12 generally there are going to be some groups or  
13 subgroups that will be better able to take advantage of  
14 those potential savings opportunities than others,  
15 recognizing that there probably will be some  
16 subsidization within a class and between classes.

17 And so recognizing that, I'm hoping that  
18 today we can kind of tee up some of those issues and  
19 just see what we think the careful and thoughtfully  
20 considered best steps are on a go-forward basis. And  
21 so with that, if I may, Mr. Chairman, would welcome the  
22 thoughts of any of you, and certainly, of course, look  
23 forward to hearing from the party representatives that  
24 are here.

25 **CHAIRMAN GRAHAM:** Commissioner Balbis.

1                   **COMMISSIONER BALBIS:** Thank you, Mr.  
2 Chairman.

3                   And thank you, Commissioner Edgar, for those  
4 comments. Again, as a senior member, I'm glad that you  
5 are on this Commission and can provide comments as to  
6 where we were and how we got here, so I appreciate  
7 that.

8                   And, Mr. Chairman, if I may, I'd like to hear  
9 from the parties first, before I get into questions of  
10 staff, et cetera, so I will reserve my comments until  
11 then.

12                   **CHAIRMAN GRAHAM:** Commissioner Brisé.

13                   **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

14                   I, too, would like to hear from the parties,  
15 but I think there are a couple of things that come to  
16 mind as we begin this conversation, and I'm hoping that  
17 we will have a full conversation on this issue for two  
18 reasons: Obviously our responsibility is protecting  
19 the public interest, and that includes ensuring that we  
20 are moving in a direction with respect to energy to  
21 make sure that our demand isn't too high and all of  
22 those type of things, and we can serve as much as  
23 responsible. But at the same time we have the  
24 responsibility of making sure that people can actually  
25 afford to do what we are saying that they ought to do

1 with respect to their bills.

2 So I certainly hope that as this discussion  
3 moves forward that all of the parties that will present  
4 before us today and participate in this conversation  
5 will be cognizant of that, and that when we get the  
6 discussion back that we will be fully cognizant of the  
7 times which we are in right now. Because sometimes  
8 certain things work during certain periods and they  
9 make sense in terms of policy, but when things change,  
10 sometimes we may have to change with the times to  
11 address the issues that are before us.

12 **CHAIRMAN GRAHAM:** Thank you, Commissioner.  
13 Let's start with SACE.

14 **MR. JACOBS:** Thank you, Mr. Chairman.  
15 Commissioners, I'm going to defer to Mr.  
16 Larson to begin our discussion, and I will come back  
17 with some overall procedural issues.

18 **CHAIRMAN GRAHAM:** Okay. Mr. Larson.

19 **MR. LARSON:** Good morning, Mr. Chairman. I'm  
20 Tom Larson, a resident of Jacksonville, Florida. I  
21 work for and am speaking on behalf of the Southern  
22 Alliance for Clean Energy. SACE is a regional  
23 nonprofit organization celebrating its 25th year  
24 promoting responsible energy choices. I have been  
25 engaged in this effort since the beginning, since July

1 of 2008, and am pretty imbued with the details about  
2 the technical and -- potential and all the way through  
3 now to this docket. And it's good to see things coming  
4 to fruition. The citizens of Florida will benefit  
5 greatly from moving forward in this arena.

6 SACE strongly advocates for meaningful energy  
7 efficiency, because it's the lowest-cost resource  
8 available to a utility. An efficiency program can meet  
9 electricity demand at a fraction of the cost of meeting  
10 consumer power needs through costly new generation  
11 systems. The reason utility-sponsored programs are so  
12 important is that most Floridians don't have the  
13 information and/or the resources to implement energy  
14 efficiency measures on their own. They want to save  
15 money on their bills, but they are looking at their  
16 hometown utility to help them lower their energy use  
17 and save money on their bills, especially low income  
18 and fixed income customers.

19 We hope to see Progress Energy Florida  
20 expeditiously implement meaningful energy efficiency  
21 programs. We know that the programs already costs less  
22 than new generation because they pass the TRC  
23 cost-effectiveness test, but that's a first-tier test.  
24 The second test is to determine if the programs are  
25 designed in a way to meet the goals at the lowest

1 practical cost to customers. That's the only way these  
2 programs can be sustainable. In this respect, both  
3 Progress Energy and Commission staff have failed the  
4 Commission, because there is no analysis to determine  
5 whether the mix of efficiency programs and the design  
6 of those programs will capture energy savings at the  
7 lowest costs.

8 While PEF's goals are higher than its peer  
9 utilities, the starting point should not be to slash  
10 the goal level. The goal level already has been  
11 determined in another proceeding. Rather, demand-side  
12 management plan approval should focus on PEF providing  
13 evidence that it has submitted a DSM plan with good  
14 program design, and a program mix that delivers energy  
15 savings most cost-effectively, and for staff to conduct  
16 an analysis to confirm that programs are designed in a  
17 cost-effective fashion using best industry practices  
18 and are cost competitive with similar programs  
19 conducted by peer utilities in other states. Neither  
20 has been done effectively in this case.

21 Staff points out that because of the undue  
22 rate impact of the compliance plan, the Commission can  
23 deny or modify a plan because of its statutory  
24 authority in FS 366.82, Sub 7. The only option you  
25 have been provided is to deny. No information is

1 offered by Staff by which you can modify plans for  
2 undue rate impact because of poor program design. In  
3 fact, the Legislature intended that such scrutiny would  
4 take place in order to protect the public interest.

5 The statute states -- this is 366.81 -- the  
6 Legislature finds and declares it is critical to  
7 utilize the most efficient and cost-effective  
8 demand-side renewable energy systems and conservation  
9 systems in order to protect the health, prosperity, and  
10 general welfare of the state and its citizens.

11 As for undue rate impacts, SACE would argue  
12 that any DSM plan with energy efficiency programs that  
13 are not cost-effectively designed causes an undue rate  
14 impact regardless of the level of the goals.

15 SACE compared PEF costs to the cost of its  
16 sister utility, Progress Energy Carolinas, in its most  
17 recent comments in this docket. PEF is planning to  
18 achieve approximately 10 percent greater energy savings  
19 than PEC annually, yet PEF is planning to spend  
20 50 percent more than PEC in the same year. This is  
21 indicative of PEF's opportunity to reduce DSM program  
22 costs, when its sister utility can achieve 90 percent  
23 of the savings at 50 percent of the cost.

24 Other examples of opportunities that PEF has  
25 to increase savings and reduce costs that SACE provided

1 in its April 25th and December 23 comment letters  
2 include bringing its home energy comparison report  
3 program costs in line with those of other utilities in  
4 the southeast. Gulf Power is implementing the same  
5 program for about half the cost.

6 Rebalancing PEF's portfolio is another area  
7 to leverage low-cost measures such as reflective roofs,  
8 low-flow showerheads, and residential lighting. In  
9 other words, relying more on these lower-cost programs  
10 for energy savings and relying less on higher-cost  
11 programs.

12 PEF only includes these lower-cost measures  
13 in its low-income programs, weatherization assistance  
14 and the neighborhood energy savings program, despite  
15 the measures being applicable and efficient for all  
16 income levels.

17 And, third, reevaluating whether the  
18 escalation values that PEF included in their cost  
19 analysis are necessary or accurate. The staff  
20 recommendation doesn't address the unexplained use of  
21 escalation factors by Progress Energy in the  
22 development of its energy efficiency programs. We had  
23 urged the Commission to seek to understand the use of  
24 escalation values by PEF, yet no clear explanation has  
25 been forthcoming from PEF, and no analysis by staff

1 regarding this issues has been evidenced.

2 It's important to note that no other FEECA  
3 utility used an escalation factor in developing their  
4 programs. The challenge to Commission staff is that  
5 the unnecessary cost problems are embedded deeply  
6 within the program design process used by the utilities  
7 and cannot be easily extracted and addressed.

8 SACE strongly encourages the Commission, or  
9 the Commissioners, if it approves PEF's rate mitigation  
10 plan, to direct PEF to revisit the rate mitigation plan  
11 for additional energy savings opportunities that will  
12 not increase costs with program design changes which  
13 will be more productive of savings. We believe there  
14 are many opportunities for PEF to do so.

15 We do not believe that this problem should  
16 inhibit PEF from undertaking these programs  
17 immediately, or from continuing or expanding existing  
18 programs. While it is within the prerogative of the  
19 Commission to approve DSM program portfolios that are  
20 unlikely to achieve its goal, it should only consider  
21 such a step after it has been shown that all program  
22 options have been exhausted to meet the utility's goals  
23 at the lowest cost to customers.

24 Thank you very much.

25 **MR. JACOBS:** Thank you.

1           Mr. Chairman, very quickly. I'll suggest  
2 that, first of all, staff and the Commission applies  
3 some important scrutiny to these programs. You have  
4 looked at some issues with regard to the cost of the  
5 programs, and you have made some requests to address  
6 those. We would humbly suggest to you that that  
7 process is not completed yet. As Mr. Larson has  
8 correctly pointed out, there are some significant and  
9 we think measurable opportunities to improve on these  
10 programs.

11           With all due respect, I think the approach of  
12 moving forward is the correct approach. We do need to  
13 get programs working. Staff's proposal to put in place  
14 the re-mitigation plan is one option to do that. It  
15 purports to say that it is not an adjustment of the  
16 goals. I would humbly suggest to you that if it walks  
17 like a duck, and quacks like a duck, it probably is,  
18 and so you are choosing not to enforce the goals in  
19 some way, form, or fashion immediately.

20           Now, rather than be totally critical of that,  
21 I see this maybe -- well, how could that be helpful?  
22 Because I think what ought to happen in that analysis  
23 is not only are you looking at ways to observe and  
24 mitigate the rate, I will suggest to you that you  
25 should also be looking for ways to maximize the

1 benefits to the public interest. And Mr. Larson has  
2 suggested to you ways that that can be done.

3 And so in addition to observing and  
4 monitoring the rate impact, we believe you ought to  
5 also be observing and monitoring ways that the cost  
6 structures of these programs can be further enhanced.  
7 That's what -- Commissioner Edgar, I was very happy to  
8 hear you cite to the intent of statute. That is what  
9 this statute says. It's not about -- totally, I should  
10 say, about rate impact, it's a balancing statute. You  
11 do have the opportunity to balance whether or not you  
12 do a rate case to bring about more energy efficiency.  
13 You can do that. And on Page 11 of the recommendation  
14 that seems to be not an option.

15 But if this statute tells you bring about  
16 more energy efficiency, and you can see ways that you  
17 can do that, and yet ensure that these companies can  
18 achieve a meaningful and a reasonable rate of return  
19 you can do that. It's not against the law. You may  
20 not want to do that in the interest of efficiency, but  
21 that's an option that you have. It is not off the  
22 table.

23 So what we want to suggest to you is that we  
24 believe -- this is perhaps a positive direction, but we  
25 are very concerned that it takes in consideration and

1 embrace the full scope of what we believe you have the  
2 authority to do here, and that is to figure out how to  
3 achieve that intent in that statute. And that, we  
4 believe, is not reflected fully in what you have before  
5 you today.

6 We want to applaud you for where you are.  
7 You have come a long way, and it has been interesting,  
8 but I think the Legislature clearly in 2008 made a  
9 change. They said we want to do more. We have to  
10 diversify. We have to figure out how to reduce our  
11 exposure to fuel volatility. That's what this is  
12 about. And I will end with this note. There was  
13 article in the paper, I think, just yesterday or the  
14 day before citing that they intended -- there was fear  
15 that in the northeast grid they will have outages based  
16 on the heat surge. And this article presupposed that  
17 one of the reasons those outages weren't realized was  
18 because New York, the District of Columbia, and other  
19 states embarked on aggressive energy efficiency and DSM  
20 programs previously and saw their peaks managed.

21 I suggest to you Florida has that same  
22 opportunity here, and we believe that we can achieve  
23 that and probably with even more pressing concerns.  
24 Florida imports all of its fossil fuels. It's a grid  
25 that is pretty much isolated, so I think those concerns

1 will be much more processing here in Florida. And with  
2 that, we thank you very much for your time.

3 **CHAIRMAN GRAHAM:** Thank you.

4 Ms. Kaufman.

5 **MS. KAUFMAN:** Good morning, Mr. Chairman and  
6 Commissioners. I am Vicki Gordon Kaufman, I'm with the  
7 law firm of Keefe Anchors Gordon and Moyle, and I'm  
8 here on behalf of the Florida Industrial Power Users  
9 Groups.

10 And like some of my colleagues at the table,  
11 we have been in this docket since its inception. And  
12 one thing I wanted to say as a preliminary matter, I  
13 know that you probably know that FIPUG is an  
14 organization of large industrial consumers. And  
15 sometimes we might forget, for example, one of our  
16 members is Publix, and Publix creates a lot of jobs.  
17 Publix has, you know, upper management, obviously, and  
18 they have maybe some of your children that, you know,  
19 work there while they're in college. They look where  
20 they are going to expand their stores, contract their  
21 stores, open new stores.

22 We have hospitals that are members of our  
23 group. NASA is a member of our group. So even though  
24 we are thought of as large consumers, and we are, at  
25 the end of the day these companies create jobs and

1 employ people, and many of them have opportunities to  
2 locate in other states. And I can assure you that when  
3 they make that decision, one of the many things they  
4 look at is the cost of electricity, because for FIPUG  
5 members, the cost of electricity is, in most instances,  
6 their largest variable cost.

7           If you look at the original plan of Progress,  
8 and you look at what has now been called the rate  
9 mitigation plan, we think you're moving in the right  
10 direction, but we don't think that you have gone far  
11 enough. And I just want you to look at the chart on  
12 Page 18, which is Table 13. As I understand that  
13 chart, that's based on 1,200 kilowatts, which is what  
14 you typically consider to be the average residential  
15 customer. And, for example, you can see in 2012 that  
16 average customer is -- their bill is going to go up  
17 over \$5.

18           Now, I want to tell you that for FIPUG  
19 members, depending on their size, their bills are going  
20 to go up by thousands of dollars. Maybe, again,  
21 depending on the size, hundreds of thousands of  
22 dollars. And clearly that has an impact on all the  
23 decisions that they make. And so I think as  
24 Commissioner Edgar and others might have suggested, we  
25 need to take a hard look at whether now is the time to

1 impose these kind of costs.

2 It was interesting to me to hear the prior  
3 item and the interest, rightly so, in economic  
4 development, which we all know is important in terms of  
5 job creation. That was a step that may create more  
6 jobs. You also have to look to the other side of the  
7 equation, which is, perhaps, inhibiting job growth; or,  
8 as we all know, companies have shut down, and they have  
9 let people go, they have downsized. So we think that  
10 rate mitigation, and we have said this from the  
11 beginning, is very important. And I don't disagree  
12 that it has to be balanced with conservation, but I  
13 think you also have to take into account the era that  
14 we are in right now, and ask yourself is this the time  
15 that we want to be imposing these kind of costs.

16 Not to stray into another docket, but soon  
17 you will be hearing the nuclear cost-recovery docket,  
18 which imposes additional charges. So, again, this  
19 isn't a big charge, but it is one of many charges that  
20 all ratepayers face.

21 In regard to Progress Energy's plan, as  
22 Commissioner Edgar mentioned, it has been a long time  
23 in this process. We think a lot of the data may be out  
24 of date. We think that there are issues that have not  
25 been addressed or looked at. We have discussed with

1 you in the past what we call the opt-out for industrial  
2 customers that have their own conservation programs and  
3 pay for those programs out of their own capital.

4 That's something that hasn't been looked at. We have  
5 been concerned for a long time about value of the  
6 interruptible credit and the fact that it is way below  
7 what it should be. Again, that is something that has  
8 not been looked at.

9 So we think that the company is going to  
10 offer you some options of ways that we might proceed,  
11 and some of those FIPUG would support because we think  
12 we need to look at what the current situation is now,  
13 not only in terms of our economy, but in terms of what  
14 the data is today.

15 As for SACE's comments, certainly we are in  
16 favor of effective, efficient program design. So if  
17 there are places in program design that should be  
18 reviewed because they are not as cost-effective as they  
19 should be, I'm sure that we support that, and I  
20 wouldn't doubt that the company would support that, as  
21 well.

22 So I guess my message to you is to think and  
23 look carefully at the costs that these type of  
24 programs, even in the rate mitigation plan, would  
25 impose on all consumers in Florida, including big

1 business. And I think it might be time for a relook.  
2 And if I have the opportunity, I would appreciate a few  
3 minutes to perhaps comment on what Progress Energy is  
4 going to tell you. Thank you.

5 **CHAIRMAN GRAHAM:** So, Ms. Kaufman, you plan  
6 on going back to your clients and letting them know  
7 that Florida Power and Light is offering 20 percent  
8 rebates on economic development?

9 **MS. KAUFMAN:** They already know that.

10 **CHAIRMAN GRAHAM:** Okay. I just want to make  
11 sure that we are moving.

12 **MS. KAUFMAN:** As soon as that tariff popped  
13 up, they knew about it.

14 **CHAIRMAN GRAHAM:** Okay. Thank you.  
15 Progress.

16 **MS. TRIPLETT:** Thank you, Mr. Chairman and  
17 Commissioners. Again, Dianne Triplett for Progress  
18 Energy. And we appreciate the opportunity today to  
19 provide comments.

20 I agree this has been a complex and iterative  
21 process and one that -- it started before I even joined  
22 the company, and so it has been interesting to read the  
23 history of the development. And I do think that there  
24 is a balance that needs to be struck between achieving  
25 energy efficiencies and determining the appropriate

1 rate impact to customers in particular during these  
2 difficult economic times.

3           You know, Ms. Kaufman referenced -- she maybe  
4 stole a little bit of my thunder about our ideas on  
5 further ways that the Commission could -- to strike the  
6 appropriate balance and perhaps get the rate down a  
7 little bit more. I certainly agree that there are some  
8 things that have changed in the more than a year and a  
9 half, I think, that has passed since the initial  
10 technical potential study and the development of the  
11 goals. And I think it would be helpful to perhaps  
12 consider taking a look at that. Either completely  
13 redoing, or perhaps just, you know, not recreating the  
14 wheel, but updating what makes sense and plugging in  
15 new information. I think that would also give us the  
16 opportunity to address the disparities in the goals.

17           And I think that we have presented that  
18 information, and I've got graphs I can show you again.  
19 But, you know, as a percentage of retail sales,  
20 Progress Energy is much higher than other utilities,  
21 and we have theories about why that is, but it is not  
22 entirely clear as to why that happens. So going back  
23 to the beginning, so to speak, perhaps could help clear  
24 that up on a going-forward basis.

25           We also, you know, at the beginning of this

1 process, after the technical potential study was  
2 completed, Progress came in with a plan that was based  
3 on E-RIM, which was the traditional test that the  
4 Commission was familiar with in terms of approving  
5 plans, and so that could be an option to go back and  
6 look at that.

7 I certainly think that, Commissioner Edgar, I  
8 was taking notes when you were writing about -- when  
9 you were speaking, rather, about the fact that some  
10 groups are able to take advantage of programs more than  
11 others. And I certainly think that with the rate  
12 mitigation plan we developed a plan that limited  
13 cross-subsidization, but it didn't completely eliminate  
14 it. And the problem with setting a goal that's too  
15 high is that you are going to have to offer programs  
16 that not everybody can take advantage of. You now, a  
17 lot of our customers don't have pools, so they can't  
18 take advantage of a pool pump, yet, you know, they may  
19 be paying for that. So I would certainly agree that  
20 that is an important consideration.

21 I just wanted to also briefly touch on a few  
22 of the things that Mr. Larson said. I thought it was  
23 interesting that he mentioned that SACE has been  
24 involved with energy efficiency issues for 25 years,  
25 because Progress Energy has been doing demand-side

1 reductions and running programs for 30 years. So we,  
2 too, have a lot of experience in the entire state of  
3 Florida, not only Progress Energy, but with  
4 implementing good demand-side management programs and  
5 plans and really achieving a lot of energy savings.

6 And I think that that's one of the reasons  
7 why SACE has pointed out a lot of comparisons to our  
8 plans as compared to other utilities in the southeast,  
9 some in the midwest, and out in Arizona. And I think  
10 you have to be careful when you compare Florida  
11 utilities, in particular, to other jurisdictions  
12 because there are so many differences. One of the  
13 differences is that we have been doing this for  
14 30 years, so when you already have a plan in place that  
15 you are already getting a lot of market penetration, it  
16 takes more money, and it takes different strategies to  
17 implement -- to go to the next level.

18 I also think, in particular, with respect to  
19 the comments on the comparisons of PEC, or Progress  
20 Energy Carolinas, in essence, it's an apples to oranges  
21 comparison. You know, they're looking at a savings of  
22 one year of actual data for Progress Energy Carolinas  
23 as compared to a ten-year average for Florida.

24 In addition, the lighting aspect is different  
25 for the two utilities. In Florida, 70 percent of our

1 customers already have at least one CFL light bulb, so  
2 you are not going to get the market penetration that  
3 you can see in another jurisdiction that folks are not  
4 already putting in the light bulbs.

5 And as far as the escalation factors and the  
6 costs overall, I mean, I believe that it's a little  
7 insulting to staff and to everyone involved in this  
8 process to imply that everyone has not taken a really  
9 hard look at our numbers and the costs that are in our  
10 programs. We have answered multiple data requests. We  
11 have had lots of informal meetings. I think it has  
12 been a really good exchange of information. And I  
13 think that our programs are solidly developed, they are  
14 cost-effective, and they're the low-cost option.

15 It just so happens that when you are trying  
16 to hit a high goal, you have to spend more money, and  
17 so the goal -- it goes hand-in-hand. The higher the  
18 goal, the more money you have to spend. And that's the  
19 balance that you will have to strike, and hopefully  
20 this conversation will be helpful.

21 We're ready to answer any other questions.  
22 Thank you.

23 **CHAIRMAN GRAHAM:** Thank you.

24 Commissioner Balbis.

25 **COMMISSIONER BALBIS:** Thank you, Mr.

1 Chairman.

2 And I appreciate all the comments from the  
3 parties. It's very helpful for me, personally, and I'm  
4 sure the other Commissioners to get a reminder of the  
5 positions. And, you know, unfortunately what I have  
6 found in my eight or nine months that I have been here  
7 is that I agree with each one of the parties. You all  
8 make very valid points, and so now my job and our job  
9 is difficult in trying to find a balance.

10 So with that, and there has been a lot of  
11 discussion about the current goals, and the -- I  
12 believe the term was slashing of the current goals, and  
13 I personally don't feel it is appropriate at this time  
14 to discuss the goals. The goals were set through a  
15 lengthy process that I believe are updated every four  
16 to five years, and the next upcoming goal process will  
17 be in the next two to three years. So I'd rather focus  
18 on the plan we have in front of us and look at what is  
19 an undue rate impact and what do we need to implement  
20 now and kind of focus. So my comments are really  
21 focusing on that rather than what the goals should be,  
22 because I think we will do that on a later date.

23 You know, several points I want to make  
24 starting with the compliance plan, and Progress'  
25 compliance plan. And staff can correct me if I'm

1 incorrect, but in looking at Table 1 on Page 5, again,  
2 focusing on undue rate impact, it looks like the  
3 maximum monthly rate impact is \$16.94 per month with  
4 the compliance plan. In a similar table for the rate  
5 mitigation plan, that results in a monthly increase as  
6 high as \$6.13. There has been a lot of discussion here  
7 on conservation measures and implementing conservation  
8 measures, which I think the statute is very clear on,  
9 but I want to be clear that Progress Energy and all the  
10 utilities currently have a DSM program in place.

11 And in reviewing what has been spent over the  
12 past five years, you know, I summarized based on the  
13 FEECA report, the latest FEECA report, that over the  
14 past five years customers have paid an average of two  
15 dollars per month for the implementation of these  
16 successful programs, and it has resulted in a 392  
17 megawatt reduction in winter demand. We have data on  
18 this. It is summarized in the FEECA report, which was  
19 submitted to the leadership in the legislature.

20 So we currently have successful programs in  
21 place. Again, at a cost of an average of two dollars  
22 per month, and I believe in 2011 the ECCR clause, which  
23 recovers that, is \$2.99 per month. And, again, staff  
24 can correct me if I'm wrong on that.

25 So over the past five years, Progress'

1 customers have paid upwards of \$340 million in  
2 implementation of these programs. So I want to be  
3 clear that there are programs in place. They are  
4 successful. You know, they have a two-dollar average  
5 impact. But now we are starting to get data coming in  
6 of the true effectiveness of these programs, which I  
7 believe, and, Commissioner Edgar, correct me if I'm  
8 wrong, at the time these goals were established that  
9 data was not there. So we are getting to the point  
10 where we are having true data. We are looking at the  
11 effectiveness, we are looking at the cost, and we are  
12 able to move forward.

13 And SACE made a couple of very good comments  
14 on avoiding the cost of new generation units, so I have  
15 a couple of questions for staff. And according to  
16 Progress' latest Ten-Year Site Plan, when is the next  
17 unit scheduled to come on-line?

18 **MR. BALLINGER:** Tom Ballinger for staff.  
19 That's a little lengthy question. The current Ten-Year  
20 Site Plan assumes CR-3 coming back into service  
21 shortly. With recent events, now we know that is not  
22 going to happen until 2014 or 2015. So the current  
23 Ten-Year Site Plan shows the next need, I believe, is  
24 in 2020 -- and I'll turn to my staff here. That's  
25 assuming CR-3 coming back on-line in the near term.

1           If CR-3 does not come back on-line, we have  
2 looked at it and the reserve margin shows that they  
3 would have adequate capacity above a 20 percent reserve  
4 margin until the year 2016. So even with CR-3 being  
5 off-line, they have enough generation resources to  
6 reliably serve through 2016. That's the preliminary  
7 numbers that they are showing there in the Ten-Year  
8 Site Plan.

9           **COMMISSIONER BALBIS:** Okay. And the  
10 incremental increase in demand-side management programs  
11 with either the compliance plan or the rate mitigation  
12 plan over and above the current DSM programs that are  
13 in place. If we continue with the current plan and not  
14 implement either the mitigation plan or the compliance  
15 plan, does that accelerate the need for that unit in  
16 2016?

17           **MR. BALLINGER:** It would accelerate it  
18 slightly. I don't think it would do much to it,  
19 because we are only talking a two or three-year window  
20 until we reset goals again to relook at this. The  
21 existing plans are also fairly entrenched and  
22 significant in providing savings, and a lot of these  
23 plans don't really provide the bulk of the savings  
24 until the outer years. So my guess is, yes, it would  
25 accelerate the need for power somewhat. Would it shift

1 it a year? I don't think it would, in my judgment.

2 **COMMISSIONER BALBIS:** So the next unit would  
3 continue to be 2016, in your estimation?

4 **MR. BALLINGER:** From what I know today, yes.

5 **COMMISSIONER BALBIS:** And you mentioned the  
6 reserve margin. What is Progress' current reserve  
7 margin?

8 **MR. BALLINGER:** Hold on, I have that. It's  
9 around 25 percent, I believe.

10 **COMMISSIONER BALBIS:** And I asked that  
11 question based on --

12 **MR. BALLINGER:** I'm sorry, and that's without  
13 CR-3.

14 **COMMISSIONER BALBIS:** Without CR-3, okay.  
15 And I based that question on SACE's very valid argument  
16 on what's happening in New York, and the avoidance of  
17 blackouts, et cetera, and I believe the reserve margin  
18 does play into that. And keeping an adequate reserve  
19 margin, which this Commission does not set, is to avoid  
20 those types of situations. So I thank SACE for  
21 bringing up that point.

22 I just want to summarize that my points are  
23 made, and leave it up to the remainder of the board,  
24 but just summarizing, Progress' customers in 2011 are  
25 paying \$2.99 for current DSM programs that, based on

1 the latest FEECA report, have been successful and have  
2 resulted in significant savings. And, again,  
3 implementation of either the compliance plan or rate  
4 mitigation plan, which range in monthly impacts of  
5 \$6.13 all the way up to \$6.94 does not accelerate  
6 significantly even a year the next unit that is  
7 planned, and we will be undertaking a thorough goals  
8 review in the next couple of years. I just wanted to  
9 summarize at this point, and turn it over to the  
10 remainder of the board.

11 **CHAIRMAN GRAHAM:** Tom, I've got a question  
12 for you. When did the reserve margin go from  
13 15 percent to 20 percent?

14 **MR. BALLINGER:** I want to say early '90s.

15 **CHAIRMAN GRAHAM:** And why did it go up from  
16 15 to 20?

17 **MR. BALLINGER:** Excuse me?

18 **CHAIRMAN GRAHAM:** Why did it go from 15 to  
19 20?

20 **MR. BALLINGER:** Why did it go? I'll give you  
21 my opinion of what was involved in the hearing. That  
22 was a time where there was competition, or the thought  
23 of inducing competition or introducing more competition  
24 in the generation market. We had nonutility  
25 generators, private entities wanting to build

1 generating plants and sell on the spot market, if you  
2 will. We were also seeing utilities, at that the time,  
3 seeing reserve margins decline significantly and not  
4 building facilities. We will saw reserve margins --  
5 projected reserve margins getting down to 10, or  
6 8 percent in the near term, and no plans for that  
7 because everybody was kind of frozen because of this  
8 competition thing.

9 We had a hearing, a process to look at what  
10 should the reserve margin be. At that time at the  
11 conclusion of it there was a stipulation reached by the  
12 three large investor-owned utilities -- Florida Power  
13 and Light, Progress Energy Florida, and TECO -- to go  
14 from their current planning assumption of 15 percent to  
15 20 percent and use that as their planning criteria. It  
16 was adopted by the Commission, and that's what's in  
17 place now.

18 **CHAIRMAN GRAHAM:** Were we having blackout  
19 problems or anything along those lines when they were  
20 set at 15 percent?

21 **MR. BALLINGER:** No. We weren't having  
22 blackout problems. We were, as we were getting closer  
23 to 15 and down, we were getting some more interruptions  
24 of the interruptible customers. They were starting to  
25 complain a little bit, so that was going on. Other

1 than that, no.

2 **CHAIRMAN GRAHAM:** If we were at 15 percent  
3 reserve, how long would Progress have? Rather than  
4 2016, how far would that push that back?

5 **MR. BALLINGER:** If you were to go to a  
6 15 percent reserve margin? Without CR-3, they would be  
7 good until 2018.

8 **CHAIRMAN GRAHAM:** Okay. Thank you.

9 Commissioner Brown.

10 **COMMISSIONER BROWN:** I did want to thank the  
11 parties for coming out and speaking. And I, like  
12 Commissioner Balbis, also agree with pretty much  
13 everything that each of you have said, at least a  
14 little bit. But talking about the goals and when they  
15 were originally set, I wanted to get a little bit more  
16 historical knowledge about that. And really a question  
17 for staff or Mr. Ballinger. When these goals were  
18 originally set, were they readily achievable from a  
19 cost-effective measure when they were initiated?

20 **MR. BALLINGER:** Maybe it would be better if I  
21 tell you the history of how we got there before I  
22 answer yes or no.

23 **COMMISSIONER BROWN:** That would be great.

24 **MR. BALLINGER:** We had the hearing, there was  
25 a new statute in 2008 the Legislature passed, and this

1 was the first time that we had to implement the  
2 statute. It previously took us about 18 months,  
3 actually almost two years from the start, and we had  
4 workshops well before the dockets were established to  
5 talk about how to encourage more conservation. We were  
6 hearing the message that the legislature wanted more  
7 conservation. So we took the initiative even before  
8 the dockets were open to hold workshops with all  
9 parties and to discuss ways we could do things.

10 The new legislation required a technical  
11 potential study, which many of these parties were  
12 involved in as a collaborative effort to help develop  
13 the methodology for doing it. A consultant, Itron, was  
14 hired to put together the technical potential study,  
15 which is basically what is physically achievable in the  
16 State of Florida. If you replaced every light bulb,  
17 all those kinds of things. So it gives you the broad  
18 net. From that you would whittle down, based on  
19 economics, of what becomes achievable and economic to  
20 customers based on certain cost-effectiveness tests.

21 At the conclusion of the hearing, staff in  
22 the original recommendation was basically a compromise,  
23 if you will, or a no, we didn't believe either side.  
24 The utilities came in with what Ms. Burnett said was an  
25 E-RIM, which is, yes, it's based a bit on the

1 Commission's traditional thing of using RIM, which is  
2 the rate impact measure test, but it added the E  
3 component, which was adding cost estimates for carbon  
4 and greenhouse gases.

5           The new legislation said the Commission  
6 should consider cost of federal and state cost of  
7 greenhouse gases. They went ahead and included it.  
8 But in staff's mind, it was a little unclear because of  
9 a couple of reasons. One, there is no legislation yet  
10 imposing costs of greenhouse gases. There was thought  
11 to be some, so it is a valid concern to look at, but  
12 it's not a known yet.

13           The utilities all varied in their methodology  
14 of how they did it. They had it starting in different  
15 years in their tests and different amounts. It was all  
16 over the board, and staff was saying we can't believe  
17 any of these, really, so we don't really believe the  
18 E-RIM numbers that were proposed.

19           On the other end of the spectrum, you had  
20 intervenors of SACE and other ones proposing goals  
21 closer to the technical potential, which was much  
22 higher. They were also goals based not so much on the  
23 technical potential, but on percent of sales. To just  
24 say make the goals one percent of sales, and that's how  
25 you get the goal. It totally -- I don't want to say

1 ignored cost-effectiveness, but it went about it in a  
2 whole different approach. So staff said no, I don't  
3 trust those numbers. And our original recommendation  
4 to the Commission was to -- given that we have existing  
5 programs that are going on, we don't really have enough  
6 to be persuaded one way or the other. Keep the  
7 existing programs going.

8 The end result of that was, believe it or  
9 not, some of the goals that would have come out of that  
10 recommendation were higher for some utilities, but they  
11 were lower for some others. That concerned the  
12 Commission, so they direct staff to go back and come  
13 back with goals that were higher than what the  
14 utilities proposed across the board.

15 Staff went back and came back with a  
16 recommendation that was based on the E-TRC test. That  
17 resulted in getting you numbers that were higher across  
18 the board. There was also discussion at the prior  
19 agenda about how to address an issue called free riders  
20 that's in our rule, or it's free riders. It's the  
21 concept. And that is the concept of people who will do  
22 a conservation program anyway without any incentive,  
23 and the thought being you don't need to provide an  
24 incentive to somebody to do that. A subsidization, if  
25 you will, to do that.

1           Traditionally, how that has been done is  
2 looking at payback. If you take something with a quick  
3 payback of two years, you could do one year or three  
4 years, but three years has been used for many years to  
5 screen that out. But if a measure is so cost-effective  
6 that it pays for itself in two years, you don't need an  
7 incentive, an additional incentive to do that. You  
8 should do that on your own.

9           Through the technical potential and that, it  
10 was found that a lot of the technical potential that  
11 was available fell into that two-year payback. And  
12 staff's original recommendation said those measures  
13 that created that, such as air conditioning  
14 maintenance, efficient pool pumps, some other things  
15 like that, compact fluorescent bulbs, rather than  
16 addressing those incentives, address that through  
17 education. Talk about those measures, and make sure  
18 the public knows about it and are aware of it, that it  
19 is cost-effective for them, and then they do it on  
20 their own.

21           There was discussion about that, that the  
22 Commission wanted to maybe put those in the goals  
23 somehow. So at our second recommendation, we had a  
24 couple of options that the Commission wanted to do  
25 that. We parceled out the top ten measures of the

1 two-year payback that we had gotten through data  
2 requests through the hearing and broke them into  
3 residential and commercial. The first tier being  
4 residential, and the second would be the whole thing.  
5 And the two options that the Commission presented at  
6 that time is if you wanted to add some two-year payback  
7 measures, you could take just the residential portion,  
8 or you could take the whole top ten list for each  
9 company, and they chose to take the top ten  
10 residential. So the two-year payback measure was only  
11 added to the residential goal of each utility. That's  
12 how we got to where we are at.

13 So cost-effective, yes. Cross-subsidization,  
14 yes. So that's why it's a yes and no question,  
15 depending on what you mean by cost-effective.

16 **COMMISSIONER BROWN:** Well, I guess when these  
17 goals were established, were they a little lofty? You  
18 said that the Commission, the previous Commission had  
19 set the goals at a higher level than what the current  
20 DSM programs were in place. Were they a little lofty?

21 **MR. BALLINGER:** They were higher than what we  
22 have seen. But, again, the original recommendation  
23 came up with some goals that were higher than what the  
24 utilities have proposed in this proceeding, which  
25 didn't surprise me at the time. In 2008 and 2009 we

1 were just entering the recession we have been into. We  
2 have seen load decrease. We had also, the previous  
3 years before that, certified the need for several power  
4 plants. We didn't have a need for generation for many  
5 years. So if you have a lot of generation, you don't  
6 really need to do a lot of conservation as well. So it  
7 didn't strike me as odd that we saw some reduced goals  
8 for the next ten-year period.

9 **COMMISSIONER BROWN:** Okay. Thank you.

10 And I just have a question for Progress  
11 regarding the current -- the rate mitigation plan that  
12 we have before us. I'm trying to understand what  
13 happened. Why are Progress' goals so much higher than  
14 the other IOUs?

15 **MS. TRIPLETT:** That's the million-dollar  
16 question. You know, that's something that we have  
17 tried to look at. The problem is that Progress knows  
18 what we provided to Itron to do the technical potential  
19 study, and then we don't know what the other utilities  
20 provided. We can see everybody's output, but we don't  
21 know what the inputs were.

22 But based on some of the things we can look  
23 at and some of the trends we can see, we think a couple  
24 of things may have happened. The first thing being  
25 that we bundled measures together and then put them

1 forward as here is one program that has a lot -- when  
2 you unbundle it, it has a lot of potential. And a  
3 program may have the same name as another utility's  
4 program, but when you unbundle it, we just have a lot  
5 more packed in. So that may be driving some of it.

6 And to be clear -- let me back up. However  
7 much you say is technically potential in your territory  
8 for a particular utility, the higher that number is  
9 then the higher, you know, the corresponding goal will  
10 be. So if we had bundled measures and programs that  
11 had higher technical potential, then the goal would be  
12 higher.

13 I think that the other thing that happened  
14 was with the ten-year paybacks, as Mr. Ballinger  
15 mentioned, the eight of the ten, that just happened to  
16 be, you know, happenstance were residential, and they  
17 just had a very high impact for us. So I think that,  
18 coupled with the bundling, it just exacerbated the  
19 problem. But, again, it's hard for us to definitively  
20 say that this is what is driving the disparity, but  
21 that is sort of our best guess.

22 **COMMISSIONER BROWN:** And Ms. Kaufman  
23 referenced that the data -- I think it was Ms.  
24 Kaufman -- referenced that the data is inaccurate or  
25 may not be the most accurate information at this point.

1           **MS. TRIPLETT:** Right, and let me be clear.

2           It was certainly not accurate at the time we presented  
3           it, but it has been, you know, a year and a half, you  
4           know, maybe almost two years since some of that initial  
5           data was developed. Certainly for the rate mitigation  
6           plan, that data is now a year old, and technology has  
7           changed. This is a very fast-moving market. I mean,  
8           an example I think that is relevant is the Commission  
9           approved the 10 percent spend for renewables, the PV  
10          programs. And we have just seen, you know, vast  
11          changes with what suppliers are willing to put on  
12          folks' home and what the cost -- you know, their impact  
13          is, and what customers are actually doing. And that  
14          has just been in the span of, you know, six months. So  
15          it's just a combination of just the time and things are  
16          changing quickly.

17                 So I don't know if it is inaccurate, but I  
18                 think it would probably be fair to say that  
19                 technologies have changed, and that it could stand to  
20                 be updated and, you know, be brought up to date.

21                 **COMMISSIONER BROWN:** Okay, thank you.

22                 **MS. TRIPLETT:** You're welcome.

23                 **CHAIRMAN GRAHAM:** Commissioner Edgar.

24                 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

25                 I would like to say I think that Tom did an excellent,

1 accurate synopsis of the process that we went through  
2 as a Commission with participants and staff looking at  
3 the goals, and, again, kind of bringing us to where we  
4 are today. And I appreciate that.

5 Commissioner Brown, you asked and used the  
6 term lofty. I don't know that I had thought of it as  
7 lofty, but I can say this -- and I have refreshed my  
8 memory by going back through the transcripts -- that  
9 the term aspirational and robust were used frequently  
10 during the discussions. And certainly driven by the  
11 language of the statute and coupled with a renewed  
12 interest in looking at demand-side management, and  
13 energy efficiencies, and then how also to bring  
14 renewables into that discussion. My belief is that  
15 when those goals were adopted that it was with the  
16 intent of the Commission to push some, and that we did  
17 adopt three changes in policy that are significant.  
18 And one is by using what we call the E version of the  
19 three review tests. I note in the statute it does say  
20 that we are to consider the cost of those by state and  
21 federal regulation on the emission of greenhouse gases.

22 I will point out that at that point in time  
23 there were proposals pending at the federal level and  
24 at the state level. Certainly none of us, me included,  
25 have that crystal ball. But from my own perspective, I

1 believe that there was a belief by many that there was  
2 a strong possibility that at the federal level, in  
3 particular, there would be some additional regulation  
4 passed on that count. That, as we all know, has since  
5 not occurred. Again, changed circumstances.

6 So that was a change in policy. I do believe  
7 that by considering it, we did follow the statute. I  
8 also believe, if that is something that we wanted to  
9 take a look at and consider, that that would be in  
10 keeping with the statute, as well.

11 The other two were the use of the RIM and the  
12 TRC test. As has been stated, I think, traditionally  
13 for many, many, many reasons, the Commission has used  
14 RIM as kind of the standard for review, although  
15 looking at other tests for analysis and comparative  
16 purposes. With the adoption of the goals, the  
17 Commission did take into account and move towards the  
18 TRC, and, again, including the E or carbon cost  
19 component with it.

20 And then -- and Tom did an excellent job on  
21 this -- the discussion with what I would term the  
22 two-year payback measures, and that is something that  
23 is, you know, kind of a philosophical well-minded  
24 like-minded people could disagree on whether that is a  
25 good policy and who benefits and who doesn't, and if

1 the ultimate goals are more readily achievable, if  
2 indeed that is a good way to move forward. Again, that  
3 is a discussion.

4 But my point being I believe that the goals  
5 that we established were considered to be robust and  
6 aspirational, as I believe a goal should be. A goal  
7 should be aspirational. And that we did incorporate  
8 three changes in policy that were very much in keeping  
9 with the statute, and very much in keeping with our  
10 understanding of the information in the world as we  
11 knew it at the time.

12 But I also would reiterate that we had ample  
13 discussion about trying to reserve flexibility as  
14 dictated by the statute, and that as we moved forward  
15 we would look seriously at the potential rate impact,  
16 and inclusive in that is the benefit to the ratepayers  
17 and to the customers.

18 I have now had some discussion with  
19 Mr. Cavros who was representing SACE, and some of the  
20 pieces as we moved forward about the need for value to  
21 the customers and cost-effective programs and that  
22 review. I'm not as sure how to take that to the next  
23 level, but I very much agree that that is a very  
24 important component and necessary for these programs to  
25 be successful and achieve the efforts that we're all

1 trying to.

2 So I just wanted to sort of add that to Tom's  
3 explanation of what we looked at and where we got to.  
4 And, again, say I do believe the goals at the time were  
5 and still are robust and aspirational. I think that is  
6 in keeping with the statute, and we did incorporate  
7 what I would term three changes in policy with the  
8 understanding that we would continue to be looking as  
9 we moved forward.

10 **COMMISSIONER BROWN:** Thank you, Commissioner  
11 Edgar.

12 And just as a follow up to Mr. Ballinger,  
13 given that times have changed, would it make sense to  
14 reopen the goal proceeding now rather than wait until  
15 2000-and-what, '14 or '15? Does it make sense now that  
16 we have changes?

17 **MR. BALLINGER:** That is your choice.

18 (Laughter.)

19 **COMMISSIONER BROWN:** Yes, it is.

20 **MR. BALLINGER:** I have learned. Let me  
21 explain where you are faced now. The current schedule,  
22 we are required by statute to review goals at least  
23 every five years. So the next proceeding would require  
24 new goals and new programs by January 1, 2015. If you  
25 back up from that, that means we have to have new goals

1 in place by third quarter 2014 for this kind of new  
2 programs and all that stuff. Take back the 18 months  
3 or so, that means about mid-2013 we are going to be  
4 starting the process up with the technical potential at  
5 that point. But 2015 is when you would do that.

6 If you were to start a proceeding today and  
7 open a proceeding today, it's really driven by when you  
8 can get a technical potential study done. Could that  
9 take a month, six months, I don't know. That's a  
10 question I would suggest you ask the utilities, but --

11 **COMMISSIONER BROWN:** How long did it take  
12 previously, nine months?

13 **MR. BALLINGER:** It took almost a year, but  
14 that was also developing the methodology of how to do  
15 it and discussions. Hopefully, we've learned a lot.  
16 Maybe the methodology part can be done, maybe it's just  
17 as simple as updating the population forecast, and if  
18 there is any other new things out there, I don't know.  
19 That is an unknown. But if we were to get that updated  
20 technical potential study in, say, later this year,  
21 it's a possibility we could be done by 2012 with the  
22 proceeding, and have new goals and new programs by  
23 2013. So the real answer, I think, to your question is  
24 if you start it now you save yourself maybe two years  
25 of staying with the staff where we are at now.

1                   **COMMISSIONER BROWN:** I would be interested to  
2 hear from the parties on the feasibility of completing  
3 a technical feasibility study.

4                   **MR. JACOBS:** Thank you, Commissioner Brown,  
5 for that question, and also for your other inquiry.  
6 Let me directly answer your first question, if I may,  
7 your earlier question. The last potential study had a  
8 substantial rigor and controversy. I suggest to you,  
9 given this outcome, that very little of that has gone  
10 away. I can assure you that many of the issues that  
11 were raised, excuse me, with regard to the potential  
12 study from our perspective are even more focused, given  
13 now where we sit today, given how we see the programs  
14 coming about, how things are occurring. So I would  
15 suggest to you that it would not be a simple process.

16                   Now, to go back, if I may, just briefly. The  
17 statute -- and I think, Commissioner Edgar, I would  
18 adopt her interpretation, the statute was not looking  
19 to say how do we impose higher goals. I think the  
20 intent of the statute was to say we, as a state, have  
21 elected to rely more on these resources in contrast  
22 with fossil fuels. And so that I would suggest to you  
23 that the perspective of the statute is -- and, quite  
24 frankly, really interesting now with such a high  
25 reserve margin based on installed units, and you do now

1 have rules, which I'm sure you are aware of that, you  
2 do now have rules that are going to begin to take  
3 effect.

4 And now the trend of those rules is to take  
5 off-line sitting plants. So the real question here  
6 today is what's going to happen when you start doing  
7 that, and what is going to be the costs you occur? Are  
8 you going to go with all new fossil fuel plants for  
9 these plants that you may take off-line to comply with  
10 the rules, or are you going to look at a more diverse  
11 portfolio. So I would suggest to you that's a much  
12 broader perspective than maybe we may be looking at and  
13 that we will bring to the table if we were to reopen  
14 these proceedings.

15 **MS. KAUFMAN:** Thank you, Commissioners.

16 I can't really give you, you know, a time  
17 frame for the technical potential study, because I was  
18 not heavily involved in that. But what I can tell you,  
19 and I think what we have all heard just from the  
20 discussion among all the parties here is a number of  
21 very, very large assumptions and events have occurred  
22 since the last time. And so however we get to it, I  
23 think that it is incumbent upon you to make your  
24 decision on the best information that you have. And I  
25 have to say again, yes, I was involved in all of that

1 policy that Commissioner Edgar discussed, and at times  
2 it was contentious, but the circumstances were very  
3 different at that time.

4 The changes that were made, particularly the  
5 change from the RIM to the TRC test was a very large  
6 shift in policy at a time that's very different from  
7 where we are right now. And I would suggest to you  
8 that it would be better, regardless of whether it's  
9 contentious or not, to move forward with a new study  
10 that would be more up-to-date and reflect more of the  
11 circumstances where the companies and all the customers  
12 are.

13 So that would be our position. Whether it  
14 just takes an update, or whether it will be another --  
15 you know, there will be some dissension, as Mr. Jacobs  
16 described, I don't think that should be the focal point  
17 of the decision. The focal point should be let's get  
18 the information that we need to make a decision that's  
19 appropriate for consumers today. Thank you.

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

22 Yes, we do think it's feasible to go back and  
23 take a look and redo the technical study. In terms of  
24 timing, I think it depends on whether you are talking  
25 about an entirely new study, I mean, disregarding the

1 previous one and starting afresh. I think that also  
2 depends on are we going to go with the same vendor, or  
3 is there an RFP process. But assuming that we use the  
4 same vendor and start anew, ballpark I would say 10 to  
5 12 months just on the work needed to do the study. And  
6 then you would have the additional hearing time which,  
7 you know, would be subject to the Commission's calendar  
8 and how fast we want the proceeding to go.

9 If we were to just update the existing study,  
10 that, again, work needed to do it, it would probably be  
11 more like six months. But, again, those are ballpark,  
12 and it depends on how involved we want to get. But  
13 that is my best guess. And certainly Progress is  
14 willing, if that's the Commission's pleasure, to go  
15 back and take a look at that. We would be fine with  
16 that.

17 **MR. LARSON:** Mr. Chairman.

18 **CHAIRMAN GRAHAM:** (Inaudible; microphone  
19 off.)

20 **COMMISSIONER BROWN:** Well, if there is a  
21 question, I'd like to hear it first.

22 **MR. LARSON:** If I may just add a little bit  
23 on the potential for a new goals docket. The issue  
24 wasn't really more in the technical area, and there may  
25 be very much the need to review or update some things

1 in that area. The issue we had was in transparency,  
2 and stakeholder engagement, and dealing with the  
3 economic and achievable potential in a more open way.  
4 We felt that the process was not complete in that area  
5 before, and that led, I think, to some of where we are.

6 I mean, really we entered the technical  
7 potential two-year payback items almost as an  
8 afterthought, and it really wasn't evaluated  
9 economically properly. And if we were to move into  
10 considering new goals at this time, I would urge you to  
11 advance the programs temporarily or provisionally or  
12 conditionally so that we can continue to gain energy  
13 efficiency, even though we may accelerate the schedule  
14 for a new goals docket. But I would urge you to do it  
15 in a more transparent and open stakeholder way.

16 **CHAIRMAN GRAHAM:** Thank you.

17 **COMMISSIONER BROWN:** Thank you.

18 And I would just like to make a comment to my  
19 fellow Commissioners that I do believe it is incumbent  
20 upon us to make a decision based on the best  
21 information we have and the most current information  
22 that we have. So I would entertain opening up a new  
23 docket to revisit the goals at this point.

24 **CHAIRMAN GRAHAM:** Commissioner Brisé.

25 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

1           This is to staff. In talking about the  
2 goals, we have talked specifically about Progress, but  
3 we can talk about all seven that the goals are  
4 applicable to. Are any of the utilities in line to  
5 effectively meet the goals at any point during the  
6 period that we're talking about?

7           **MR. BALLINGER:** I think we had a workshop and  
8 we have gotten some preliminary data. It's a little  
9 difficult. TECO might be reaching the annual goals,  
10 even with their existing programs, and they have just  
11 started implementing some new programs. Some of the  
12 others I'm not quite sure of. We are collecting data  
13 to present you the FEECA report later this year. And,  
14 again, it's going to depend on what year. The new  
15 goals were in place for 2010, but some of these  
16 utilities didn't have programs approved until 2011, so  
17 to say that they didn't meet the goals, would that be a  
18 fair -- that is what I am faced with is, is that a fair  
19 comparison or not.

20           **COMMISSIONER BRISÉ:** Okay. With that, I  
21 think it probably would make sense to take a second  
22 look at the goals. I'm not sure we want to go as far  
23 as opening a docket, but I think I would potentially be  
24 open to looking at that.

25           The other thing I want to talk about, the

1 context of the statutes. I happened to be in the House  
2 at the time and on the committee at the time that that  
3 discussion was taking place. And I think, as Ms.  
4 Kaufman said, it was a completely different time.  
5 There were different trends that were working over  
6 there. And if we look at the statute, it talks about  
7 DSM, but it also includes the use of solar, renewable  
8 energy sources, cogeneration, load control systems. So  
9 I think we are looking at this at this moment from the  
10 perspective of we have to accomplish all of this  
11 conservation and energy efficiency from DSM.

12 And I think the Legislature was looking at a  
13 much broader perspective at the time to include some  
14 other components that they thought would have come into  
15 line at this point. And I think it's almost unfair to  
16 look at this from the perspective of we are going to  
17 achieve all of this efficiency strictly through DSM.  
18 So with that, and if the goals were established based  
19 upon that concept, I think that the goals may need  
20 revisiting just to make sure that we are all on the  
21 same page with respect to what we ought to be looking  
22 at at this particular time.

23 **CHAIRMAN GRAHAM:** Commissioner Edgar.

24 **COMMISSIONER EDGAR:** Thank you.

25 And thank you, Commissioner Brisé. That was

1 very helpful.

2 I think what's before us falls into three  
3 pieces, in my mind, the way I look at things. One is  
4 the information that we have, information that  
5 decisions were based upon, changed circumstances, et  
6 cetera. And in that, the technical feasibility study  
7 was certainly a core piece of everything that moved  
8 forward. And, yes, things have changed.

9 The second piece is the goals themselves,  
10 which, again, are based upon the process and the  
11 considerations laid out in the statute, but yet, again,  
12 recognizing were considered to be aspirational. As a  
13 sideline, Commissioner Brisé, I had a conversation with  
14 the staff the other day about my understanding at the  
15 time of those discussions that we were supposed to look  
16 a little more and try to incorporate some supply-side  
17 measures and efforts. And the way the statute was  
18 written, I know the staff struggled, and we struggled  
19 with how to do that, but that is just another piece  
20 that isn't really before us with what we have now, but  
21 that I do believe was intended to be part of the larger  
22 thought process and the larger intention.

23 So the core information, technical  
24 feasibility update is one piece, the goals themselves,  
25 and what exactly a goal means, and then the third is

1 the plans and programs. And it's the plans and the  
2 programs that are a part of those plans that is  
3 actually for these two companies before us today. So I  
4 think it is what is the best, most effective way to  
5 move forward, recognizing those separate pieces.

6 We have talked a little bit about should we  
7 open a docket, or seven dockets, and we would need to  
8 talk procedurally with our legal staff as to what would  
9 be the best way and pros and cons, if, indeed, they  
10 exist, over one or seven if we wanted to go forward  
11 with that.

12 I will say I always have some hesitation,  
13 because you never know for sure where that's going to  
14 take you, and how much else is going to change in that  
15 process. Not meant as a slight, because as I have  
16 said, I think our staff and Mr. Ballinger have done an  
17 excellent job with all of this, but I can point out  
18 that back in November of 2009, and the Commission was  
19 debating a goal proposal, and we, as a body, directed  
20 our staff to go back, revise, and bring something back  
21 in December, a month later, or a couple of weeks later.  
22 And at the time I asked on the record, okay, if we do  
23 that how long will it be before these plans and  
24 programs are before us and put in place. And Mr.  
25 Ballinger said May. Now, that would have been May of

1 2010, and here we are in the end of July of 2011 and we  
2 still have plans and programs.

3 And I apologize, Mr. Ballinger. It was the  
4 best answer at the time, and it could have been, but we  
5 had reconsiderations. You know, some things that as  
6 part of due process draw out and drag out. Again, well  
7 intentioned, but longer than sometimes we would  
8 foresee. And to open up the whole goals docket and  
9 processes, I think Commissioner Balbis said earlier  
10 that -- I think you said that you have some hesitation  
11 about doing that for those reasons. But that is one  
12 option that is before us. And realizing that we did  
13 have some changes in policy at the time, RIM and TRC,  
14 and the carbon or E-version, and the two-year payback,  
15 which I agree with SACE was something that came up a  
16 little later in the process and does, perhaps, warrant  
17 some additional analysis and thought processes.

18 So with all of that said, let me ask this  
19 question of staff. Separating the goals themselves and  
20 the plans and programs for the moment, if the  
21 Commission had a desire to look at the technical  
22 feasibility study and want to update that information,  
23 what would we need to do to do that? And I don't think  
24 I have asked that question before, but I'm wondering if  
25 there is a way to do that without necessarily

1 determining right now that we want to open all of the  
2 dockets to look at the goals. But if, then, we could  
3 get that update -- and six months, I know, was one time  
4 line that was put out.

5 I want us to be able to move forward. I want  
6 us to be able to have good information. I don't want  
7 to necessarily be stuck for two and a half or three  
8 years without being able to look at plans and programs  
9 that may make sense and be cost-effective and give good  
10 options to consumers and consumer groups, but I'm not  
11 sure that opening everything up would accomplish all of  
12 that.

13 **MR. HARRIS:** Larry Harris on behalf of staff.  
14 I had not actually thought about the question that you  
15 just raised. One thing I was thinking about in  
16 response to some of the discussion I heard by  
17 Commissioner Brown's question and Commissioner Brisé's  
18 comment that perhaps we need to take a second look at,  
19 and perhaps this would answer your question. I am  
20 going to use the dreaded eight-letter word that I'm  
21 sure somebody is going to stick me in the back for, but  
22 I'm thinking workshop.

23 (Laughter.)

24 **MR. HARRIS:** No, no. Commissioner Brown  
25 asked a question and said what do you think it would

1 take for the updated technical potential study. And we  
2 heard three different answers, all of which seemed to  
3 be, well, we're not really sure, but it could take a  
4 while. I'm hearing that is it a good idea to open the  
5 goals? Maybe it is, maybe it isn't. We should maybe  
6 get some more information on that.

7 Commissioner Edgar your question is  
8 excellent. What would it take to reopen the  
9 technical -- to get a new technical potential study?  
10 Could we just order that, you know, go and do this. We  
11 are not opening a docket, but just go do it. Would  
12 that need to be some type of a -- you know, be a  
13 Commission order, or how do we get there?

14 One thing that I'm thinking, and I can feel  
15 Bob Trapp staring at me in the back right now, but a  
16 set workshop with very specific questions that the  
17 Commission has. How long will it take to do a goals  
18 proceeding? And we get all the players at the table to  
19 answer what they think. Would we need to do a new  
20 technical potential study, or an update, or some  
21 combination, and how long will that take? What would  
22 we look at? Let's talk about specific things. You had  
23 mentioned a couple of items, policy choices. How long  
24 do you all think you could take to do this? What type  
25 of a time frame? Let's throw out some schedule, and,

1 you know, looking at the Commission calendar, which I  
2 believe is fairly booked up next year, let's throw out  
3 some time frames. There is a party sitting here, and  
4 you parties who will be intervening, what do you think  
5 you can do? Let's put your cards on the table. Can  
6 you do this in three months; can you do it in nine  
7 months; can you do it in 18 months; can you do it in 24  
8 months?

9 If we start looking at scheduling dates, can  
10 you meet these dates? Get some answers to these  
11 questions you have. And we could probably do this  
12 workshop fairly quickly and give you the information  
13 that you need to make a decision. That doesn't answer  
14 your question, but I'm not sure how --

15 **COMMISSIONER EDGAR:** No, it doesn't, but I do  
16 hear you. I'm not sure -- again, just thinking out  
17 loud a little bit here, which is always risky -- I'm  
18 not sure -- let me put it this way. As of this moment,  
19 I'm not prepared to go quite that far. But I do, I  
20 understand what you are saying, and it is always good  
21 to get everybody to the table and kind of thrash these  
22 things through.

23 I feel like from my office, I have been  
24 asking these questions, though, for a number of months.  
25 And I'm not sure that just having more meetings and

1 more discussions and more discussions is going to get  
2 us a whole lot more clearer answers on some of those  
3 points. So I'm going to -- my questions, I think, at  
4 the moment fall into this category. If the Commission  
5 wanted to request direct, whatever the verb is, an  
6 update of the technical feasibility study, I think we  
7 can do that. What we want to do is obtain additional  
8 updated information. What would be the mechanism or  
9 vehicle to do that and to accomplish it in the most  
10 efficient manner? That is one question.

11           The second is when we're looking at what is  
12 before us now, which is the plans and the individual  
13 program components for Progress now and FPL here  
14 shortly, later today, I think it kind of falls into  
15 three options. Continue forward with the programs that  
16 are in place now; adopt or approve the plan that is  
17 before us that is intended to come closer to meeting  
18 the goals, but does have, obviously, a higher cost and  
19 a cost to consumers to it; or some middle ground, which  
20 for Progress what's before us is what has been termed a  
21 rate mitigation plan, or set of programs, and for FPL I  
22 think it's called an amended plan, and we will get to  
23 that in a few minutes. And I think that -- I'm not  
24 trying to oversimplify, but as I have gone around and  
25 around on this in my own mind, and being helped by this

1 discussion that we have had this morning, I think it  
2 kind of falls into those three options for each.

3           And then the third piece of that being  
4 whichever we decide to do with the plans and programs,  
5 do we want to reopen the goals now, realizing the time  
6 that would go into that. Or another option being to  
7 wait on that, knowing that by the requirements of the  
8 statute we will be doing that at some point not all  
9 that far away anyway. Or do we have the option of  
10 having in six months to twelve months or so an updated  
11 feasibility information, and then have the option to  
12 look at that and make some adjustments.

13           I do want us to be cognizant, of course, as  
14 we are directing programs to either, you know,  
15 continue, start new ones, continue for a period of  
16 time, and then maybe stop as additional information  
17 comes in, that there is, of course, start-up costs and  
18 administrative costs, and we lose something,  
19 potentially, if we are educating people about this,  
20 there are these programs, and then we may make some  
21 adjustments.

22           So with all of that, again, I think these  
23 three areas I would really want to hear your thoughts  
24 on how to proceed with the plans and the programs. And  
25 I would very much like to know when we can, Mr.

1 Chairman, from our staff what our options are as far as  
2 getting some updated feasibility information so that we  
3 have the best information possible today and as we go  
4 forward.

5 **MR. BALLINGER:** Commissioner Edgar, on that  
6 part about the updated technical feasibility, you have  
7 heard from two of the parties who were part of the  
8 technical potential study and the goals. You have six  
9 other utilities. I would think you would want to hear  
10 from them about what they think it would take to do  
11 that, as well. Just something -- one way may be a data  
12 request for the FEECA report and we get input that way.  
13 One may be to direct everybody, or I go send a data  
14 request out tomorrow asking everybody when could we do  
15 this, that kind of thing, and we can get back to you.  
16 But I just wanted you to be aware that there's other  
17 people that may have a different take.

18 **COMMISSIONER EDGAR:** I think the other  
19 question is is that a direction that the full  
20 Commission may be interested in, realizing that we have  
21 heard from many that there have been changed  
22 circumstances in a variety of levels? I would think  
23 that through staff data requests on our own volition as  
24 per our direction to staff that we could accomplish a  
25 good amount. I would also hope and ask and request

1 that we would get some additional citizen  
2 representative input. That is something that as we  
3 went through the technical feasibility study and the  
4 hearing process the first go-around, I felt like was a  
5 little lacking. Certainly we have FIPUG representing  
6 their client base. But, you know, these questions of,  
7 you know, do I pay now and save later or do I not; do I  
8 pay less, or do I pay more, or do I -- clearly, all  
9 citizens and customers and customer groups may have  
10 different opinions, but that perspective was something  
11 through the hearing process may have not been  
12 represented as robustly as I would have liked.

13 I don't know if there's a mechanism. I may  
14 be jumping way ahead of myself, but, you know, we often  
15 have the Attorney General, and the Retail Federation,  
16 and FIPUG, and OPC representing the consumers and  
17 consumer groups, we did not have all of those in this  
18 particular docket, FIPUG being an exception. There are  
19 other groups, the Consumer Action Network and other  
20 consumer organizations that maybe we could reach out  
21 to, and OPC, and urge their participation, but that may  
22 be a point for another day.

23 I would think if the Commission wanted to  
24 embark on trying to update the information in that  
25 technical feasibility study, that at our direction to

1 staff we could accomplish a good amount of that, but I  
2 welcome if there are other thoughts on that.

3 **MR. BALLINGER:** Again, thinking out loud, it  
4 is one thing to ask the companies when it could be  
5 done, it is another thing that once you get it, what  
6 are you going to do with it; is that going to be in a  
7 docket. And I think we have to be mindful of that, of  
8 how it's developed, if it's going to be used --  
9 (inaudible)

10 **CHAIRMAN GRAHAM:** Commissioner Balbis.

11 **COMMISSIONER BALBIS:** Thank you, Mr.  
12 Chairman.

13 And I have tried to organize my thoughts as  
14 best I could, and I kind of want to focus on responding  
15 to some comments that were made today both by the  
16 parties and other Commissioners. And so I will start  
17 with that first, and then go into the discussion on  
18 possibly looking at the goals.

19 There was a lot of discussion about concerns  
20 about effective management of these programs and the  
21 types of programs. And, again, my focus on undue rate  
22 impact. And, Commissioner Edgar, I appreciate your  
23 comment on start-up time and costs associated with  
24 implementation of new programs. And, again, whether we  
25 do a goal-setting process sooner rather than later,

1 even if we wait until 2014 or 2015. By the time, since  
2 we are already in 2011, new programs get started, et  
3 cetera, it's going to be a short window. And I think  
4 for the customers, I don't think that's fair to them to  
5 start a program and then stop it. So I'm hopeful the  
6 Commission will take that into consideration.

7 And as far as the effective management of the  
8 programs, and I want staff to confirm this, but at the  
9 end of the year, at a period of time in the year we do  
10 review the costs associated with these programs and the  
11 prudence of those expenditures. So, again, we do have  
12 that review process in place, and we do scrutinize  
13 their costs, so then if something is out of line, I  
14 would assume staff recommends to us that, you know, we  
15 disallow those costs, et cetera. So I think that our  
16 focus should be on continuing that annual scrutiny,  
17 regardless of what the goals are and the programs that  
18 are in place, because times do change.

19 And I kind of want that to lead into my  
20 discussion on the goals-setting process, and one of the  
21 comments made by the representative from Progress was  
22 that technology is changing. And I think that  
23 especially in this sector of business, you know, there  
24 are a lot of people working very hard to come up with a  
25 better mousetrap. And my concern, if we go into any

1 type of goal-setting procedure and technical potential  
2 study, is even if it takes six months, even if it takes  
3 a year, you are now going to have a document that is  
4 immediately outdated when it is handed to us. And if  
5 we base our decision on that document or other  
6 testimony that may take 18 months, by definition with  
7 the fast-paced world of this technology it's going to  
8 be outdated.

9           So what I would like that we have in place  
10 now, and I appreciate your clarification on the terms  
11 used in setting goals, and I, unfortunately, listened  
12 to most of those hearings, and the fact that these  
13 goals are aspirational and robust, but we still have  
14 the flexibility to revise them if we find there is an  
15 undue rate impact. Which brings me to another point,  
16 is that -- which is why I made the comment not to  
17 really discuss the goals now, because we do have the  
18 flexibility. They are aspirational, and they should  
19 be. If Progress and other utilities exceed those  
20 goals, which, you know, we are not resetting today,  
21 then they are rewarded. So there is an incentive in  
22 place.

23           But whether or not they are achievable,  
24 again, without an undue rate impact, I have no question  
25 that any utility could meet any goal for a price, but

1 that's where the discussion needs to go. Undue rate  
2 impact, which is where I'm trying to -- I'm struggling  
3 now with what is justifying a \$6.13 monthly increase,  
4 and how do we minimize the stopping and starting of  
5 programs like many new programs where even in 2014 or  
6 2015 may change.

7 So, again, I just want to summarize the very  
8 good points from the other Commissioners and parties.  
9 And one question, you did mention, Commissioner Edgar,  
10 about other parties, and I would like to hear from OPC  
11 on this in that they are supposed to represent the  
12 residential ratepayers. So I don't know if they can  
13 come up now, or if they just decided not to, but I  
14 would appreciate their input, as well. I know there  
15 are some representatives here.

16 **CHAIRMAN GRAHAM:** Commissioner Balbis, it  
17 looks like you're getting your wish.

18 J. R., welcome. We have a mike over here  
19 next to Progress.

20 **MS. TRIPLETT:** Oh, he doesn't want to come  
21 sit next to me. (Laughter.) Oh, thank you.

22 **CHAIRMAN GRAHAM:** Mr. Kelly, welcome.

23 **MR. KELLY:** Thank you, Commissioner.

24 Commissioners, we did not get involved in the  
25 DSM docket. We have obviously followed it very

1 closely, and to start off, we have always been  
2 concerned about the impact that the rates will have on  
3 the residential ratepayers, but all ratepayers, because  
4 we do represent all ratepayers.

5 One of the reasons we did not get involved  
6 is, quite honestly, I get contacts, calls, to my office  
7 from consumers on both sides of the issue. The  
8 long-time Assistant Public Counsel Charlie Beck and I  
9 had many, many conversations back two years ago when  
10 this docket first opened about whether we should  
11 intervene or whether we should not. And Charlie gave  
12 me a very long and a very good history of our office's  
13 participation, and it was ultimately my decision and we  
14 did not intervene. And, basically, the main reason we  
15 didn't, because we had clients, if you will, on both  
16 sides of the issue. I mean, that's the quick answer.

17 You know, I know that you have a very tough  
18 balancing act to do here, because we all want more  
19 conservation; we want more efficiency. I don't think  
20 there is anybody in this room that would argue that.  
21 And certainly the hard question is how do you get  
22 there. And I think, Commissioner Balbis, you hit the  
23 nail on the head. I think any utility can meet any  
24 goal that they wish, to if the price is right. And the  
25 price has got to be right not to the utility, but to

1 the ratepayer, because they are the ones that are  
2 paying it. And, again, I think we all agree with that.

3 You know, it has been very interesting  
4 listening to your deliberations today, and the comments  
5 of the parties. And I think, as Commissioner Brown  
6 said, I think a lot of them make -- every one of the  
7 folks up here have made some very good points, along  
8 with staff. And I know your staff have worked very,  
9 very hard on this issue, and I commend Mr. Ballinger,  
10 because I do agree with Commissioner Edgar, he gave a  
11 great recap.

12 Because although we didn't participate, I was  
13 here for just about every one of the meetings, and the  
14 workshops, and the hearings. But I don't know that I  
15 have a recommendation of where you go from here. You  
16 know, I think you have got some tough choices to make.  
17 I think you have got some good choices in front of you,  
18 good options, I just don't know exactly where you go.

19 You know, I tend to agree with -- that you  
20 want to use and have the best information you have in  
21 front of you to make a decision. I know that that has  
22 always been my goal, and I try never to make a  
23 knee-jerk decision. I like to get the input of all of  
24 my staff. So part of me, you know, leans that way.  
25 Get the best information you can. And it has been, I

1 think as Commissioner Edgar pointed out, over two years  
2 ago that all the evidence and the testimony and  
3 everything came in. But I know you don't also want to  
4 wait another year or year and a half to make your  
5 decision.

6 So, I'm sorry, I'm probably not being any  
7 help here, but -- I don't know, Commissioner Balbis, if  
8 I answered your question. But, I mean, we typically  
9 have not gotten involved in this docket, because we  
10 would fall on both sides of the issues. We'd have  
11 people arguing to us, and I do have consumers calling  
12 me, I will tell you, saying we need more robust goals.  
13 We need more efficiency, more conservation. We  
14 don't -- I don't want to say we don't care what it  
15 costs, but we don't mind paying it. I have other  
16 people calling me saying I can't afford it right now.  
17 If you raised my rates a dime, I can't afford it. And  
18 I think that's -- I mean, I will echo what we have said  
19 in several of the recent rate cases, and you will  
20 probably hear us say it again in the next six months to  
21 a year, and, that is, times are hard out there. And  
22 while we all want efficiency and conservation, we do  
23 have to realize the impact it is going to have in on  
24 the pocketbook of the consumers.

25 **COMMISSIONER BALBIS:** Thank you.

1           And, again, that did answer my question. And  
2 with football season thankfully approaching, I consider  
3 that a punt is the answer to the question.

4           **MR. KELLY:** I would agree with you.

5           **CHAIRMAN GRAHAM:** You know, it's quite  
6 interesting, the difference between engineers and  
7 attorneys. You said that, and summed it up in about  
8 five seconds. You took five minutes to not answer the  
9 question.

10           (Laughter.)

11           **CHAIRMAN GRAHAM:** Okay.

12           **MR. HARRIS:** Mr. Chairman, Larry Harris. In  
13 defense of attorneys, we do actually have an answer for  
14 Commissioner Edgar, her first question, if now is an  
15 appropriate time to throw that in.

16           Staff would recommend that you do have  
17 discretion to order a new technical potential study.  
18 The way we suggest very strongly you do this would be  
19 to instruct us today to open a docket with the goal of  
20 accomplishing a new technical potential study. That  
21 would give us an opportunity to get it noticed, get the  
22 parties, and either have a workshop and bring a  
23 recommendation to you that is a consensus, or we could  
24 bring a very quick, very quick turn-around  
25 recommendation to you as to what we would suggest you

1 do, and the parties would have a chance to participate.

2 We do feel that today, given the procedural  
3 posture we are in, it would be less than ideal to just  
4 issue an order that requires a new technical potential  
5 study. We have also identified sort of informally just  
6 among ourselves the numbers of issues that would need  
7 to be answered by you all. I mean, what that means,  
8 just to order a new technical potential study. So we  
9 would suggest that if that is the intent and the will  
10 of the Commission, that you all order -- instruct us to  
11 open a docket with the goal of accomplishing a new  
12 technical potential study expeditiously.

13 **CHAIRMAN GRAHAM:** Do we want to find out how  
14 long it's going to take to get all of that information  
15 in before we order a new study?

16 **MR. HARRIS:** That's, I would suggest, a part  
17 of what staff would try to figure out and bring -- we  
18 would try to turn a recommendation around quickly. One  
19 of the things I suggest we would recommend to you is  
20 this is a question that needs to be answered. We would  
21 either answer it through participation from the  
22 parties, or have an estimate, or the parties would be  
23 lined up at this table, and you could ask each one them  
24 how long is it going to take. And have some record  
25 evidence, because right now we just don't have that.

1 That's one of the questions that needs to be answered.  
2 Or we would suggest needs to be answered. You all  
3 don't need to answer that. You could just order a new  
4 technical potential study and tell us to do it quickly,  
5 and tell the parties to do it quickly, and go. That is  
6 not our recommendation for today, but --

7 **CHAIRMAN GRAHAM:** Attorneys.

8 **MR. HARRIS:** Well, I've given you an answer,  
9 I mean --

10 (Laughter.)

11 **MR. JACOBS:** Mr. Chairman.

12 **CHAIRMAN GRAHAM:** Commissioner Balbis, you  
13 still have the floor.

14 **COMMISSIONER BALBIS:** Thank you, Mr. Chair.

15 Just one last comment, and not to hopefully  
16 be too redundant, but, you know, again, if you walk  
17 through this process, we are going to get the technical  
18 potential study done in a certain period of time. And  
19 then if we start the goals-setting proceeding, if that  
20 is what the Commission wants to do, early or when we do  
21 it as required by statute, that's going to take some  
22 time. And then we are going to ask the utilities to  
23 come forward with a DSM plan of meeting those goals,  
24 and we are going to be in the same place where a period  
25 of time has passed that the technology may be outdated.

1 The technical potential study will certainly be  
2 outdated looking at what we did just recently. So I  
3 just want to provide those comments.

4 I'm certainly open to getting as much  
5 information as possible, but I want to maintain the  
6 flexibility that we have in reviewing the rate impact  
7 or the undue rate impact. So with that, I'll close my  
8 comments for now.

9 **CHAIRMAN GRAHAM:** Mr. Jacobs.

10 **MR. JACOBS:** Mr. Chairman, really just a  
11 matter of clarification. I want to be clear that we  
12 are all on the same sheet of music. We have asked --  
13 the proposal that's before us is whether or not to do a  
14 new technical potential. I want to be sure that staff  
15 agrees that there has to be both the technical  
16 potential and achievable potential processes involved  
17 in that. And, lastly, Subsection 2 of the statute has  
18 some other ingredients that I believe have to be  
19 addressed if you want to redo the goals.

20 So just to make sure what is in the pot, I  
21 believe Subsection 2, 3, 4, and an interesting  
22 side-note, 5, I don't know how you do that now, since  
23 that Commission is gone. But the idea that there's a  
24 recipe for setting the goals, and do we do the whole  
25 recipe, rather than just doing a technical potential

1 study.

2 **CHAIRMAN GRAHAM:** Thank you, sir. Okay.

3 Commissioner Brown is going to make a motion.

4 **COMMISSIONER BROWN:** I'm not making a motion.

5 I just have a follow-up question to Mr.  
6 Harris regarding what -- can we do a data request  
7 gauging from the utilities how long it would take to do  
8 a technical potential study?

9 **MR. HARRIS:** The answer is yes, we can do a  
10 data request. What information will come back, I can't  
11 answer. But we could send out a data request very,  
12 very quickly to all the utilities and ask them what  
13 they would estimate.

14 **COMMISSIONER BROWN:** Okay. And then we could  
15 revisit that after we get that time frame, this body  
16 could revisit that based on the time frame and whether  
17 it meshes with -- we're going to be revisiting the  
18 goals in 2014, and gauge whether it makes sense. I  
19 think what we struggle with here is it is important for  
20 us to have the most updated facts at this point. If it  
21 takes six months, as Commissioner Balbis says, they are  
22 going -- the data is going to change. It's always  
23 going to be changing. But I would rather have the most  
24 recent information in six months versus two years, so  
25 I'm inclined to issue, if that's the correct form,

1 action to have a data request depart to the seven IOUs.

2 **MR. HARRIS:** You would be instructing staff  
3 to issue data requests to the IOUs regarding the time  
4 frames for a technical potential study. I think you  
5 can instruct staff to do that.

6 **COMMISSIONER BROWN:** I'd like to hear from my  
7 fellow Commissioners, if they are amenable to that.

8 **CHAIRMAN GRAHAM:** So your motion is just to  
9 get data, information on how long it would take for the  
10 technical study, and you want to do just the IOUs?  
11 There's only five IOUs.

12 **MR. HARRIS:** We would probably issue it to  
13 all the FEECA utilities.

14 **COMMISSIONER BROWN:** Sorry, I meant --

15 **CHAIRMAN GRAHAM:** Well, now the problem you  
16 run into is the only thing that we have control over,  
17 for the most part, is the five IOUs. The two  
18 municipalities, I don't see pushing them back through  
19 this whole technical thing, because basically all we  
20 did is tell them to go ahead and stick with the status  
21 quo anyway. I mean, so I wouldn't even reach out to  
22 those two for the data request. I would only reach out  
23 to the five IOUs.

24 **MR. HARRIS:** We would take whatever  
25 instruction the Commission gives us; yes, sir.

1           **MR. BALLINGER:** Yes. Commissioner, if I may,  
2 I hate to -- you're on a roll, I hate to mess it up,  
3 but if we don't do all seven, we get off in a timing  
4 when we do goals, perhaps. Because the statute is  
5 clear that a technical potential study needs to be  
6 done, in my mind, for all seven. I would like to get  
7 the input from the municipals as well as to how long  
8 that would take, if they want to participate or not,  
9 things of that nature.

10           The other thing I would like you to consider  
11 is what Commissioner Brown said about having up-to-date  
12 information. If we get the technical potential study,  
13 let's say it can be done in six months, an updated one.  
14 If you are not going to then immediately go into  
15 setting goals with the achievable and all that, as Mr.  
16 Jacobs said, if you wait another year or two, that  
17 technical potential study becomes stale. So you need  
18 to -- I think you have to have that answer to that  
19 second question in your mind before we take the next  
20 step.

21           I think asking for the data request is fine.  
22 We can do that and get you a better feel for how long  
23 it takes, because I really don't have an idea. So that  
24 is a good first step, I think, but I want you  
25 understand that there's other things that fall in

1 place.

2           **CHAIRMAN GRAHAM:** Well, we have got an idea  
3 for one of them. I'm sure we can have an idea for two  
4 of them before this day is over.

5           Commissioner Balbis.

6           **COMMISSIONER BALBIS:** Thank you, Mr.  
7 Chairman.

8           And I'd like to, I think, kind of gauging the  
9 comments from the Commission, kind of handle what we  
10 have before us, and then we can proceed to a discussion  
11 on what we would do as far as technical potential and  
12 starting the goal-making process.

13           I think with the information that was  
14 submitted by Progress and the comments that were made  
15 here from the parties and staff and from the other  
16 Commissioners, and me, personally, I cannot find, you  
17 know, based on the fact an additional \$6.13 does not  
18 accelerate the need or delay the need for Progress'  
19 next plant, I cannot see where that is justified at  
20 this time, especially with the questions on where the  
21 goals are at this time. And also with the concern  
22 about starting and stopping programs, if we implement  
23 programs immediately, and then a year from now, six  
24 months from now change them. You know, I would  
25 recommend that Progress continues with their current

1 successful programs until at which time we reestablish  
2 the goals, if that's what we want to do. And,  
3 procedurally, I think we can accomplish that. And,  
4 Staff, correct me if I'm wrong, that if -- again, if I  
5 make a motion that we approve staff's recommendation on  
6 Issue 1, which would not approve the compliance plan,  
7 and that -- and I believe we have to modify the plan,  
8 but move that we modify Progress' DSM plan to match the  
9 plan currently in place, including the solar rebate  
10 program previously approved by the Commission, and that  
11 we deny staff's recommendation on Issue 2, which would  
12 be -- their recommendation was to approve the  
13 mitigation plan, so we deny that with the modification  
14 previously stated, and then approve Issue 3, which is  
15 to close the docket.

16 **CHAIRMAN GRAHAM:** That has been moved and  
17 seconded.

18 **MS. TRIPLETT:** Mr. Chairman.

19 **CHAIRMAN GRAHAM:** Hold on a second. Staff,  
20 do we close this docket if this motion is to go  
21 through?

22 **MR. BALLINGER:** I think so. And another  
23 question I would have for Commissioner Balbis, does  
24 that include the dead band that was discussed in Issue  
25 2.

1                   **COMMISSIONER BALBIS:** Yes, that's a good  
2 point. Since we -- my motion will include that if the  
3 incentive remain in place, whereas if Progress exceeds  
4 the goals that were previously set, and they received a  
5 financial incentive. However, if they do not meet  
6 those goals, that there is no financial penalty for the  
7 band in between the current goals that their DSM plan  
8 meets and the revised goals from 2009, if that's clear,  
9 or if staff is clear on that.

10                   **MR. BALLINGER:** If I understand, it's the  
11 same concept that the goals remain in place, and they  
12 would only receive an incentive or be eligible for an  
13 incentive if they exceeded those goals. And they would  
14 not be subject to penalty unless they fell below  
15 achievements currently projected from their existing  
16 program.

17                   **COMMISSIONER BALBIS:** That is correct.

18                   **MR. BALLINGER:** Okay.

19                   **MR. HARRIS:** And to answer your question,  
20 Chairman, about the closing the docket, we would  
21 suggest that that be, in fact, the motion and the vote.  
22 We have most of them closed already. This gets us in  
23 line with those other dockets, and we'll be coming back  
24 to you with a recommendation on what to do with these  
25 things, and this way we will be more able to treat

1 everyone similarly.

2 **CHAIRMAN GRAHAM:** Now, who was that that

3 --

4 **MS. TRIPLETT:** I'm sorry, sir, I was going to  
5 raise the same question that just now got addressed. I  
6 probably should have just sat quietly. Thank you. You  
7 know the lawyers, they can't help themselves.

8 (Laughter.)

9 **CHAIRMAN GRAHAM:** Yes. All right. So it has  
10 been moved and seconded. Any discussion?

11 Commissioner Edgar.

12 **COMMISSIONER EDGAR:** Thank you. I think I  
13 understand. I want to make sure, and I'll direct this  
14 to staff, but the results of the motion that  
15 Commissioner Balbis has laid out for us would basically  
16 be a status quo for Progress at this point in time,  
17 while we, perhaps, have additional discussion at some  
18 point about next steps and other ways.

19 **MR. BALLINGER:** Yes, ma'am, that's my  
20 understanding, is that existing programs would still be  
21 offered. You may see increases in the ECCR because of  
22 additional participation, but the programs will  
23 continue on where we are at today, basically.

24 **COMMISSIONER EDGAR:** Commissioners, I am so  
25 grateful for the discussion that we have had today, and

1 I know we will be having more here this morning. It  
2 has been very helpful to me to help clarify some of  
3 these and a path forward. I think we are pretty much  
4 all on the same page, and that's a wonderful thing.

5 So with that, I appreciate Commissioner  
6 Balbis helping us round it out, and I look forward to  
7 supporting the motion.

8 **CHAIRMAN GRAHAM:** Commissioner Brisé.

9 **COMMISSIONER BRISÉ:** Thank you, Mr. Chairman.

10 And I, too, look forward to supporting the  
11 motion. And one of the reasons that I'm supporting the  
12 motion is the fact that we are opening, or potentially  
13 opening a conversation or continuing the conversation.  
14 Had we not been doing that, I think we would have been  
15 doing some modifications today to the staff  
16 recommendation. So I'm glad to support the motion this  
17 morning.

18 **CHAIRMAN GRAHAM:** Commissioner Brown.

19 **COMMISSIONER BROWN:** And I also wanted to  
20 clarify my reason for supporting the motion, which I  
21 think is a good one, and I do believe we are all on the  
22 same page here. So I appreciate Commissioner Balbis  
23 summarizing it for us, because I would like the  
24 opportunity to revisit the goals. And I'd like the  
25 opportunity, also, for us to talk a little bit more

1 about it and get more information about the feasibility  
2 of getting that information to us, so that we can make  
3 the most informed decision. Thanks.

4 **CHAIRMAN GRAHAM:** All in favor say aye.

5 (Affirmative vote.)

6 **CHAIRMAN GRAHAM:** Any opposed? By your  
7 action, you have approved the Commissioner Balbis  
8 motion.

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STATE OF FLORIDA     )  
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COUNTY OF LEON     )

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

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

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

DATED THIS 29th day of July, 2011.

  
\_\_\_\_\_  
JANE FAUROT, RPR  
Official FPSC Hearings Reporter  
(850) 413-6732