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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 140226-EI

REQUEST TO OPT-OUT OF COST
RECOVERY FOR INVESTOR-OWNED
ELECTRIC UTILITY ENERGY
EFFICIENCY PROGRAMS BY WAL-MART
STORES EAST, LP AND SAM'S EAST,
INC. AND FLORIDA INDUSTRIAL
POWER USERS GROUP.

/

VOLUME 3
(Pages 331 through 478)

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER JULIE I. BROWN

DATE: Wednesday, July 22, 2015

TIME: Commenced at 4:35 p.m.
Concluded at 7:15 p.m.

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

REPORTED BY: ANDREA KOMARIDIS
Court Reporter

APPEARANCES: (As heretofore noted.)

PREMIER REPORTING
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1 P R O C E E D I N G

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

4 COMMISSIONER BROWN: We are at Gulf Power.

5 MR. GRIFFIN: We call John Floyd.

6 COMMISSIONER BROWN: Was the witness sworn in?

7 MR. GRIFFIN: He was.

8 COMMISSIONER BROWN: Good afternoon.

9 THE WITNESS: Good afternoon.

10 EXAMINATION

11 BY MR. GRIFFIN:

12 Q Good afternoon, Mr. Floyd.

13 A Good afternoon, Mr. Griffin.

14 Q As we just indicated, you were previously
15 sworn this morning; is that correct?

16 A Yes, that's correct.

17 Q Would you please state your name and business
18 address.

19 A My name is John N. Floyd. My business address
20 is 1 Energy Place, Pensacola, Florida 32520.

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

22 A I'm employed by Gulf Power Company as the
23 energy efficiency and renewables manager.

24 Q Did you prepare and cause to be filed nine
25 pages of prefiled rebuttal testimony in this proceeding?

1 A Yes, I did. I adopted the testimony of
2 Witness Jennifer Todd in Docket 14002.

3 **Q Do you have any changes or corrections to that**
4 **testimony?**

5 A No, I do not.

6 **Q If I were to ask you the same questions today,**
7 **would your answers be the same?**

8 A Yes, they would.

9 MR. GRIFFIN: Commissioner, we would ask that
10 his direct -- his rebuttal testimony be inserted
11 into the record as though read.

12 COMMISSIONER BROWN: We'll insert Mr. Floyd's
13 prefiled rebuttal testimony as though it were read.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Request to opt-out of cost recovery)	Docket No. 140226-EG
for investor-owned electric utility energy)	Date Filed: June 19, 2015
efficiency programs by Wal-Mart Stores)	
East, LP and Sam's East, Inc. and Florida)	
Industrial Power Users Group)	

**NOTICE OF ADOPTION OF TESTIMONY
OF JENNIFER L. TODD BY JOHN N. FLOYD**

Gulf Power Company (“Gulf Power” or “the Company”), hereby provides notice that John N. Floyd will adopt the rebuttal testimony of Jennifer L. Todd which was originally filed in Docket No. 140002-EG and transferred to this Docket file pursuant to Order No. PSC-15-0149-PCO-EI. Ms. Todd has changed positions within the Company and Mr. Floyd has assumed responsibility for this Docket. Mr. Floyd is Gulf Power’s Energy Efficiency and Renewables Manager and has personal knowledge of the substance of the testimony he is adopting.

Respectfully submitted,



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1 GULF POWER COMPANY

2 Before the Florida Public Service Commission
3 Prepared Rebuttal Testimony of
4 Jennifer L. Todd
5 Docket No. 140002-EG
6 Energy Conservation Cost Recovery Clause
7 September 12, 2014

8 Q. Will you please state your name, business address, employer and
9 position?

10 A. My name is Jennifer L. Todd, and my business address is One Energy
11 Place, Pensacola, Florida 32520. I am employed by Gulf Power Company
12 (Gulf Power, Gulf or the Company) as the Market Analytics Supervisor.

13 Q. Have you previously filed testimony in this proceeding?

14 A. Yes. I filed direct testimony in this proceeding on August 27, 2014.

15 Q. What is the purpose of your rebuttal testimony?

16 A. My testimony addresses proposals made by intervenor Witnesses Steve
17 W. Chriss and Kenneth E. Baker on behalf of Wal-Mart Stores East, LP
18 and Sam's East, Inc. and Witness Jeffry Pollock on behalf of The Florida
19 Industrial Power Users Group (the "Intervenor Witnesses").

20
21 Q. What is your general understanding of the proposals being made by the
22 Intervenor Witnesses?

23 A. In general terms, the Intervenor Witnesses propose that the Florida Public
24 Service Commission (Commission) allow some commercial and industrial
25 customers to opt-out of participating in utility-sponsored energy efficiency

1 programs and avoid paying Energy Conservation Cost Recovery (ECCR)
2 charges associated with such programs.

3

4 Q. Do the Intervenor Witnesses contend that qualifying commercial and
5 industrial customers should be exempted from paying all ECCR charges?

6 A. No. While they label them differently, the Intervenor Witnesses all
7 propose separating expenses associated with Demand-Side Management
8 (DSM) programs into two categories: demand response related program
9 expenses and energy efficiency related program expenses. They contend
10 that demand response programs are designed to reduce peak demand
11 and, as such, are beneficial for all customers. For this reason, the
12 Intervenor Witnesses propose that expenses associated with demand
13 response programs should continue to be funded by all customers through
14 the ECCR clause. In contrast, the Intervenor Witnesses take the position
15 that energy efficiency programs do not have the same benefit for all
16 customers because the primary objective of these programs is to reduce
17 overall energy consumption. For this reason, they propose that qualifying
18 commercial and industrial customers should be permitted to opt out of
19 participating in, and thus paying for, energy efficiency programs.

20

21 Q. Do you have any general observations about the distinction the Intervenor
22 Witnesses attempt to draw between demand response program expenses
23 and energy efficiency program expenses?

24 A. Yes. I believe they have drawn an inaccurate distinction. Virtually all of
25 Gulf's DSM programs have both energy and demand savings associated

1 with the measures. The Intervenor Witnesses correctly recognize the
2 benefits of implementing demand response programs but fail to recognize
3 that cost-effective (i.e., RIM-passing) energy efficiency programs also
4 provide benefits that exceed costs to participating and non-participating
5 customers alike.

6

7 Q. Should the opt-out methodology proposed by the intervenors be approved
8 by the Commission?

9 A. No.

10

11 Q. Why should the Commission reject the opt-out proposals made by the
12 Intervenor Witnesses?

13 A. There are at least three reasons why the Commission should reject the
14 proposals made by the Intervenor Witnesses. First, cost-effective DSM
15 programs (again, those that are RIM-passing) benefit all customers;
16 therefore, all customers should share in the costs of such programs.
17 Second, administering an opt-out provision as described by the Intervenor
18 Witnesses would be burdensome and would create additional costs and
19 complexities. Third, allowing customers to opt out of participation in Gulf's
20 DSM programs will impact Gulf's ability to achieve DSM goals established
21 by this Commission.

22

23 Q. Please elaborate on what you mean when you say that cost-effective DSM
24 programs benefit all customers.

25 A. Gulf agrees with Witness Pollock's observation that subsidization between

1 customers or groups of customers is generally unfair and should be
2 avoided or minimized where possible. Charges rendered through the
3 ECCR clause are no exception. Witness Pollock, along with the other
4 intervenor witnesses, argues that an opt-out for a sub-set of customers is
5 the appropriate method for ensuring fairness. Gulf submits that
6 establishing appropriate DSM goals, on which ECCR charges are based,
7 is a more appropriate method because it addresses this fairness issue for
8 *all* customers. That is precisely why Gulf has proposed DSM goals in the
9 ongoing DSM Goals Docket (Docket No. 130202-EG) which are based
10 upon the Rate Impact Measure (RIM) cost-effectiveness test. If this
11 Commission approves Gulf's RIM-based goal proposal, there is no need
12 for the Commission to consider any form of opt-out proposal.

13

14 Q. How does RIM-based DSM benefit all customers and render consideration
15 of an opt-out provision unnecessary?

16 A. Costs associated with offering DSM programs are borne by all of Gulf's
17 customers, participants and non-participants alike. Customers
18 participating in cost-effective DSM programs deliver energy and demand
19 savings benefits in the form of avoided cost savings. When these energy
20 and demand saving benefits are greater than the program costs, all
21 customers benefit from lower utility costs. Lower utility costs, in turn,
22 result in downward rate pressure over time. The RIM test is often referred
23 to as the "no losers" test because it accounts for impacts on both
24 participating and non-participating customers. Cost-effective DSM goals
25 and associated programs obviate the need for a complex and

1 administratively burdensome opt-out provision that benefits a sub-set of
2 Gulf's customers. The customers represented by the Intervenor
3 Witnesses, as well as all other customers, enjoy the benefits of downward
4 rate pressure and should, therefore, share in the associated costs. The
5 Commission recognized this shared cost/benefit relationship in Order No.
6 9974 dated April 24, 1981, wherein the Commission considered a similar
7 opt-out proposal put forth by the Florida Industrial Power Users Group.
8 The Commission rejected the proposal noting as follows: "Because all
9 customers will enjoy the benefits of such cost avoidancy we direct that the
10 authorized costs be recovered from all customers..." Order at p. 162.

11

12 Q. You mentioned earlier than an opt-out provision would be complex and
13 costly. Please explain.

14 A. While the specific mechanics of implementing the opt-out provision
15 suggested by the Intervenor Witnesses differ, one thing is certain—
16 administering any opt-out provision will be both complex and costly. The
17 Intervenor Witnesses suggest that an opt-out provision be offered to
18 qualifying customers on a customer-by-customer basis. This approach
19 would add a significant number of required activities to the ECCR true-up,
20 audit and projection filing processes and would also introduce a new set of
21 enrollment and billing processes. Additionally, as discussed later in my
22 testimony, capturing energy and demand savings associated with
23 customer-specific projects would also impact the entire Florida Energy
24 Efficiency Conservation Act (FEECA) process from goal setting to annual
25 reporting. All of these new tasks and processes will add administrative

1 burdens and costs to multiple processes performed by Gulf across
2 multiple proceedings. New processes that are necessary or increase
3 value are not bad in and of themselves; however, as discussed previously,
4 with RIM-passing goals and programs, these added complexities are
5 simply unwarranted.

6

7 Q. Ms. Todd, you stated that an opt-out provision for non-residential
8 customers would impact Gulf's ability to meet DSM goals. Would you
9 please first describe the process for setting DSM goals in Florida?

10 A. The process, as outlined in the FEECA statute, for developing DSM goals
11 in Florida occurs every five years. It is a very rigorous and methodical
12 process. It begins with assessing the full technical potential of energy
13 efficiency in the utility's service area. Technical potential is determined by
14 identifying technically feasible energy efficiency measures for residential,
15 commercial and industrial customer classes. Economic feasibility is then
16 determined by applying Commission-approved cost-effectiveness tests to
17 each measure in the technical potential. Measures that are not cost-
18 effective are screened out. Finally, customer adoption is projected in
19 order to determine the amount of DSM that is reasonably achievable for
20 Gulf. The Commission ultimately establishes goals for Gulf and the other
21 FEECA utilities based on the outputs of this process. A DSM Plan
22 containing programs designed to meet the established goals is
23 subsequently developed and approved. The costs associated with the
24 programs in Gulf's DSM Plan are recovered in the ECCR charges.

25

1 Q. Are specific customers' energy efficiency plans taken into account when
2 developing goals?

3 A. No. It would not be feasible to do so.
4

5 Q. How would an opt-out provision for non-residential customers impact
6 Gulf's ability to meet its DSM goals?

7 A. As I mentioned, DSM goals are set every five years based on projections
8 of full achievable potential, including achievable potential for commercial
9 and industrial measures. This process could not feasibly predict which
10 customers may, during that five year period, choose to opt-out of
11 participating in Gulf's DSM programs. In the absence of any feasible way
12 to reduce achievable potential for prospective opt-outs, goals would
13 presumably be set based on the full achievable potential of DSM in Gulf's
14 service area. While goals would be based on projections of full achievable
15 potential, Gulf's ability to achieve those goals would be reduced by the
16 aggregate of all customers who choose to opt-out.
17

18 Q. Witness Pollock suggests that energy savings of an opt-out customer
19 could be counted by Gulf toward its goal achievement. Does this alleviate
20 your concern?

21 A. No. While it may seem that this is a solution, this suggestion actually
22 introduces a new set of challenges.
23
24
25

1 Q. Can you please elaborate?

2 A. Yes. The energy and demand savings reported by Gulf are associated
3 with programs and measures approved by the Commission. Each
4 measure is assigned a deemed savings value on a per participant basis.
5 These savings are determined through a variety of means including
6 program experience, third party subject matter experts and measurement
7 and verification and are calculated based on program participation.

8

9 Managing reported savings from a plethora of opt-out customers would
10 introduce another layer of complexity to this process. In addition to Gulf
11 first obtaining savings information from each customer (which could be a
12 difficult process alone), once obtained, the information would then have to
13 be verified to ensure it is measurable, consistent with other opt-out
14 customers, non-duplicative, etc. Furthermore, Gulf's ability to meet a
15 portion of its DSM goal would be dependent on opt-out customers from
16 which savings may or may not materialize. The integrity of the FEECA
17 reporting process would be jeopardized given the multitude of sources
18 from which data would be obtained.

19

20 Q. What is the appropriate ECCR rate design in light of the Intervenor
21 Witnesses' proposals?

22 A. As noted previously, Gulf does not believe that an opt-out provision is
23 necessary or appropriate and therefore does not believe any changes to
24 Gulf's proposed ECCR factors are warranted.

25

1 Q. Can you summarize your rebuttal testimony?

2 A. Yes. My testimony outlines the issues associated with an opt-out
3 provision as recommended by the Intervenor Witnesses in this docket. An
4 opt-out provision is complex, costly and would impact Gulf's ability to meet
5 Commission-established DSM goals. Most importantly, this additional
6 complexity is not necessary if this Commission approves cost-effective
7 RIM-based DSM goals.

8

9 Q. Ms. Todd, does this conclude your testimony?

10 A. Yes, it does.

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1 BY MR. GRIFFIN:

2 Q Mr. Floyd, you don't have any exhibits to that
3 rebuttal testimony, did you?

4 A No, I did not.

5 Q With that, would you please provide a brief
6 summary of your rebuttal testimony.

7 COMMISSIONER BROWN: Pardon me. Before you do
8 that, Mr. Floyd also has a surrebuttal letter.
9 Would you like that inserted into the record?

10 MR. GRIFFIN: Commissioner, I don't know that
11 that needs to be entered into the record. That was
12 simply an indication that he did not intend to file
13 surrebuttal. It's in the docket file.

14 COMMISSIONER BROWN: Okay. Thank you.
15 You may proceed.

16 THE WITNESS: Okay. Thank you.

17 Good afternoon, Chairman and Commissioners.
18 The Commission should deny the petitioner's request
19 to opt out of company-sponsored energy-efficiency
20 programs and the associated ECCR charges.

21 With this Commission's approval, Gulf Power's
22 adopted goals for energy savings and peak-demand
23 reduction benefit all customers through downward
24 pressure on rates through all time. Yes, all
25 customers, participants and non-participants alike,

1 benefit from implementation of these energy-
2 efficiency goals.

3 And since customers benefit through downward
4 pressure on rates, no customer or group of
5 customers should be exempt from contributing
6 towards the cost of implementing the programs
7 necessary to achieve these goals.

8 That's basically what the petitioners are
9 requesting, to be able to continue receiving the
10 benefits of the company's cost-effective energy
11 efficiency while not contributing to the cost.

12 And ultimately, the issue boils down to one of
13 fairness. The customers represented by the
14 petitioners would be receiving the benefits without
15 bearing their share of the costs.

16 Additionally, adopting an opt-out mechanism as
17 proposed by the petitioners will certainly add cost
18 and complexity to the development and
19 implementation of these beneficial energy-
20 efficiency programs.

21 Some examples are the administrative processes
22 for managing the opt-out requests, billing-system
23 changes, verification of the energy savings,
24 reporting -- goal-reporting adjustments, ECCR cost
25 recovery changes, and potentially the entire goal-

1 setting process.

2 And lastly, an opt-out provision could
3 potentially impact the company's ability to meet
4 the goals established by the Commission. Gulf's
5 current DSM programs were developed based on the
6 assumption that customers represented by the
7 petitioners would be eligible to participate in
8 these programs.

9 If these customers are permitted to opt out of
10 programs, then Gulf would either have to recoup
11 these savings elsewhere or potentially fall short
12 of achieving its goals.

13 Petitioner's witnesses suggest that this
14 problem could be solved if utilities were permitted
15 to count the opt-out energy customers' savings
16 towards their goals. While this may seem like a
17 solution, it actually enters a new set of
18 challenges. Among other things, Gulf's ability to
19 meet a portion of goals would be dependent on
20 savings which match or may not materialize.

21 In short, Commissioners, we respectfully ask
22 that you reject these unnecessary, costly, and
23 complex proposals.

24 MR. GRIFFIN: Mr. Floyd is available for cross
25 examination.

1 COMMISSIONER BROWN: Thank you.

2 Starting with Florida Power & Light --

3 MS. CANO: No questions.

4 COMMISSIONER BROWN: Duke.

5 MS. TRIPLETT: No questions.

6 COMMISSIONER BROWN: TECO.

7 MR. BEASLEY: No questions.

8 COMMISSIONER BROWN: FPUC.

9 MS. KEATING: No questions.

10 COMMISSIONER BROWN: SACE.

11 MR. CAVROS: No questions.

12 COMMISSIONER BROWN: Thank you.

13 Mr. Moyle.

14 MR. MOYLE: Thank you.

15 EXAMINATION

16 BY MR. MOYLE:

17 Q Good afternoon.

18 A Good afternoon, Mr. Moyle.

19 Q I wanted to follow up on a couple of points
20 you made in your opening, and then also I have a few
21 questions for you. There has been some testimony about
22 administrative costs that might be realized should an
23 opt-out proposal be adopted by this Commission. And you
24 mentioned it in your opening, correct?

25 A Yes, sir.

1 Q And has Gulf looked at that issue? Staff has
2 circulated some answers to discovery. You've been in
3 the hearing room the whole time, right?

4 A Yes, sir.

5 Q And it struck me -- I mean, FPL's numbers --
6 administrative numbers are over \$3 million and Duke
7 Energy's are hundred thousand dollars. It's a pretty
8 big spread. What are Gulf's numbers on administrative
9 costs?

10 A Well, I think some of those responses are
11 indicative of the uncertainty about what a mechanism
12 might look like. Gulf did provide a discovery response
13 to the Office of Public Counsel question asking us to
14 calculate some cost-shifting.

15 But even aside of that, really, the issue of
16 the administrative cost is obvious because the programs
17 that Gulf offers are not just programs for large
18 industrial or large commercial customers.

19 Instead, these are programs that are offered
20 to all of Gulf's commercial, industrial customers. So,
21 it's clear if a portion of those customers opt out, we
22 can't just stop offering those programs and continuing
23 to make those available to other customers.

24 So, those are costs that are going to continue
25 that will not go away under either of these scenarios

1 that are being proposed.

2 Q So, can you just peg for me the administrative
3 costs that Gulf identified? Not the costs that
4 potentially would be shifted -- and I think they're
5 referenced in response to the Office of Public
6 Counsel -- but what you think your administrative costs
7 might be to administer an opt-out program.

8 A Well, Gulf provided some estimates of that in
9 response to a staff data request. Let me see if I
10 can...

11 MR. MOYLE: If staff has it, they can --

12 COMMISSIONER BROWN: I'm looking at Gulf's
13 Counsel to advise.

14 MR. GRIFFIN: I believe the interrogatory in
15 question is Item No. 2 of staff's first set of
16 interrogatories in this docket, 140226EI.

17 COMMISSIONER BROWN: Thank you.

18 Staff, what exhibit number would that be?

19 MS. TAN: I believe it's 30 -- was it the
20 second set of interrogatories?

21 MR. GRIFFIN: The first set.

22 MS. TAN: Oh, 32. I'm sorry.

23 COMMISSIONER BROWN: 32. Thank you.

24 MR. MOYLE: I think it's already in the
25 record.

1 COMMISSIONER BROWN: Okay.

2 MR. MOYLE: I think it's already in the
3 record. Is there a Bates number on it?

4 COMMISSIONER BROWN: It is.

5 And does the witness have a copy of it?

6 THE WITNESS: Yes, I do.

7 COMMISSIONER BROWN: Okay.

8 BY MR. MOYLE:

9 Q Okay. So, what is the number -- do you have a
10 Bates number on your copy?

11 A No, sir, I do not.

12 Q What is the number on your copy that you have
13 before you? How much would the administrative costs be?

14 A Oh, okay. Gulf -- based on some of the
15 information that we had available to think about the
16 kinds of processes and changes that would be required,
17 we estimated a range of one-time expenses between
18 250,000 to \$400,000; and then ongoing expenses on an
19 annual basis between a hundred and \$180,000.

20 Q And did you endeavor to compare yourself to
21 the other utilities like the three million that FPL put
22 out there?

23 A No, sir, we did not.

24 Q All right. You also responded to one of my
25 previous questions by referencing a discovery response,

1 I think, you gave to the Office of Public Counsel when
2 they said assume 10 percent, 20 percent, 30 percent of
3 the people who opt out. Is that what you're referring
4 to?

5 A Yes, sir.

6 Q In that answer, you assumed, did you not, that
7 there would be no change to your existing energy-
8 efficiency programs. It was just, okay, existing
9 energy-efficiency programs are what they are. These
10 people opt out and nothing changes. That was the
11 assumption you made when you answered the questions
12 presented by the Office of Public Counsel, correct?

13 A Yes. Although, I would clarify. That was the
14 scenario that was set up for us to answer was to just
15 merely recalculate what the change and the costs would
16 be if those different percentage of -- percentages of
17 customers were opting out. So, we didn't have any
18 information about which customers they would be. It was
19 just merely percentages.

20 Q And you're aware that FIPUG and Mr. Pollock
21 have said we think this ought to be pursued. And to the
22 extent your opt-out folks are realizing energy
23 efficiency and they've got a professional engineer
24 saying, here is what we're realizing, that we think your
25 goal should be adjusted to count the energy efficiency

1 saved by the opt-out customers. You understand that,
2 right?

3 A I understand that's the proposal, yes.

4 Q And just to be clear, in answering the Office
5 of Public Counsel's questions, you didn't assume that in
6 your answer.

7 A That's correct. We only assumed the -- we
8 just followed the instructions they provided, which was
9 to --

10 Q Okay. All right. And we've talked before --
11 I think it was in the goals-proceeding docket.

12 Adjustments are made regularly to your programs, are
13 they not?

14 A Adjustments are made. I would not say they
15 are made regularly, but they are made in response to
16 changes in market conditions. Perhaps, we might adjust
17 incentive levels to, you know, create either more
18 activity in the market or in response to a change in
19 condition. We might adjust incentive levels down.

20 Q Do you look at that on a regular basis about
21 what adjustments might be needed?

22 A We do monitor that on a regular basis, yes.

23 Q Is that an annual basis you file that report
24 and say here is how we're doing with these?

25 A We do file reports annually, yes.

1 **Q** And with respect to making adjustments, to the
2 extent that the Commission says, yeah, we think the
3 opt-out is a good idea, a lot of states are doing it,
4 there is nothing that would preclude you from making
5 adjustments to your programs that would include an
6 opt-out if the Commission ordered that, is there?

7 **A** No, there is nothing that would preclude
8 making adjustments. Again, I would go back, though, to
9 the point that the programs that we have put before the
10 Commission and the Commission has approved are designed
11 for all of Gulf Power's commercial and industrial
12 customers.

13 So, whether certain customers opt out of those
14 or not doesn't necessarily change the need to have those
15 programs available to other customers. So, that
16 might -- just because certain customers opt out wouldn't
17 necessarily prompt a change in our plan. We're still
18 obligated to meet the goals and provide programs that
19 will be available to all of our other customers.

20 **Q** Do you happen to know how many megawatts you
21 serve with industrial load?

22 **A** I'm not familiar with the megawatts level. I
23 can tell you on an energy basis we serve 1,816
24 megawatt -- gigawatts hours.

25 **Q** What are you referencing for that answer?

1 A I'm just referencing internal information that
2 I have about the -- about the distribution between our
3 customer classes and energy sales.

4 **Q So, that's not part of the record what**
5 **you're -- you have a notebook in front of you.**

6 A That's correct. This is -- these are just
7 notes that I have.

8 **Q So, for the purposes of the discussion, assume**
9 **that every one of the industrial customers said, yeah,**
10 **we think this opt-out makes sense, we would rather be in**
11 **control of our own destiny, we're all going to opt**
12 **out -- that would obviate the need for you to continue**
13 **to maintain the program for industrial load, correct?**

14 A No, it wouldn't. All of our programs -- based
15 on goals which the Commission sets, we have goals for
16 commercial industrial combined. And so, all of our
17 programs that would be available for industrial
18 customers are also available for commercial customers.

19 So, even if all of the industrial customers
20 opted out, that would not obviate the need to have those
21 programs available to all of our other commercial
22 customers or any other industrial customers that didn't
23 qualify under the proposed criteria.

24 **Q So, you have no programs that are earmarked**
25 **just for industrials based on that answer, correct?**

1 A That's correct.

2 Q If a change to the program was going to be
3 made, does it matter from Gulf's perspective whether
4 there is a final order approving programs in place or
5 not?

6 A I'm not sure I follow the question.

7 Q Your Counsel had asked a previous witness to
8 say, well, if there is a final order in place approving
9 the programs, you know, doesn't that mean that's a done
10 deal. That's not exactly what he said, but that's kind
11 of how I interpreted it.

12 Do you have an understanding that if a final
13 order goes into effect approving the programs, that that
14 closes the door on things for a while?

15 A No, not necessarily. The final order just
16 approves the programs until there is either -- either
17 the Commission, on Commission's action, requests a
18 change or the company requests a change. That could be
19 done at any time.

20 Q And I think the follow-up was that that adds
21 additional costs, I guess, is that right, when you get
22 lawyers to come in and ask for a change?

23 A Well, it certainly adds time and a process to
24 go through to make that happen.

25 Q And you understand that there is some

1 interrelation between programs that the Commission
2 considered yesterday and voted on and the opt-out
3 proposal, correct?

4 A I'm not sure I follow what you mean by that.

5 Q So, our hope is the Commission says, yeah, we
6 think opt-out is a good idea and that we're able to
7 start having conversations and put in place an opt-out
8 program to make necessary adjustments to programs or
9 goals that may have been set.

10 And so, I'm asking: Do you understand that
11 the order approving the programs is, if the Commission
12 does that, related to this docket that's before the
13 Commission today?

14 A Well, I understand that the Commission
15 approved our plans yesterday. And so, independent of
16 what might or might not happen with the opt-out
17 proposals, those programs are going to be available to
18 all of our customers. And that's going to move forward.

19 Q What's the timing on that? When do you make
20 those available to your customers?

21 A Well, we'll file for the program standards
22 according to the Commission procedures. And then once
23 those are approved, then those programs will become
24 available.

25 Q So, you adopted the testimony of Jennifer

1 **Todd; is that right?**

2 A Yes.

3 **Q Are you comfortable if I ask you questions**
4 **about that?**

5 A Sure.

6 **Q So, this is on Page 8. I have it on Line 9**
7 **through 14. I think you referenced it in your opening,**
8 **but -- you suggest that if an opt-out program were**
9 **adopted, that it would add another layer of complexity**
10 **to the process, right?**

11 A Yes, we did.

12 **Q And the way I read that is because that would**
13 **require you to have to deal with individual customers**
14 **who may be opting out; is that fair?**

15 A Yes, that's fair.

16 MR. MOYLE: I have an exhibit I would like
17 to --

18 COMMISSIONER BROWN: Mr. Moyle, this time, I
19 would -- if you have more than one exhibit, could
20 you just --

21 MR. MOYLE: I just have one.

22 COMMISSIONER BROWN: Thank you. We'll be at
23 Exhibit No. 49.

24 MR. MOYLE: Dealing with multiple exhibits, I
25 confuse myself sometimes, so...

1 COMMISSIONER BROWN: I should have said that
2 upfront. Okay. Title?

3 MR. MOYLE: Residential custom incentive
4 program.

5 COMMISSIONER BROWN: How about Gulf?

6 MR. MOYLE: Gulf residential custom incentive
7 program.

8 COMMISSIONER BROWN: Okay.

9 (Exhibit No. 49 marked for identification.)

10 BY MR. MOYLE:

11 **Q I'm handing you a document that has been**
12 **marked as Exhibit 49. Are you familiar with this**
13 **document? And if so, could you identify it, please?**

14 A Yes. This is a program description for Gulf's
15 residential custom incentive program.

16 **Q And this is for apartment buildings; is that**
17 **right?**

18 A It's not necessarily limited to apartment
19 buildings. It's intended to address multi-family market
20 or other renter-tenant-type properties.

21 **Q Down on the bottom of the first page, 12-12 it**
22 **says, "The maximum total incentive offered between this**
23 **and any other program would be limited to an amount**
24 **which would produce a customer payback of no less than**
25 **one year." Is that -- is that right?**

1 A Yes, that's correct.

2 **Q And how do you reconcile that with what I**
3 **thought the Commission did with respect to a two-year**
4 **payback?**

5 A The Commission did set goals based on the
6 cost-effective achievable potential exclusions measures
7 that had less than the two-year payback. But this
8 program, because it was focusing on the low-income
9 segment and the rental market, Gulf wanted to extend
10 that payback criteria a little short in order to try to
11 overcome some of the participation barriers that had
12 been discussed widely during the goals hearings.

13 So, this was a case where Gulf believed that
14 it was appropriate to provide a little extra
15 consideration in order to help low-income customers
16 primarily that would benefit from this type of program.

17 **Q Okay. And I was aware of the low-income**
18 **issue, but I didn't see anything in here where it's**
19 **designated for low income. It's not --**

20 A It's not limited to low income, that's right.

21 **Q So, you could have a high-end multi-family**
22 **that could take advantage of this and use the one-year**
23 **payback, right?**

24 A It's not limited to low income. And that's
25 not a -- that's not a maximum -- or that's not an

1 automatic less than one year. That would give us the
2 flexibility to offer an incentive that would bring a
3 project to that payback.

4 Q Okay. And I appreciate that. I wanted to
5 understand that, but there is a point that I also wanted
6 to bring to your attention. It's on 2-13. It says --
7 it's highlighted in here. It says, "Due to the
8 customized nature of this program, benefits are
9 determined on a case-by-case basis"; is that correct?

10 A That's correct.

11 Q And you're able to do that, okay, "you" being
12 Gulf. You can determine benefits on a case-by-case
13 basis?

14 A That's right. And what we're talking about
15 here would be -- in the very same way that we would
16 evaluate projects for the commercial and industrial
17 custom incentive program, we would evaluate the specific
18 benefits of the project in terms of the energy and the
19 demand savings that would be -- it would be associated
20 with this project. That's how we would determine the
21 cost-effectiveness of the project.

22 Q So, if the Commission approves the opt-out,
23 one of my clients in your service territory says, I'm
24 going to go for the opt-out, they do that, they get a
25 professional engineer -- that evaluation would also be

1 **done on a case-by-case basis, correct?**

2 A That's right. Again, we currently have a
3 commercial industrial custom incentive program. That's
4 somewhat the way that that works. So, any of our large
5 industrial customers or commercial customers could come
6 to us either through having an energy audit done at
7 their facility or, through some other interaction with
8 their account manager, might identify a project they are
9 interested in pursuing.

10 And it might be that there was a professional
11 engineer that provided information about that project,
12 that modeled energy savings, for example. We would take
13 those and evaluate those in the very same way and
14 determine, if that project could qualify for incentives,
15 it might help that customer be able to implement that
16 project.

17 And that's a unique thing that all of the
18 Florida IOUs offer to our commercial and industrial
19 customers as a way to recognize that those customers are
20 unique and there are unique aspects about their
21 operations that are not easy to design into general
22 programs that apply to a mass market, like in a
23 residential market.

24 It's a much easier to have a residential
25 ceiling insulation program. But in the large commercial

1 industrial market, it's much more common to have unique
2 opportunities. That's why each of us have these custom
3 incentive programs to be able to provide opportunities
4 for those customers to participate and to be able to
5 receive incentives to the extent they meet the criteria
6 of the project just like any other customer can do.

7 **Q Okay. So, when you talk in your testimony**
8 **about the additional layer of complexity added to this**
9 **process, that's not different from the complexity that**
10 **is added to the process by programs such as the one**
11 **we've talked about, the residential custom incentive**
12 **program, correct?**

13 A Well, it could be. For example, in both this
14 program and in our commercial program, those projects
15 would be evaluated and the incentives would be paid upon
16 installation and completion of the project.

17 In the opt-out proposal, there is not as much
18 certainty under some of the criteria of when those
19 projects would occur and exactly what savings those
20 projects would result in.

21 So, I would say that this layer of complexity
22 is -- there is a difference in the amount of complexity
23 between these two scenarios.

24 **Q Depending on how things play out with respect**
25 **to the opt-out.**

1 A That's correct.

2 Q Right. And I guess where I wanted to focus on
3 was you do have in place programs where you go look at
4 individuals on a case-by-case basis and you make
5 judgments, and that works, correct?

6 A That's correct. We do that.

7 Q And you understand that's what FIPUG is
8 proposing with respect to the opt-out and individual --
9 individuals who are eligible to be able to say, hey,
10 here are the additional savings I'm giving you, and
11 certify that to you?

12 A Well, that's partly what I understand. I
13 understand there are several different aspects of their
14 proposal including that some project happened within a
15 certain amount of years retrospectively as well as plans
16 to implement a project prospectively.

17 So, that's a very different kind of construct
18 than what we're talking about through these custom
19 incentive programs that are approved as part of our
20 plan.

21 Q And I have -- you don't know how many
22 industrial customers you have, right? Ballpark.

23 A 200 ballpark.

24 Q 200 industrial?

25 A I'm sorry. 300, let's round it off, 260 --

1 270 -- you know, 270. How about that?

2 **Q We've got a chance to get it right. Let's get**
3 **it -- what, 270?**

4 A Let me give you the number -- for 2015, 269.

5 **Q And how do you define industrial?**

6 A That's a process, a customer who is involved
7 in a manufacturing process, produces some product.

8 **Q And am I understanding this correctly that**
9 **this case-by-case program for multi-family -- that on**
10 **the last page of the Exhibit 49, that the potential**
11 **number of eligible customers is over 390,000?**

12 A That is just representing our entire
13 residential customer base. This program, because of its
14 unique nature, we don't have a predetermined projected
15 participation that we expect with this program since we
16 don't -- you know, we don't market this program in the
17 same way we would, say, as a residential ceiling
18 insulation program.

19 This is a program awarded to be -- offer a
20 customizable solution. So, it's difficult to project
21 what that participation would be.

22 **Q All things being equal, wouldn't you agree it**
23 **would probably be easier to administer and handle an**
24 **opt-out program for which 269 people were eligible as**
25 **compared to a case-by-case program for which over**

1 **390,000 people were eligible?**

2 A No, I wouldn't agree because, again, the opt-
3 out is -- under the scenarios, Gulf has no ability to
4 plan for whether that group of customers might be
5 eligible or might be -- eligible to participate in the
6 programs or not; whereas, in the program like this --
7 this is merely something extra that we've added to be
8 available to all of our customers to help facilitate
9 projects that they wouldn't otherwise be able to
10 accomplish.

11 **Q And you don't have any disagreement with**
12 **Mr. Pollock about the number of states moving forward**
13 **with opt-out proposals?**

14 A I don't. I take Mr. Pollock's testimony as it
15 is.

16 **Q Okay. Are you familiar with what is done in**
17 **the sister states for which the Southern Company has**
18 **operating companies?**

19 A I am generally familiar with that, yes.

20 **Q And do all of those states charge their**
21 **industrial customers a charge related to energy**
22 **efficiency?**

23 A Georgia does not. Georgia, I would
24 characterize, exempts industrials from participating in
25 their energy-efficiency portfolio.

1 Mississippi does include industrials and
2 commercials in their energy-efficiency programs and
3 cost-recovery mechanism.

4 Alabama does not have any formal programs for
5 which they would subject a cost-recovery mechanism.

6 And of course, Florida is included in all.

7 **Q So, out of all the areas that you mentioned,**
8 **Mississippi is the only one that has a payment**
9 **requirement for energy-efficiency from industrials**
10 **presently?**

11 A And Florida.

12 **Q Okay. Right. Does Mississippi have an opt-**
13 **out provision?**

14 A No, Mississippi does not have an opt-out
15 provision, nor does Georgia. And again, Georgia is more
16 of an exemption where the industrials do not
17 participate.

18 **Q And you haven't gone out and done any kind of**
19 **independent analysis about what states have done that**
20 **have provided for an opt-out other than what you know,**
21 **that we just talked about, correct?**

22 A That's correct.

23 **Q Would Gulf be willing to participate in**
24 **determining the appropriate adjustments or modifications**
25 **to be made to its programs if the Commission decided to**

1 **move forward with the FIPUG or Wal-Mart opt-out**
2 **proposal?**

3 A Yes, Gulf would be supportive of working with
4 the Commission on any policy or change that the
5 Commission sought to implement.

6 Q **I just wanted to be clear. I may have asked**
7 **you this. But you do understand that the FIPUG proposal**
8 **is not intended to shift cost from one class of**
9 **customers to another?**

10 A I understand that's the intention; although, I
11 don't agree with that premise. I believe that the
12 premise would, in fact, cost-shift as has been discussed
13 by some previous witnesses.

14 MR. MOYLE: All right. Thank you. That's all
15 I have.

16 COMMISSIONER BROWN: Wrapped up? Okay.
17 Wal-Mart?

18 MR. WRIGHT: Thank you, Commissioner. I was
19 making a note for a question I need to ask.

20 EXAMINATION

21 BY MR. WRIGHT:

22 Q **Good afternoon, Mr. Floyd.**

23 A Good afternoon --

24 Q **It's nice to see you today.**

25 A Good afternoon, Mr. Wright.

1 Q I think I don't have a whole lot of questions
2 for you, and some of them you will have heard before
3 when I asked other witnesses the questions, but here we
4 go.

5 Do you agree that the overriding or
6 overarching mandate of the Florida Energy Efficiency and
7 Conservation Act is to promote maximum cost-effective
8 energy conservation for the benefit of the state as a
9 whole?

10 A Yes.

11 Q Do you agree that the Legislature has directed
12 the Public Service Commission to take into consideration
13 the need for implementing or creating incentives for
14 customer-owned energy-efficiency systems in its
15 decisions made pursuant to FEECA?

16 A Yes, I do.

17 Q Would you agree that an opt-out program or
18 opt-out opportunity for customers does create an
19 incentive for customers to undertake energy efficiency
20 on their own?

21 A No, I do not agree with that. I believe that
22 an opt-out would create an incentive to opt out, but not
23 necessarily to invest in energy efficiency on their own.

24 Q Do you understand that Wal-Mart's proposal
25 requires the customer to commit either to -- to either

1 demonstrate that they've done energy savings or commit
2 to a definitive program of implementing recommendations
3 from an energy audit?

4 A Yes, I do.

5 Q So, with that in mind, would you agree that
6 Wal-Mart's proposal would actually require customers to
7 do something, whether it's implement on their own or
8 commit to implement on their own personally to an energy
9 audit?

10 A I would agree that their proposal would
11 require the customers to do that; although, I don't
12 necessarily agree that the opt-out would encourage them
13 to do it. I believe it would encourage them to seek to
14 opt out.

15 Q Well, if they have to do something in terms of
16 achieving energy-efficiency savings and the benefit to
17 them of opting out is not paying the energy-efficiency
18 charge broken out from the overall ECCR charge, doesn't
19 that provide economic incentive to them to undertake the
20 efficiency measures that they would undertake in order
21 to achieve eligibility?

22 A I would agree that they would pursue whatever
23 means were required to be able to opt out. I think that
24 incentive would be there in the mechanism that is
25 proposed.

1 **Q** **If you know, what is the typical RIM benefit-**
2 **to-cost ratio for Gulf Power's energy-conservation**
3 **programs?**

4 **A** They are all very close to one, which is
5 ideal, actually, because that would -- that would mean
6 that we are achieving all of the RIM -- RIM-passing
7 efficiency measures that could be implemented.

8 **Q** **Do you agree that energy savings, whether**
9 **achieved through Gulf Power or a utility ECCR program or**
10 **through a customer's own efforts, provides the same**
11 **benefits in terms of the benefits of megawatt-hour**
12 **hours reduced?**

13 **A** Not necessarily. I would agree that energy
14 saved by a customer is energy saved by a customer. But
15 depending on the amount of summer and winter peak-demand
16 impacts, that that energy savings also delivered -- it
17 could be very different than those energy savings being
18 delivered through a program that the utility is
19 promoting.

20 **Q** **Most of Gulf Power's programs are, in fact,**
21 **energy-saving programs as opposed to peak-demand**
22 **reduction programs, are they not?**

23 **A** Actually, most of Gulf Power's peak-demand
24 savings comes from our energy-efficiency programs. So,
25 only a very small portion of our summer- and winter-

1 demand savings come simply from our demand-response
2 programs. Most of that actually comes from the balance
3 of the energy-efficiency programs.

4 **Q Have you undertaken any analysis of potential**
5 **savings, benefits from an opt-out program that might be**
6 **implemented pursuant to this docket?**

7 A Savings of what?

8 **Q Energy.**

9 A No, we have not.

10 **Q Cost savings resulting from their energy**
11 **production?**

12 A No, we've not. Again, in all fairness, it's
13 difficult to project that not knowing what a customer
14 might do in terms of opt-out. So, from a planning
15 standpoint, it's difficult to forecast what that might
16 look like.

17 **Q You mentioned, I think, in -- actually, I**
18 **think it was response to questions by Mr. Moyle -- your**
19 **concern that opt-out might result in Gulf's failing to**
20 **meet your DSM goals. Is that -- is that a fair**
21 **characterization of what you said earlier?**

22 A Yes.

23 **Q My question is this: If the total energy**
24 **savings achieved through the combination of the**
25 **utility's ECCR programs and customer activities were the**

1 same, then wouldn't the state be equally well off?

2 A I'm sorry. Could you ask that again?

3 Q Sure.

4 A I missed the last part.

5 Q My question is this: If the total energy
6 savings are the same, whether they are achieved through
7 the utility programs alone or the utility programs and
8 customer -- self-directed, self-financed efforts,
9 wouldn't the state be equally well off?

10 A Not necessarily. Again, I think it would
11 depend on the capacity benefits that came along with
12 those energy savings. For example, energy savings from
13 a customer putting in a compact fluorescent light bulbs
14 are very different than energy savings coming from a
15 customer investing in an energy-efficient heat pump.

16 That kind of energy-efficiency investment is
17 going to provide more peak-demand benefits to the
18 utility and, therefore, would have more value to the
19 state in terms of the overall energy supply.

20 Q You mentioned in response to a question by
21 Mr. Moyle that Gulf's industrial customers use 1,816
22 GWh, I think, either projected to for 2015 or used in
23 2014. Do you recall that?

24 A Yes, I do.

25 Q What year was that for, by the way?

1 A Let's see. That was for 2014.

2 Q What was Gulf's total retail sales value or
3 their total net energy value for the same period?

4 A 11 -- 11,102 gigawatts hours.

5 Q Was that NEL or retail sales?

6 A That's retail sales.

7 Q Do you have the same corresponding value for
8 commercial customers, corresponding to the 1,816?

9 A Yes, I do. It's 3,863 gigawatts hours.

10 Q Thank you.

11 A couple of follow-up questions regarding your
12 residential custom incentive program. Do you have any
13 customers on that program?

14 A I don't recall if we have any customers on
15 that program now. Typically the way that program has
16 worked is an account representative would work maybe
17 with a property owner identifying ways to help that
18 property take advantage of the efficiency programs that
19 we have available.

20 Many times, that -- that happens and those
21 enrollments are just recorded in the individual program
22 they participated in. For example, if an apartment
23 complex replaced a lot of windows, that would, then,
24 just be recorded in the window-replacement program.

25 But I don't recall if there are currently any

1 that are listed as enrollments in that program.

2 **Q Is the company incurring any costs for that**
3 **program?**

4 A Yes, there are some administrative costs for
5 that program for having employees who would be out
6 promoting that to multi-family property management
7 companies or other rental property owners.

8 **Q You mentioned -- I think the way I understood**
9 **it is that Georgia has an exemption of industrial**
10 **customers from participating in the energy-conservation**
11 **program. Is that an accurate understanding?**

12 A Yes, that's my understanding is that Georgia
13 exempts the industrial customers. And my understanding
14 is also that, as of their last integrative resource
15 planning order, that the Georgia Commission rejected a
16 similar proposal that's being made by Wal-Mart to allow
17 an opt-out for the commercial -- for their customers on
18 the basis that it's complex.

19 **Q If you know, was the exemption that existed**
20 **for industrial customers in Georgia implemented by**
21 **Legislation or by a decision from the Georgia PSC?**

22 A I'm not -- I'm not familiar with the origin of
23 that decision.

24 MR. WRIGHT: That's all I have. Thank you,
25 Commissioner.

1 Thank you, Mr. Floyd.

2 COMMISSIONER BROWN: Thank you.

3 Public Counsel.

4 MS. CHRISTENSEN: No questions.

5 COMMISSIONER BROWN: Thank you.

6 Staff.

7 MS. TAN: Staff has questions for Mr. Floyd.

8 I would like to go ahead and pass out some
9 information that we will be using. It's based on
10 staff's interrogatories. There are other documents
11 in there we may or may not use, depending on if
12 we've eliminated that question, but I put it all in
13 packets for ease of use.

14 COMMISSIONER BROWN: Thank you.

15 EXAMINATION

16 BY MS. TAN:

17 Q The first one is going to be for staff's --
18 your response to staff's first set of interrogatories,
19 Question No. 2. And that is already in the record under
20 Exhibit 32, Bates No. 00192. And when you get that and
21 you're ready, please let me know.

22 A Okay. I have it.

23 COMMISSIONER BROWN: Let's just wait until

24 Counsel gets it.

25 MS. TAN: Absolutely.

1 MR. WRIGHT: May I just ask, what -- what
2 exhibit this is part of?

3 COMMISSIONER BROWN: I was just going to ask
4 that.

5 Ms. Tan?

6 MS. TAN: It is Exhibit 32, Bates No. 00192.

7 COMMISSIONER BROWN: Thank you.

8 And you may proceed.

9 MS. TAN: Thank you.

10 BY MS. TAN:

11 Q Did you provide an estimate of one-time and
12 recurring costs of implementing these processes --
13 implementing processes regarding what would happen if
14 the opt-out were to be -- were to be approved by the
15 Commission? Excuse me.

16 A Yes, I did.

17 Q Could you please describe what your estimates
18 of the upfront annual cost would be?

19 A We estimated a range of one-time upfront costs
20 between \$250,000 and 400,000. We also estimated annual
21 ongoing expenses of a range of between \$100,000 and
22 \$180,000.

23 Q And do you believe that these administrative
24 costs would increase if the number of eligible opt-out
25 customers increased?

1 A Yes, I certainly believe that that would be
2 the case.

3 Q And who do you believe should be responsible
4 for paying any administrative costs of implementing an
5 opt-out provision?

6 A Any customers that were opting out should be
7 responsible for paying those.

8 Q Okay. And if the Commission were to approve
9 an opt-out plan as proposed by the petitioners, in your
10 opinion, what would that opt-out provision affect --
11 affect the rates of non-opt-out customers -- I should
12 say how would that opt-out provision affect the rates of
13 non-opt-out customers.

14 A I believe that it would affect the rates of
15 non-opt-out customers through cost-shifting that would
16 occur. And really, that's kind of what happens in a
17 couple of ways; one, all of the program costs don't
18 necessarily decrease by the same amount as the customers
19 who are opting out. So, there are still a lot of
20 program costs that remain in order to makes our programs
21 available to the rest of our customers.

22 But then the denominator, the amount of
23 kilowatt hours or customers that those expenses are
24 spread over, becomes smaller. So, that does cause
25 shifting of those costs to all the other non-opt-out

1 customers, either the ones who are ineligible to opt out
2 or the ones who elect not to opt out.

3 Q Thank you. And I would like to have you look
4 at your response from -- the discovery response from
5 Office of Public Counsel, their first set of
6 interrogatories. That is actually going to be in the
7 information that you have, which is Exhibit No. 37,
8 Bates No. 00235 through 00236. So, if you would, just
9 look. There should be, like, this second set of
10 documents.

11 A Yes.

12 Q And that will be part of Exhibit 37, which is
13 also part of the record.

14 A Yes, I have that.

15 Q Did you perform an analysis which illustrates
16 the position that you just mentioned?

17 A Yes, we did. In this analysis, we were asked
18 by the Office of Public Counsel to calculate the impacts
19 to the cost recovery to the residential ECCR factor, I
20 believe, by the scenarios where 10, 20, and 30 percent
21 of the customers -- energy sales associated with those
22 customers would be opted out from our programs.

23 Q And what was the result of your analysis?

24 A Result of our analysis was that in all three
25 scenarios, that the residential-bill impact increased

1 and it progressively increased by the more percentage of
2 customers that opted out.

3 Q And would you agree that Gulf's DSM goals were
4 recently approved by the Commission and they are
5 based -- and they are based on RIM?

6 A Yes, I would agree.

7 Q I would like you to look at your rebuttal. If
8 you could, please turn to Page 4, Lines 17 through 22.
9 And just let me know when you're ready.

10 A Okay. I'm ready.

11 Q Here, you mentioned that the costs associated
12 with operating DSM programs are borne by all of Gulf's
13 customers; is that correct?

14 A Yes, that's correct.

15 Q So, residential customers benefit when
16 commercial and industrial customers participate in
17 Gulf's demand-side management and conservation programs?

18 A That's correct.

19 Q And conversely, do commercial and industrial
20 customers benefit when residential customers participate
21 in Gulf's programs?

22 A Yes, that's correct.

23 Q And are you aware of a method to calculate the
24 net benefit to customers who do not participate in
25 utility-sponsored energy-efficiency programs that passed

1 **RIM?**

2 A I'm not aware of a certified method to do
3 that. We explained in a discovery response that that
4 could, perhaps, be attempted by looking at the RIM
5 benefits and trying to associate those based on the
6 customer's contribution to the overall energy mix of the
7 company, but -- and that's by doing no means a tested or
8 validated method to be able to calculate specific
9 customer benefits.

10 However, the nice thing about having a RIM
11 portfolio is that we can be assured that all of the
12 customers are benefiting from the downward pressure on
13 rates over time.

14 **Q Would you also agree that there are benefits**
15 **in terms of deferred generating capacity and reduced**
16 **operating costs associated with programs that pass the**
17 **total resource cost test?**

18 A Yes, I would agree with that.

19 **Q Thank you.**

20 Also, I would like you to look at Page 7 of
21 your testimony. And when you're there, please let me
22 know.

23 A Okay. I'm ready.

24 **Q Thanks. Here, you express concern about how**
25 **an opt-out provision would affect your utility's ability**

1 to meet its DSM goals; is that correct?

2 A Yes.

3 Q And are you aware that the petitioners have
4 suggested that the demand and energy savings could be
5 counted toward a utility's DSM goals?

6 A Yes, I'm aware of that.

7 Q Would allowing the savings from opt-out
8 customers to count it toward goals mitigate your
9 concerns?

10 A Partially; although, in a goal-setting
11 process, that kind of information would not be known to
12 the company. And so, in going through the process of
13 setting the goals and looking at the available potential
14 in the marketplace, that's basically the exercise we go
15 through to set goals, not knowing which customers may or
16 may not opt out during the horizon over which those
17 goals are being achieved would make it difficult to make
18 those adjustments.

19 Q Thank you. And are you aware of any opt-out
20 provisions in states in which Gulf's parent company
21 operates?

22 A No, I'm not.

23 Q In your opinion, do you believe the opt out of
24 energy-efficiency programs would benefit all ratepayers?

25 A No, I do not believe that. I believe that

1 opt-out would result in some shifting of costs to other
2 customers who either aren't eligible to opt out or who
3 elect not to opt out. So, in that sense, it would not
4 benefit all customers.

5 MS. TAN: Thank you for your time.

6 Staff has no further questions.

7 COMMISSIONER BROWN: Thank you.

8 Commissioners, any questions?

9 Redirect, Gulf.

10 MR. GRIFFIN: No redirect.

11 COMMISSIONER BROWN: We have one exhibit, I
12 believe. It is Exhibit 49 offered by Florida Power
13 & Light.

14 MR. MOYLE: FIPUG offered it.

15 COMMISSIONER BROWN: Sorry. FIPUG.

16 MR. MOYLE: We would go ahead and move it,
17 please.

18 COMMISSIONER BROWN: Any objection?

19 MR. GRIFFIN: No objection.

20 COMMISSIONER BROWN: We will move 49 into the
21 record.

22 (Exhibit No. 49 admitted into evidence.)

23 COMMISSIONER BROWN: Would you like this
24 witness excused?

25 MR. GRIFFIN: We would.

1 COMMISSIONER BROWN: Have a nice evening.

2 THE WITNESS: Thank you.

3 COMMISSIONER BROWN: Okay. We are moving. It
4 is about 5:30. And I said sometime around 6:00 we
5 would take a dinner break. I would like to proceed
6 ahead and get as much finished.

7 We have only three witnesses left. I see that
8 Mr. Pollock is in the audience here, too. So,
9 let's start with TECO's witness.

10 MR. BEASLEY: Tampa Electric calls Mark Roche.

11 EXAMINATION

12 BY MR. BEASLEY:

13 Q Mr. Roche, were you sworn this morning?

14 A Yes, I was.

15 Q Did you prepare and cause to be filed in this
16 proceeding a 13-page document titled rebuttal testimony
17 of Mark R. Roche?

18 A Yes, I did.

19 Q Do you have any corrections to make to that
20 testimony?

21 A No, I do not.

22 Q If I were to ask you the questions contained
23 in that testimony, would your answers be the same?

24 A Yes, they would.

25 MR. BEASLEY: I would ask that Mr. Roche's

1 rebuttal testimony be inserted into the record as
2 though read.

3 COMMISSIONER BROWN: We'll insert Mr. Roche's
4 prefiled rebuttal testimony as though read.

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **PREPARED REBUTTAL TESTIMONY**

3 **OF**

4 **MARK R. ROCHE**

5
6 **Q.** Please state your name, address, occupation and employer.

7
8 **A.** My name is Mark R. Roche. My business address is 702
9 North Franklin Street, Tampa, Florida 33602. I am
10 employed by Tampa Electric Company ("Tampa Electric" or
11 "the company") as Administrator, Regulatory Rates in the
12 Regulatory Affairs Department.

13
14 **Q.** Are you the same Mark R. Roche who submitted prepared
15 direct testimony in this proceeding?

16
17 **A.** Yes.

18
19 **Q.** What is the purpose of your rebuttal testimony?

20
21 **A.** The purpose of my rebuttal testimony is to address the
22 recommendations made by Mr. Jeffrey Pollock, testifying on
23 behalf of the Florida Industrial Power Users Group
24 ("FIPUG") and Mr. Kenneth E. Baker and Mr. Steve W.
25 Chriss, testifying on behalf of Wal-Mart Stores East, LP

1 and Sam's East, which I refer to collectively as the
2 "intervenor witnesses".

3

4 **Q.** What is the subject of your rebuttal testimony?

5

6 **A.** I will discuss the rate impact and technical implications
7 of the intervenor witnesses' proposals on Tampa Electric
8 and its customers.

9

10 **Q.** Do you believe the approach currently used by Tampa
11 Electric and approved by the Florida Public Service
12 Commission ("Commission") to allocate conservation costs
13 is fair to all customers?

14

15 **A.** Yes. The current allocation method is fair to all Tampa
16 Electric customers and benefits all customers equally
17 without imposing a subsidy from one class of customers to
18 another. Additionally, the current method is transparent
19 and has accountability to not only the Commission but
20 also to all customers.

21

22 **Q.** Does the intervenor witnesses' testimony provide
23 accountability to the Commission and to all Tampa
24 Electric's customers in what they are proposing?

25

1 **A.** No. Tampa Electric's DSM programs are measurable and
2 verifiable. The company only offers programs that meet
3 the Commission's cost effectiveness test. Once approved,
4 the way the company implements the programs is subject to
5 significant reporting requirements and periodic audits by
6 the staff. The company cannot change a program approved
7 by the Commission without the Commission's approval. All
8 of these measures provide a level of accountability that
9 enhances the value and legitimacy of the programs.

10

11 **Q.** Have the intervenors proposed opt-out plans with the kind
12 of protections and accountability measure described
13 above?

14

15 **A.** No. In fact, in some respects, the intervenor witnesses
16 have proposed that the Commission adopt an opt-out
17 concept, but have not proposed any opt-out program with
18 enough detail or specificity to justify Commission
19 approval. The ideas for opting out advanced by the
20 intervenors do not include a clear description of the
21 opt-out program or necessary details showing how the
22 proposal would be implemented, operated, measured,
23 verified, governed, or how they would actually work.

24

25 **Q.** If an opt-out provision were approved by the Commission,

1 would the opt-out by some select customers adversely
2 affect the rate recovery from all other customers?
3

4 **A.** Yes. An opt-out provision would adversely affect
5 customers who cannot opt-out by shifting costs to them
6 that would not be recovered from the customers who are
7 opting out. An opt-out provision as proposed by the
8 intervenor witnesses would exempt certain customers from
9 sharing in the costs of investments in energy efficiency
10 which benefit all customers. Since the current DSM goals
11 are proposed to be based upon the Rate Impact Measure
12 ("RIM") cost effectiveness test, this ensures that the
13 programs implemented by Tampa Electric increase the
14 overall energy efficiency in its service area and lowers
15 electric rates for all customers. Allowing an opt-out
16 provision would unfairly shift the costs for energy
17 efficiency investments that currently benefit all
18 customers to just those customers not participating in
19 the opt-out provision, while allowing the benefits to
20 apply to all customers including those that opt-out.
21

22 **Q.** Can you quantify the expected financial burden Tampa
23 Electric's customers would incur if larger non-
24 residential customers are permitted to opt-out of energy
25 conservation measures through the ECCR clause?

1 **A.** Yes. Tampa Electric was asked to provide similar
2 information in response to discovery it received from the
3 Office of Public Counsel ("OPC") in this docket.
4 Specifically, Tampa Electric was asked to project the
5 impact on residential customers on both a total revenue
6 requirement basis (i.e., costs that will be shifted to
7 the remaining customers who would be left to pay the ECCR
8 charge), and on a per 1,000 kWh/month basis, under three
9 separate hypothetical scenarios whereby the largest (by
10 revenue in each tier) non-residential customers
11 comprising 10 percent, 20 percent, and 30 percent of non-
12 residential revenues would be eligible for and take
13 advantage of such an option.

14

15 **Q.** Did you perform such an analysis for the OPC?

16

17 **A.** Yes.

18

19 **Q.** What were the results of your analysis?

20

21 **A.** The results showed that costs would be shifted to all
22 other non-eligible and eligible non-participating
23 customers. In each hypothetical scenario presented,
24 dollars shifted from the qualifying opt-out customers to
25 all other non-eligible and eligible non-participating

1 customers regardless of rate class. The shift in dollars
2 was between \$1.6 and \$5.1 million depending on the
3 scenario. The residential customers would see the brunt
4 of this cost shift which shifted between \$0.7 and \$2.4
5 million to them.

6
7 **Q.** What did the analysis show as the ECCR charge impact on a
8 1,000 kWh usage residential customer?

9
10 **A.** On a 1,000 kWh usage basis, the residential ECCR charge
11 would increase from a current projected amount for 2015
12 of \$2.47, to between \$2.56 and \$2.74 which equates to a
13 3.6 percent and 10.9 percent increase depending on the
14 scenario.

15
16 **Q.** Did the analysis show an impact to all other rate
17 classes?

18
19 **A.** Yes. The opt-out provision analysis does show that it
20 will shift costs to all other non-eligible rate classes.
21 It also showed that costs would shift onto customers who
22 do not participate or qualify for an opt-out provision
23 but are within an eligible rate class.

24
25 **Q.** Do you have your analysis that was provided to OPC?

1 **A.** Yes. I have attached Exhibit MRR-2 in tabular form which
2 shows the impact of each scenario on the cost recovery
3 factors for the 2015 January through December cost
4 recovery period. I have also included adjusting for
5 1,000 kWh usage to show the financial impact to
6 residential customers, and I compare these new values to
7 the current projected values for 2015 shown in Exhibit
8 MRR-1, schedule C-1, Page 1 of 1 which was filed on
9 August 27, 2014.

10

11 **Q.** Do you believe the results of your analysis provide a
12 fair and accurate projection of the potential economic
13 impact of the intervenor witnesses' opt-out proposal on
14 Tampa Electric's residential customers?

15

16 **A.** Yes. The analysis accurately shows that an opt-out
17 provision would create subsidies by shifting costs from
18 those that qualify to those that do not or cannot. If an
19 opt-out provision is allowed, it will cause undue
20 discrimination by shifting costs between customers.

21

22 **Q.** If the Commission chooses to set DSM goals using a cost
23 effectiveness test other than RIM, would this make an
24 opt-out provision more reasonable?

25

1 **A.** No. An opt-out provision will simply favor one group of
2 customers over another by instituting subsidies
3 regardless of what cost effective test is chosen. In
4 fact, any cost-effectiveness test other than the RIM test
5 will further exacerbate the subsidies already created by
6 an opt-out provision. In that situation, a
7 nonparticipating non-opt-out customer would incur two
8 levels of subsidies, the first due to the opt-out
9 provision, and the second from the use of a cost
10 effectiveness test other than the RIM test. This
11 potential problem can be avoided by rejecting the
12 intervenor witnesses' opt-out proposal and maintaining
13 the status quo. In doing so, the Commission will
14 continue to discharge its statutory duty to minimize
15 undue discrimination between rate classes.

16
17 **Q.** Do you agree with Mr. Pollock's statement that utility
18 funded energy efficiency programs are fundamentally
19 unfair?

20
21 **A.** No. Tampa Electric only uses energy efficiency programs
22 that are cost effective and approved by the Commission.
23 The benefits of these programs accrue to all customers,
24 including those that have chosen to participate and to
25 those that have not. Mr. Pollock's testimony is

1 internally inconsistent because first he states that
2 shifting the costs of these cost effective programs to a
3 group that is not participating is unfair, yet at the
4 same time he fully supports allowing large energy and
5 demand customers to be able to opt-out of paying for
6 these cost effective programs, thus shifting the
7 financial burden onto all other ineligible customers
8 while the benefits produced by the programs are received
9 by all customers.

10
11 **Q.** Do you agree with Mr. Pollock's statement that customers
12 should only pay for the services they receive?

13
14 **A.** No. Mr. Pollock's statement misses the point that the
15 Commission's approved conservation programs benefits all
16 customers. The purpose of the ECCR clause is to recover
17 the costs the utility incurs for actions that it takes to
18 deliver cost-effective DSM programs which provide
19 benefits to all customers. Mr. Pollock simply wants the
20 opt-out customers to receive the benefits of conservation
21 programs without paying for them. Applying Mr. Pollock's
22 logic to his clients would suggest that Tampa Electric
23 should only pay a load management, standby generator
24 credit, demand response, or GSLM incentive when the
25 participating customer is called upon to shed load.

1 That, of course, is not how it works. Tampa Electric
2 compensates these customers with incentives to be willing
3 to shed load because their willingness to do so yields
4 benefits to the company and its customers, including the
5 benefit of delaying or not having to build a power plant.
6

7 **Q.** Do the intervenor witnesses properly recognize in their
8 request how energy is factored into Tampa Electric's
9 integrated resource planning ("IRP") process?
10

11 **A.** I did not see any recognition of that in their testimony.
12 Their testimony is that large demand customers or demand
13 response, GSLM, or load management customers do not
14 benefit from energy efficiency programs and thus they
15 should be permitted to opt-out from paying for them. This
16 is not true. Energy efficiency programs clearly provide
17 both energy savings and demand reduction. Energy savings
18 and demand reduction are included in the IRP process. In
19 the IRP process, the demand reduction component is used
20 to determine whether to eliminate or defer the need for a
21 new power plant. The energy savings component is used to
22 influence the specific type of power plant to be built
23 such as a peaking unit versus a base load unit. This
24 fact seems to be lost in the intervenor witnesses'
25 testimony. Regardless of their categorization of DSM

1 programs, both types produce both energy and demand
2 savings which clearly have a beneficial and financial
3 impact on the future rates for all customers, including
4 those for whom the intervenor witnesses are proposing to
5 provide an opt-out provision.

6
7 **Q.** What are some of the concerns in Mr. Pollock's testimony?

8
9 **A.** Mr. Pollock states that that not all Tampa Electric
10 customers are eligible for the company's conservation
11 programs, when in fact, all customers are eligible to
12 participate in one or more of the company's Commission
13 approved DSM programs. Mr. Pollock also states that the
14 conservation clause only benefits some rate payers, when
15 in fact, Mr. Brubaker, a prior expert witness representing
16 FIPUG, testified and acknowledged that to the extent
17 conservation efforts succeed in obviating the need for
18 expensive new plants, all customers will benefit¹.

19
20 **Q.** What are some of the concerns in Mr. Baker's and Mr.
21 Chriss's testimony?

22
23 **A.** Mr. Baker's and Mr. Chriss's testimony fails to state the
24 added transaction costs that this proposed opt-out
25 provision would cause. Their collective testimony

¹ Order 9974, Docket No. 810050-PU, Issued April 24, 1981.

1 contradicts the Commission rules requiring any program
2 savings to be measurable, monitorable, and verifiable.
3 Mr. Baker states that the programs Wal-Mart implements are
4 cost effective, yet his testimony does not explain the
5 cost effective measurement test used by his company.
6 Thus, if large customers were given an opt-out provision
7 as he proposes, the manner of measuring cost effectiveness
8 for any measures or programs that customers might
9 implement would be at the sole discretion of that
10 individual customer. This sole discretion does not
11 provide assurance or accountability that such a measure or
12 program will benefit all customers and not simply that
13 customer. This further underscores that the proposed opt-
14 out provision should be rejected.

15
16 **Q.** Please summarize your overall assessment of Mr.
17 Pollock's, Mr. Baker's, and Mr. Chriss's testimony and
18 the proposed opt-out provision.

19
20 **A.** Mr. Pollock's, Mr. Baker's and Mr. Chriss's testimony
21 does not recognize the value to all customers of all the
22 approved DSM programs that Tampa Electric currently
23 offers by categorizing the programs as having either
24 energy only or demand only impacts. By attempting to
25 label certain program measures as energy or demand only

1 when each measure has some level of demand savings and
2 some level of energy savings indicates that what they are
3 proposing is unreasonable and self-serving. Their
4 collective testimony fails to specifically demonstrate
5 any sound reason for changing the current cost recovery
6 mechanism and allocation for all conservation programs,
7 does not provide any details as to how their proposal
8 would be implemented, and totally ignores the financial
9 impacts to other non-participants. The Commission is
10 statutorily required to determine whether such plans, the
11 costs necessarily incurred in implementing such plans,
12 and any effect on rates resulting from such
13 implementation are in the public interest. For these many
14 reasons, this proposed opt-out provision should be
15 rejected.

16
17 **Q.** Does this conclude your rebuttal testimony?

18
19 **A.** Yes, it does.
20
21
22
23
24
25

1 BY MR. BEASLEY:

2 Q Mr. Roche, did you also prepare a three-page
3 document MRR-2, which has been identified as hearing
4 Exhibit 11?

5 A Yes, I did.

6 Q Thank you. Have you prepared a summary of
7 your rebuttal testimony?

8 A Yes, I have.

9 Q Would you please present it to the Commission?

10 A Yes. Thank you, Jim.

11 Good afternoon, Commissioners. My testimony
12 explains why the opt-out proposals before the Commission
13 should not be approved. If approved, these proposals
14 would be a significant departure from the way the
15 Commission has implemented FEECA and would be unfair to
16 all customers who do not qualify to opt out or who elect
17 not to do so.

18 The energy-conservation programs approved by
19 the Commission are cost-effective and benefit all
20 customers. So as this Commission has recognized in the
21 past, to be fair, all customers should contribute to the
22 cost of these programs.

23 This fundamental rule of fairness was first
24 announced back in 1981 when FIPUG attempted to have the
25 Commission impose conservation costs only on certain

1 classes of customers rather than having all customers
2 share in these costs.

3 FIPUG's own witness at the time acknowledged
4 that all customers enjoy the benefits of these programs.
5 As a result, the Commission concluded that all customers
6 should help fund the programs. This conclusion applies
7 today just as it did more than 30 years ago.

8 Tampa Electric supports energy-conservation
9 efforts whether customers do it on their own or they
10 occur through a utility DSM plan that supports FEECA.
11 It's been Tampa Electric's experience that members of
12 all customer classes, residential, commercial, and
13 industrial, spend their own money on conservation
14 measures when customers believe it is cost-effective for
15 them to do so. And this is a good thing.

16 To supplement those efforts, the Commission
17 approves utilities' specific conservation programs that
18 are cost-effective for all customers based upon the
19 unique economics of each FEECA utility.

20 To gain the Commission approval for these
21 conservation programs, each utility must follow
22 extensive and thorough procedures to establish numeric
23 conservation goals and subsequent supporting programs.
24 For these FEECA programs, the rule has always been that
25 all customers benefit, so all customers should share in

1 these costs.

2 At Tampa Electric, we don't really see how we
3 or the Commission could reasonably explain to a
4 residential customer who decides to replace an
5 inefficient refrigerator with a more efficient one why
6 he or she must continue to pay the FEECA conservation
7 charges approved by the Commission if allowing an
8 industrial customer who makes a similar decision to opt-
9 out.

10 Moreover, giving the class of customers the
11 right to opt out of conservation charges approved by the
12 Commission based upon a customer's self-interested
13 investment decision would allow these individual
14 customers to replace the cost-effective judgment the
15 Commission exercises on behalf of all customers with
16 their own judgment on cost-effectiveness.

17 Finally, the opt-out proposal should be
18 denied. What Wal-Mart and FIPUG are basically proposing
19 is a trust-me approach. The proposals they are
20 suggesting are a vague mixture of concepts which lack
21 any specific details and which clearly do not support
22 such a dramatic change in the implementation of FEECA.

23 For the sake of continued successful
24 conservation efforts in Florida and fairness to all
25 customers, the proposals given to you by Wal-Mart and

1 FIPUG should be rejected.

2 This concludes my summary. Thank you.

3 MR. BEASLEY: Thank you. We tender Mr. Roche
4 for cross examination.

5 COMMISSIONER BROWN: Thank you.

6 Florida Power & Light.

7 MS. CANO: No questions.

8 COMMISSIONER BROWN: Thank you.

9 Duke.

10 MS. TRIPLETT: No questions.

11 COMMISSIONER BROWN: Gulf.

12 MR. GRIFFIN: No questions.

13 COMMISSIONER BROWN: FPUC.

14 MS. KEATING: No questions.

15 COMMISSIONER BROWN: SACE.

16 MR. CAVROS: I just have one question of
17 Mr. Roche.

18 COMMISSIONER BROWN: Sure.

19 EXAMINATION

20 BY MR. CAVROS:

21 **Q It involves a measurement and verification.**

22 **In your opinion, why is measurement and verification of**
23 **energy efficiency or demand-reduction measures**

24 **important?**

25 **A** Yeah, measurement and verification is very

1 important because as we go through these extensive and
2 thorough procedures to establish the DSM goals, you
3 know, the FEECA utilities and Tampa Electric Company --
4 we're held accountable to the Commission, to the staff
5 for annual goals.

6 So, making sure that we actually achieve the
7 summer and winter kW reduction in the annual energy
8 amounts that we're actually held accountable to are very
9 important.

10 MR. CAVROS: Thank you.

11 COMMISSIONER BROWN: Thank you.

12 Mr. Moyle? FIPUG.

13 MR. MOYLE: Thanks. I do have some questions.

14 EXAMINATION

15 BY MR. MOYLE:

16 Q Just to follow up on that, on your testimony,
17 Page 3, Line 2, you talk about measurable and
18 verifiable. Is everyone who benefits from energy
19 efficiency currently -- do you go out and measure and
20 verify every energy-efficiency measure that's put in
21 place? You can go, yes, no, and explain if you need to.

22 A That's a hard kind of question to say yes or
23 no in. When we develop DSM goals, you know, we go
24 through the technical potential all the way to the
25 achievable potential.

1 Those demand and energy savings are coupled to
2 when the utility peaks. So, when those prescribed
3 programs -- there are certain programs we do not go out
4 beforehand and actually measure because, as we go
5 through that thorough process of establishing the goals,
6 we will take the credit based upon that rigorous process
7 to establish the goals.

8 **Q So, I caught that you don't go out to some and**
9 **measure. I would take it, then, the answer would be no,**
10 **but you think there are other ways. I asked FPL about**
11 **their attic insulation program. Do you all have an**
12 **attic insulation program?**

13 A Yes, we do.

14 **Q Do you go out and look at everybody's attic**
15 **that has signed up for the program to put attic**
16 **insulation in?**

17 A Yes, we do. We actually visit all attic-
18 inspection customers. Whether it's through an energy
19 audit -- we issue a certificate to those customers.
20 That certificate is good for a certain period of time.
21 After the customer actually installs the equipment, then
22 we will go back and we will inspect at least 10 percent
23 of those installations.

24 **Q So, I'm not clear, based on your answer. You**
25 **inspect 10 percent of the people that get the attic**

1 insulation?

2 A We inspect a hundred percent for
3 prequalification to make sure they actually meet the
4 standards.

5 Q Which is they don't have insulation in their
6 attic, right?

7 A Yes, or an inadequate amount, yes.

8 Q So, when you say yes, you're saying, we go and
9 do an audit first. So, you're saying, in effect,
10 hitting every door relates to the audit; is that right?

11 A Yes.

12 Q And then, after you do the audit and somebody
13 says, okay, they don't have insulation, you help them
14 with the insulation, you don't go back to every single
15 house and double check to make sure they put the
16 insulation in their house and they didn't go put it in
17 their neighbor's house. You do that for 10 percent of
18 the houses?

19 A Yes, that is correct.

20 Q And are you familiar with FIPUG's proposal as
21 set forth by Mr. Pollock?

22 A Yes.

23 Q And you had talked about trust me. I mean,
24 Mr. Pollock and FIPUG have suggested more than trust me
25 with respect to verifying that if opt-out is approved

1 that people will spend money on energy efficiency and
2 demonstrate the savings, correct?

3 A I would need to know a little bit more about
4 your demonstrated savings because I don't really agree
5 with everything that your witness has actually stated in
6 his testimony.

7 Q Okay. Just with respect to -- you understand
8 that he has suggested that a professional engineer
9 certify the energy-efficiency measures have been put in
10 place? Do --

11 A I didn't realize you were asking.

12 Q Is that part of your understanding?

13 A I didn't know if you were done with your
14 question.

15 Q I'm done.

16 A Could you restate the question please?

17 COMMISSIONER BROWN: Yes.

18 BY MR. MOYLE:

19 Q Do you understand that Mr. Pollock has
20 suggested that, as part of the certification process,
21 evidence of certification could involve an engineer, a
22 professional engineer licensed in Florida certifying to
23 say, you know, I've looked at this, I've helped those
24 folks, and they've done this? Do you have an
25 understanding of that one way or the other?

1 A Yes. I believe the issue I have with that is
2 that when we do demand-side management programs, we're
3 looking for the demand savings at our peak for the
4 utility. So, I can either defer or eliminate the power
5 plant. The majority of the customers that I've worked
6 with, when they state demand savings, that is solely
7 from the customer's perspective. So, the timing of that
8 may not reveal any benefits to the utility itself.

9 **Q So, a professional engineer who provides the**
10 **certification -- you don't think he could get it right**
11 **and give you any information that would be useful for**
12 **your planning purposes.**

13 A Not for planning purposes. If they gave us
14 kind of an application which actually showed what the
15 demand and energy savings was for the actual technology
16 that our in-house staff for energy-management
17 services -- we could actually evaluate that to determine
18 what the actual benefit is to the peak.

19 But taking the professional engineer's word
20 on, hey, this is what the demand savings, I would be
21 kind of skeptical of that.

22 **Q Do you understand cities take professional**
23 **engineers signed drawings, their word, every day when**
24 **they issue permits, don't you?**

25 A That's correct, but I report directly to these

1 individuals off to my left and to the staff across from
2 me. And I take that very seriously.

3 **Q They are admittedly a government body as well**
4 **as cities and municipalities.**

5 Let me ask you this question: You heard me in
6 my opening maybe, if you were here, say that businesses
7 know their own business better than others. Can I get
8 you to agree with that general proposition?

9 A Yeah, I will not agree to that general
10 proposition.

11 **Q So, no, you will not agree to that**
12 **proposition?**

13 A Yes, no.

14 COMMISSIONER BROWN: Mr. Moyle, you like
15 leading questions, don't you?

16 MR. MOYLE: That's what you're supposed to do
17 on cross. Trying to move it along.

18 BY MR. MOYLE:

19 **Q So, you would say, in effect -- just to move**
20 **it along, you would say that, no; that a utility person,**
21 **you know, very well may know better than a business,**
22 **itself, more about energy-efficiency measures than that**
23 **business could use than the business?**

24 A Yes, at Tampa Electric Company, a hundred
25 percent of our commercial industrial energy auditors are

1 actually professional certified. So, yes, that is the
2 case.

3 Q So, like, Mr. Brew, with the previous witness,
4 he asked about PCS Phosphate. Do you have anybody that
5 has specialized knowledge in phosphate that, you know,
6 could help Mr. Brew's client if Mr. Brew's client called
7 up and, assuming you served him, say, you know, I've
8 been looking at this stuff for a long time, I'm good in
9 the phosphate business, let me tell you what you can do?

10 A Yeah, we have --

11 Q Do you have that person?

12 A Yeah, we have a professional engineer or
13 account manager that covers our phosphate. Also myself,
14 I've assisted phosphate companies with their draglines
15 and energy audits for their facilities.

16 Q You, I think, take exception and talk about
17 shifting of cost. I don't want to spend a lot of time
18 on it. But you've read Mr. Pollock's testimony. There
19 is nothing in Mr. Pollock's testimony that would suggest
20 FIPUG is trying to shift costs on to others, is there?

21 A No, he did not document in his testimony that
22 there would be a shift of costs. But all of the
23 analysis that I've done shows that there will be a shift
24 of costs on to those that cannot opt out or those that
25 elect not to do so.

1 **Q What was the analysis that you did that you**
2 **just referenced?**

3 **A Could you repeat the question, please?**

4 **Q Sure. In response to my question you said, in**
5 **all of the analysis I've done, I think costs are going**
6 **to be shifting. And my follow-up is: What's that**
7 **analysis that you're referencing that you did?**

8 **A Yeah, one of the analyses was for the Office**
9 **of Public Counsel where we analyzed their hypothetical**
10 **questions for a 10-percent shift, 20-percent shift, and**
11 **30-percent shift. In all those situations and**
12 **scenarios, costs were shifted to the non-opt-out.**

13 **Q Did you do any other analysis?**

14 **A No.**

15 **Q So, you didn't look at any other states, any**
16 **other opt-out programs, you didn't do anything other**
17 **than answer the discovery served on the Office of Public**
18 **Counsel -- by the Office of Public Counsel?**

19 **A No. The reason why I didn't do additional**
20 **analysis is because there were, as I mentioned in my**
21 **summary of my testimony, this vague mixture of concepts.**
22 **You know, you stated that, hey, we want to opt out, we**
23 **want to self-direct. And then in your witness's most**
24 **recent surrebuttal testimony, he claims that what he's**
25 **basically proposing is a mixture of state's programs.**

1 So, really without the specific detail of what
2 you're proposing and what Wal-Mart is proposing -- it's
3 kind of hard to get any kind of a pinpoint accurate
4 number, but costs will be shifting.

5 **Q Did you read Wal-Mart's testimony where they**
6 **appended the Oklahoma opt-out program?**

7 A No, I did not read the Oklahoma.

8 **Q It may have been a discovery response. But**
9 **are you aware that the Oklahoma program has been input**
10 **fully in front of the Commission in the work-up to this**
11 **case?**

12 A I'll take your word for it. It doesn't mean
13 that it will actually work in Florida.

14 **Q Do you think that picking and choosing the**
15 **best practices were to be pursued -- picking and**
16 **choosing from various states' approaches might make**
17 **sense with respect to --**

18 A I think at times it is good to kind of look
19 outside kind of the bubble and explore different
20 opportunities, yes.

21 **Q The analysis -- same questions that I asked**
22 **the witness from Gulf with respect to the analysis done**
23 **for the Office of Public Counsel. You did not assume**
24 **that those opting out would realize energy savings that**
25 **could be counted to meet the goal of Tampa Electric**

1 **Company when preparing your response to the Office of**
2 **Public Counsel's interrogatory questions that you just**
3 **referenced, did you?**

4 A That's correct because I viewed it would be
5 inappropriate to actually view those contributions to be
6 acceptable to the goal. And I guess kind of one example
7 is like Wal-Mart's No. 1 project for energy-efficiency
8 that they put in their testimony is they installed 1,657
9 meters in U.S. stores.

10 Those sub-meters will not pass cost-
11 effectiveness. In fact, it will not pass RIM. It won't
12 pass TRC. It won't pass the participant test. And it
13 won't either pass the other societal-cost tests or
14 utility-cost tests in other jurisdictions.

15 That's why I think it's a good reason not to
16 actually include that because, I mean, there, you're
17 trying to substitute non-cost-effective projects for
18 very cost-effective programs and goals that we've worked
19 very hard to actually put together.

20 **Q I'm going to let Mr. Wright ask you some**
21 **follow-up questions on that.**

22 Are you testifying that you did an analysis
23 with respect to what Wal-Mart did in their sub-meters,
24 and you reached the conclusion that you did a RIM
25 test -- is all of what you just said based on an

1 analysis that you did?

2 A It's not based on an analysis, but it is based
3 on fact. I guess the analogy would be if one of the
4 Commissioners put in actually a higher-accuracy
5 speedometer in their car, would they realize energy
6 savings for their fuel. And technically, it's not.
7 It's just -- all you did was you installed a more
8 accurate meter to monitor something downstream of it.

9 But beyond that action, there is no demand and
10 energy savings. So, it's kind of moot to do a RIM test
11 or cost-effectiveness test because there will be no
12 benefits.

13 Q If they thought they were going 40 on their
14 old speedometer, and the new speedometer actually said
15 they're going 80, they might slow down and save a little
16 energy.

17 A Right, but that would be a behavioral change,
18 which we wouldn't in-cent.

19 MR. MOYLE: If I could just have a minute.

20 COMMISSIONER BROWN: Sure.

21 BY MR. MOYLE:

22 Q If this Commission were inclined to suggest
23 that opt-out move forward, TECO would be willing to
24 participate in such a process, would it not?

25 A I would probably answer that question as no.

1 We've spent significant time -- all the parties have
2 spent a significant time with depositions,
3 interrogatories, discovery. And now, we're sitting here
4 today before the Commission with a petition. And now,
5 we want to kind of kick it back. I'm not -- I don't
6 think I would be -- I don't think I would vote yes for
7 that.

8 Q Just because of where we are in the process?

9 A Yes.

10 Q And if the Commission ordered you to do that,
11 you would do that, right?

12 A I would fully support it, yes.

13 Q Do you know that this issue, this opt-out
14 issue was raised originally in the same docket where you
15 all were putting forward your goals?

16 A Yes, last year. Yes.

17 Q So, I take it from your answer to my question
18 that you think the programs the Commission approved
19 yesterday, that they ought to move forward, go in place
20 and there is not much room for adopting or adapting to
21 the extent an opt-out decision was rendered from this
22 Commission to say we think you ought to pursue an
23 opt-out?

24 A Can you restate the question, please?

25 Q Sure. Given where we are -- the Commission

1 approved the programs yesterday verbally. An order has
2 not yet come out. But I take it from your previous
3 answer where you said, no, we wouldn't want to work on
4 an opt-out given where we are in the process, that you
5 believe that the approval of the programs is such that
6 TECO wouldn't be inclined to open up -- open up the
7 programs or open up the goals to try to accommodate an
8 opt-out measure if the Commission said, yeah, go forward
9 with an opt-out measure?

10 A All right. You rephrased the question. Can
11 you restate it, please?

12 COMMISSIONER BROWN: More succinctly, please.

13 MR. MOYLE: I'm sorry?

14 COMMISSIONER BROWN: More succinctly, please.

15 MR. MOYLE: Okay.

16 BY MR. MOYLE:

17 Q Assuming the Commission says, yes, opt-out is
18 good, please go forward, can TECO do that? Can TECO do
19 that? Can they modify their programs, modify their
20 goals in such a way that would accommodate an opt-out
21 program?

22 A I don't think we can do it right now because
23 we don't really know enough of the specific detail of
24 what actually is being proposed or what the exact
25 impacts will actually be to us as Tampa Electric Company

1 and our effective processes.

2 MR. MOYLE: All right. That's all I have.

3 Thank you.

4 COMMISSIONER BROWN: Thank you.

5 Wal-Mart.

6 MR. WRIGHT: Thank you, Commissioner.

7 EXAMINATION

8 BY MR. WRIGHT:

9 Q Good afternoon, Mr. Roche.

10 A Hello.

11 Q How are you doing?

12 A I'm doing well. Yourself?

13 Q I'm doing great. Thank you.

14 I'm going to follow up on a question Mr. --
15 actually, follow on an answer you gave to Mr. Moyle
16 about Wal-Mart a minute ago about sub-meters. I think
17 you said sub-meters won't pass the cost-effectiveness
18 criteria tests, RIM, TRC, et cetera, correct?

19 A That is correct.

20 Q And when you gave that statement, you meant
21 that the installation of those sub-meters, per se, won't
22 pass a test because the installation of the sub-meters,
23 per se, will not appeal to any savings, correct?

24 A That is correct because there is really no
25 guarantee that any activity behind that sub-meter will

1 actually be changed.

2 **Q** **To the extent that sub-meter -- that sub-**
3 **meter data is provided to store managers or the**
4 **company's energy -- energy-efficiency managers,**
5 **directors, whatever -- provides better information that**
6 **results in energy-savings measures being implemented as**
7 **a result of the availability of that information --**
8 **that's a benefit, isn't it?**

9 **A** I'm getting hung up on the word when you said
10 "implemented." Normally sub-meters are used for
11 operational behavioral changes. So, in other words,
12 like the store manager leaves the lights on too long.
13 So, they turn them off at an appropriate time or they'll
14 reset their thermostat. Well, those items, even those
15 behaviors, we wouldn't in-cent those because the savings
16 on those are instantaneous.

17 As soon as you make the change to turn the
18 lights off sooner, I mean, that's well below a two-year
19 payback. So, those would not be included in our goals.
20 I think it would be inappropriate to use those to
21 actually offset some of our goals that we have.

22 **Q** **Well, I understand your statement. But the**
23 **fact is that the better information can be used to -- by**
24 **store managers or whatever other responsible decision-**
25 **makers to make changes in the behavior -- that saves**

1 **energy, correct?**

2 A Yes, I am not doubting you. Sub-meters
3 installation -- it's a wonderful thing for customers to
4 do so. It's very similar to, like, a residential
5 customer that installs, like, a little home energy-
6 monitoring system or participates in our energy-planner
7 system where they actually get to view that information
8 on a web portal. But still, it's just great information
9 for them to do.

10 But in the sub-metering that you're actually
11 kind of using in the example of your testimony -- that
12 would not be counted toward the goals.

13 **Q Isn't it analogous to the results of an energy**
14 **audit being used to implement energy-saving behaviors or**
15 **measures?**

16 A Yes. At Tampa Electric Company, we've always
17 counted demand and energy savings from energy audits up
18 until the actual order or the approval of the DSM goals
19 that occurred yesterday.

20 Now, those savings will not be included. To
21 develop those savings in the past, our load-research
22 department has gone through significant rigor to
23 actually put forth together what the demand and energy
24 savings is when the utility peaks. So, that's why we
25 thought it was appropriate to use in the past.

1 However, we accepted the staff's
2 recommendation and the Commission's approval yesterday
3 to actually not include those in our ongoing annual
4 goal.

5 Q Just a couple -- really, I think a very --
6 what I hope is a very quick question about your exhibit.
7 That simply shows the impact, the cost-shift impact if
8 some number of customers opt out, correct?

9 A That is correct.

10 Q It doesn't include any attempt to measure any
11 value of any energy savings or any other result in
12 benefits that might come from customers implementing
13 energy-savings measures by -- in an opt-out regime,
14 correct?

15 A Correct, but as I kind of explained earlier, I
16 think it would -- until you know the specific detail of
17 what's being actually proposed, it's difficult to
18 actually determine what those benefits, if any, are as
19 well as to be able to calculate what is the fairness to
20 all of the other customers.

21 Q I'm going to ask you a few questions that I've
22 asked the other witnesses. Do you agree that the
23 overriding mandate and purpose of the Florida Energy
24 Efficiency Conservation Act is to promote the maximum
25 cost-effective energy conservation for the State as a

1 whole?

2 A Yes, I do. I think the purpose of the FEECA
3 is to really either eliminate or defer generation or
4 transmission of distribution costs, or I think
5 customers' projects -- they are not really looking at,
6 you know, offsetting a generation. They are more
7 looking at kind of their bottom line for their projects.

8 Q Do you agree that one of the specific purposes
9 of FEECA is to save energy?

10 A Yes.

11 Q And particularly, petroleum and other
12 expensive fossil fuels?

13 A Yes.

14 Q I think that's the language of the statute.

15 A That's correct.

16 Q Right.

17 A Yes.

18 Q And we also agree that the FEECA directs the
19 Commission to take into consideration the need to
20 implement or create appropriate incentives for customer-
21 owned energy-efficiency systems?

22 A Yes.

23 Q And will you agree that at that -- if an
24 opt-out option were available to customers such that
25 they could save paying the energy-efficiency piece of

1 the ECCR charge, that would provide an economic
2 incentive to them to do whatever it took to be eligible
3 to undertake those measures?

4 A Yeah, I don't know if I would agree with that.

5 Q If I can save money by doing "X," isn't that
6 an incentive to me to do "X"?

7 A Well, really, all customers do that. Whether
8 it's an industrial customer, all the way down to a low-
9 income or residential customer, if they choose to
10 determine or they choose to do a project that is in
11 their best interest, that's a great thing. But I don't
12 think that that really kind of belongs in an opt-out
13 provision.

14 Q Well, I understand that's your position. But
15 I'm really asking you a more pure economic question. If
16 the opportunity to save money by reducing one's power
17 bill by avoiding the energy-efficiency piece of the ECCR
18 charge is available, is that not an economic incentive
19 to the customer to undertake whatever is required to be
20 eligible to get that benefit?

21 A Yeah, I don't believe so because I still think
22 under a fairness, you will shift costs to other
23 customers. And kind of looking at it as an example for
24 FIPUG, in 2015, we have \$47 million budgeted for our
25 ECCR expenditures. Okay. FIPUG, in our GSLM two and

1 three rate -- those customers, those interruptible
2 customers, they contribute only \$1.7 million, okay, but
3 I pay them almost \$17 million in credit. So, they get
4 35 percent of all of the money that we basically collect
5 to facilitate conservation programs.

6 And really what's at stake here is FIPUG wants
7 to ignore the energy component and they want to reduce
8 their contribution from \$1.7 million down to \$900,000.

9 MR. WRIGHT: Commissioner, I have asked him
10 twice what I really think is a straightforward
11 question. Does the availability of an opt-out-
12 saving bill --

13 COMMISSIONER BROWN: Mr. Wright, I think --

14 MR. WRIGHT: -- create an incentive. I don't
15 think he's answered it. He started off on an --

16 MR. MOYLE: And he used it as an opportunity
17 to put stuff in that's not in his direct that he's
18 just backfilling relating to FIPUG.

19 COMMISSIONER BROWN: Mr. Beasley, any
20 comments?

21 MR. BEASLEY: Ask the witness to try to answer
22 the question again, if possible.

23 BY MR. WRIGHT:

24 Q If you could, answer yes or no: Does it
25 create an incentive to customers to do what it takes to

1 **be eligible to save that money off their bill?**

2 A And I think the answer is I don't know that a
3 customer, if you allow them to avoid paying an ECCR
4 charge, what they will actually do with the money.
5 That's what I'm saying.

6 Q **That's not the question I asked you. The**
7 **question I asked you is: Does it create an incentive**
8 **for the customer to undertake whatever is necessary to**
9 **get that benefit?**

10 A Yeah, I would not know that answer.

11 Q **Okay.**

12 COMMISSIONER BROWN: Fair enough.

13 MR. WRIGHT: That's all I have. Thank you,
14 Commissioner.

15 Thank you, Mr. Roche.

16 THE WITNESS: Thank you, Mr. Wright.

17 COMMISSIONER BROWN: Okay. Office of Public
18 Counsel?

19 MS. CHRISTENSEN: No questions.

20 COMMISSIONER BROWN: Staff.

21 MS. TAN: Yes, staff has questions for
22 Mr. Roche.

23 I would like to pass out som papers. It looks
24 intimidating. I promise it's not. I just put it
25 all together for ease of use.

1 for staff, you know, Tampa Electric would incur a
2 significant amount of time and cost to make adjustments
3 to several of our internal processes to accommodate the
4 opt-out provision.

5 The internal processes would be affected. We
6 would need to add a program manager. You know, Tampa
7 Electric Company, we operate our programs very lean with
8 this form as far as resources. So, we would need to add
9 a person to actually facilitate this program -- or
10 really, a provision, not a program. Sorry.

11 We would need to change our programming, our
12 customer information, and billing system. You know, if
13 you look at under FIPUG's proposal, we have 212
14 customers who would actually qualify for that program.
15 When we look at Wal-Mart's proposal, there is 47
16 customers, but there is a little over 10,000 accounts
17 that would actually have to be manually scrutinized to
18 be able to handle the opt-out provision if approved.

19 We would actually need to change Tampa
20 Electric's forecasting department processes to include
21 modifications to the forecasting practices. We would
22 have additional work and processes for Tampa Electric
23 Company's service department and energy-management
24 services for checking participation in the opt-out
25 provision prior to answering customer-related questions.

1 Several and other internal processes where
2 self-direct would also include additional work and
3 processes for Tampa Electric account management team in
4 facilitating and explaining the self-direct or opt-out
5 proposal to eligible and non-eligible customers.

6 **Q Okay. And did you also provide an estimate of**
7 **one- time and recuring costs of implementing these**
8 **processes?**

9 A Yes, we did.

10 **Q And could you please describe what your**
11 **estimates were of the upfront and annual costs? And I**
12 **believe if we could, look now to Exhibit No. 29, which**
13 **is specifically Bates No. 00140 and 00141.**

14 A Yes. Our understanding -- basically, the
15 approach that we took was we looked at two alternatives
16 at the time; one was the opt-out, where customers
17 basically just can attest and then they are eligible to
18 opt out of actually paying anything; or self-direct
19 program where their energy and demand savings would be
20 included toward contribution to the goals for an opt-out
21 provision.

22 The one-time cost was \$140,000. The annual
23 recuring cost was about the same, \$141,000. To
24 facilitate a self-direct provision, now we're doing much
25 more measurement and verification for those customers.

1 We estimated a one-time cost of 263,000. And we
2 estimated an annual recurring cost for that provision of
3 \$236,000.

4 Q And do you believe these administrative costs
5 would increase if the number of eligible opt-out
6 customers increased?

7 A Yes, I do.

8 Q And who do you believe should be responsible
9 for paying any administrative costs associated with
10 implementing an opt-out provision?

11 A Yeah, the cost should go to the cost causer or
12 the customers that are actually participating in the
13 opt-out provision.

14 Q Okay. I would like to turn now to your
15 rebuttal testimony on Page 12 specifically, Lines 3
16 through 5.

17 A Ms. Tan, can you repeat the page?

18 Q Sure. It's Page 12, Lines 3 through 5 of your
19 rebuttal testimony.

20 A Yes, I'm there.

21 Q Okay. Is it your belief that, while
22 Wal-Mart's Witness Baker testified that Wal-Mart's
23 programs are cost-effective, he does not explain the
24 cost-effective measurement test used by the company?

25 A That is correct.

1 **Q Could you please explain why?**

2 MR. MOYLE: I'm going to object. That calls
3 for just pure speculation. The witness from
4 Wal-Mart -- he's saying why did he not do
5 something. He doesn't know what was in the
6 Wal-Mart witness's mind.

7 COMMISSIONER BROWN: I'm going to overrule and
8 allow him to answer. If he knows the answer, then
9 he can answer the question.

10 THE WITNESS: Yeah, I do not know the answer
11 why they would not give their metric on cost-
12 effectiveness in their testimony.

13 BY MS. TAN:

14 **Q Okay. Thank you.**

15 I would like to look now at your rebuttal
16 testimony on Page 2, and specifically, Lines 15 through
17 20.

18 A Yes.

19 **Q Does TECO believe its current allocation**
20 **method of conservation costs is fair to all its**
21 **customers?**

22 A Yes, we do.

23 **Q Can you please explain why you believe this to**
24 **be the case?**

25 A The cost-allocation method has been in place

1 for several years. And we consider it fair and
2 transparent to all customers.

3 **Q And could you please explain what you mean**
4 **when you say that the current method is transparent?**

5 A Yeah, the current method is transparent
6 because when we project our expenses for the following
7 year, all of that is actually public record, which any
8 entity can actually view and see what our allocation
9 method was.

10 **Q If the Commission approves an opt-out plan as**
11 **proposed by the petitioners, in your opinion, what would**
12 **that decision do to the rates of the non-opt-out**
13 **customers?**

14 A That would increase the rates for the ECCR
15 clause for non-eligible or customers that are eligible
16 but do not opt out.

17 **Q And do you believe that the greater number of**
18 **customers that choose to opt out, the higher the**
19 **potential for ECCR costs to be shifted to those**
20 **customers that cannot or choose not to opt out?**

21 A Yes, I do.

22 **Q And do you believe that an opt-out provision**
23 **would add uncertainty to the ECCR cost-recovery process?**

24 A Yes, I do.

25 **Q And do you believe that there could be**

1 difficulty predicting the number of opt-out customers --

2 A Yeah --

3 Q Go ahead.

4 A Yes, I do.

5 Q Is it correct that TECO DSM goals were
6 approved by the Commission based on the RIM test?

7 A Yes, they were.

8 Q And are you aware of a method to calculate the
9 net benefit to customers who do not participate in
10 utility-sponsored energy-efficiency programs that do not
11 pass RIM?

12 A No, I'm not.

13 Q And would you agree that there are benefits in
14 terms of deferred generation capacity and reduced
15 operating costs associated with programs that pass the
16 total resource cost test?

17 A Yes.

18 Q And I would like to look at your response to
19 staff's Interrogatory No. 8, which is Exhibit 29,
20 Bates No. 00156. That is in the record.

21 A Yes.

22 Q Does TECO offer a customized energy-efficiency
23 incentive program that was developed to serve only their
24 large commercial industrial customers?

25 A It's not designated to serve only industrial

1 customers. It's designed to actually benefit for their
2 participation of commercial and industrial customers.

3 **Q And how does that program operate?**

4 A That program operates on a -- a commercial
5 industrial customer may choose to do a project. They
6 fill out a very short two-page application. They
7 actually submit it to the company via e-mail inbox that
8 goes to our commercial energy-management team.

9 We'll take that information, determine if we
10 need to do measurement verification beforehand or we can
11 take the word of whoever customers actually -- if we can
12 kind of make the numbers seem very reasonable. In other
13 words, we can tie back to them.

14 We'll run the cost-effectiveness test because
15 we need to make sure that the program for the project
16 that we actually approve is held accountable to the
17 cost-effectiveness tests as per the DSM plan.

18 After the customer actually does the project,
19 depending on the kW savings, the threshold of it, then
20 we'll issue the check either in one part after 90 days
21 of successful operation, and then the second portion of
22 that check after a year.

23 **Q And are incentives given to the customers?**

24 A Can you repeat that?

25 **Q Are incentives given to the customers, those**

1 **that participate in the program?**

2 A Yes, ma'am.

3 **Q And would the conservation value program be**
4 **available to the petitioners --**

5 A Yes.

6 **Q -- such as FIPUG, Wal-Mart, and PCS Phosphate?**

7 A Yes, that program has been available to them
8 since 1991.

9 **Q And incentives are also given in that**
10 **particular program; is that correct?**

11 A Yes, they're given actually to the customer
12 during the project.

13 MS. TAN: Okay. Staff has no further
14 questions. Thank you very much.

15 COMMISSIONER BROWN: Commissioners, any
16 questions?

17 Redirect, Mr. Beasley?

18 MR. BEASLEY: Just one redirect.

19 EXAMINATION

20 BY MR. BEASLEY:

21 **Q Under that conservation value program, if the**
22 **FIPUG member or Wal-Mart decided to come to you with**
23 **their program and offered it and you examined it and**
24 **found out it was cost-effective and decided to implement**
25 **it, they would get an incentive; is that correct?**

1 A Yes, they would.

2 Q If they opted out and did that exact same
3 program on their own, would they get any kind of
4 incentive from the company?

5 A No, they would not.

6 Q Would they be better off coming to the company
7 and working with them through this conservation value
8 program or doing it on their own?

9 MR. MOYLE: I'm going to object. It's asking
10 him again to the same point he's asking him to put
11 himself in the mind of a FIPUG member or Wal-Mart
12 with respect to whether they would be better off or
13 not.

14 COMMISSIONER BROWN: Mr. Beasley --

15 MR. BEASLEY: I'm just talking about the --
16 what I'm just trying to point out is they get an
17 incentive by doing the same program with the
18 company. They don't get the incentive if they do
19 the same program by themselves. And it doesn't
20 involve any assumption on my part or the witness's
21 part about what's in the mind of Wal-Mart; just
22 whether they do it or not.

23 COMMISSIONER BROWN: In the same vein, I'll
24 allow the question.

25 THE WITNESS: Yes, because it would lower

1 their first costs of the year. So, that's the
2 purpose of the incentive as -- you know, as my
3 colleague, Mr. Duff, explained, you know, the
4 incentive is to try to push the customer to get
5 their cost metric to a point where it's actually --
6 the project becomes attractive and they implement
7 the project.

8 MR. BEASLEY: Thank you. No further
9 questions.

10 COMMISSIONER BROWN: Let's move exhibits into
11 the record now. I believe we do have one that has
12 been premarked as Exhibit 11.

13 MR. BEASLEY: Yes, we move that into the
14 record.

15 COMMISSIONER BROWN: Seeing no objections,
16 we'll move Exhibit 11 into the record.

17 (Exhibit No. 11 admitted into evidence.)

18 At this time, it is about -- oh, sorry,
19 Mr. Beasley, would you like your witness excused?

20 MR. BEASLEY: Yes, please.

21 COMMISSIONER BROWN: You may be excused,
22 Mr. Roche.

23 THE WITNESS: Thank you very much.

24 COMMISSIONER BROWN: A couple of housekeeping
25 matters. I know our court reporter needs a break.

1 A lot of folks are antsy, need a little break for
2 some food. We have two witnesses left. So, let's
3 take an abbreviated dinner break. It's 6:10 right
4 now. So, how about we meet back here at 6:50.

5 (Brief recess.)

6 COMMISSIONER BROWN: Mr. Beasley, are you
7 ready?

8 MR. BEASLEY: Yes, ma'am.

9 COMMISSIONER BROWN: We will reconvene with
10 your witness.

11 MR. BEASLEY: Thank you. We call Terry
12 Deason.

13 EXAMINATION

14 BY MR. BEASLEY:

15 Q Mr. Deason, would you please state your name,
16 your address, and your occupation.

17 A My name is Terry Deason. My business address
18 is 301 South Bronough Street, Suite 200, Tallahassee,
19 Florida. I'm employed by the Radey Law Firm as a
20 consultant.

21 Q Thank you. You were in the room this morning
22 and sworn in?

23 A Yes.

24 Q Thank you. Did you prepare and submit in this
25 proceeding a 25-page document titled rebuttal testimony

1 **and exhibit of Terry Deason?**

2 A Yes.

3 Q Do you have any changes to make to your
4 **testimony?**

5 A No.

6 Q If I were to ask you the questions in that
7 **prepared testimony, would your answers be the same?**

8 A Yes.

9 MR. BEASLEY: I would ask that Mr. Deason's
10 rebuttal testimony be inserted into the record as
11 though read.

12 COMMISSIONER BROWN: Mr. Deason's rebuttal
13 record will be inserted into the record as though
14 read.

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **PREPARED REBUTTAL TESTIMONY**

3 **OF**

4 **TERRY DEASON**

5 **ON BEHALF OF TAMPA ELECTRIC COMPANY**

6
7 **Q.** Please state your name and business address.

8
9 **A.** My name is Terry Deason. My business address is 301 S.
10 Bronough Street, Suite 200, Tallahassee, FL 32301.

11
12 **Q.** By whom are you employed and what position do you hold?

13
14 **A.** I am a Special Consultant for the Radey Law Firm,
15 specializing in the fields of energy, telecommunications,
16 water and wastewater, and public utilities generally.

17
18 **Q.** Have you previously submitted direct testimony in this
19 proceeding?

20
21 **A.** No.

22
23 **Q.** Please describe your educational background and
24 professional experience.

25

1 **A.** I have thirty-seven years of experience in the field of
2 public utility regulation spanning a wide range of
3 responsibilities and roles. I served a total of seven
4 years as a consumer advocate in the Florida Office of
5 Public Counsel (OPC) on two separate occasions. In that
6 role, I testified as an expert witness in numerous rate
7 proceedings before the Florida Public Service Commission
8 (Commission). My tenure of service at OPC was
9 interrupted by six years as Chief Advisor to Florida
10 Public Service Commissioner Gerald L. Gunter. I left OPC
11 as its Chief Regulatory Analyst when I was first
12 appointed to the Commission in 1991. I served as
13 Commissioner on the Commission for sixteen years, serving
14 as its chairman on two separate occasions. Since
15 retiring from the Commission at the end of 2006, I have
16 been providing consulting services and expert testimony
17 on behalf of various clients. These clients have
18 included public service commission advocacy staff and
19 regulated utility companies, before commissions in
20 Arkansas, Florida, Montana, New York and North Dakota.
21 My testimony has addressed various regulatory policy
22 matters, including: regulated income tax policy; storm
23 cost recovery procedures; austerity adjustments;
24 depreciation policy; subsequent year rate adjustments;
25 appropriate capital structure ratios; and prudence

1 determinations for proposed new generating plants and
2 associated transmission facilities. I have also
3 testified before various legislative committees on
4 regulatory policy matters. I hold a Bachelor of Science
5 Degree in Accounting, summa cum laude, and a Master of
6 Accounting, both from Florida State University.

7

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

9

10 **A.** I am appearing as a witness for Tampa Electric Company.

11

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

13

14 **A.** The purpose of my rebuttal testimony is to respond to the
15 positions and recommendations contained in the testimony
16 of witness Jeffrey Pollock on behalf of the Florida
17 Industrial Power Users Group and witnesses Kenneth E.
18 Baker and Steve W. Chriss on behalf of Wal-Mart Stores
19 East, LP and Sam's East, Inc., which I refer to
20 collectively as the "intervenor witnesses."

21

22 **Q.** Are you sponsoring any rebuttal exhibits?

23

24 **A.** Yes. I am sponsoring Exhibit JTD-1, which is my
25 curriculum vitae.

1 Q. How is your rebuttal testimony organized?

2
3 A. I will first discuss the implications of the intervenor
4 witnesses' proposal from a regulatory policy basis,
5 focusing on the Florida Energy Efficiency and
6 Conservation Act (FEECA) and the Commission's policies
7 implementing FEECA. Second, I will discuss some
8 implementation considerations of their proposal.

9
10 I. Regulatory Policy Implications

11
12 Q. What do the intervenor witnesses recommend?

13
14 A. They recommend a marked change in the way the Commission
15 has historically and consistently recovered energy
16 efficiency related costs through the Energy Conservation
17 Cost Recovery Clause (ECCR). They would have the
18 Commission allow certain large customers to "opt out" of
19 paying their fair share of these costs. Doing so would
20 be contrary to Commission practice, inconsistent with the
21 manner in which conservation costs are incurred pursuant
22 to the Commission's implementation of FECCA, would
23 unfairly burden non-opt out customers with higher rates,
24 perhaps to the point of being unduly discriminatory, and
25 could jeopardize the continued sustainability of cost-

1 effective conservation pursuant to FEECA. In essence,
2 they are looking for preferential treatment at the
3 expense of all other customers.

4
5 **Q.** How has the Commission historically provided for the
6 recovery of energy efficiency related costs through the
7 ECCR?

8
9 **A.** The Commission has provided for recovery by allocating
10 costs on both an energy and a demand basis, as
11 appropriate depending on the type costs being recovered,
12 across all classes of customers and all customers within
13 each class. The Commission has not exempted any
14 customers or allowed customers to "opt out" from paying
15 their allocated portion of conservation costs. The
16 Commission's practice was established early on in its
17 implementation of FEECA and the establishment of the
18 ECCR.

19
20 **Q.** Has the Commission previously considered a similar opt-
21 out proposal?

22
23 **A.** Yes. The intervenor witnesses' proposal is not a new
24 one. As early as 1981, the Commission dealt with this
25 issue when it was first establishing the ECCR. In its

1 Order No. 9974, in Docket No. 810050-PU, the Commission
2 stated:

3 One of the issues addressed during this
4 proceeding was whether the unreimbursed costs
5 should be recovered on a per kilowatt hour (or
6 therm) basis from all customers, or whether an
7 attempt to be made to impose the costs upon
8 certain classes of customers. Mr. Brubaker,
9 who testified on behalf of the Florida
10 Industrial Power Users Group, advocated the
11 latter proposition, on the theory that those
12 individual customers who availed themselves of
13 conservation measures would receive the
14 benefits of lower bills resulting from reduced
15 consumption. However, Mr. Brubaker
16 acknowledged that, to the extent conservation
17 efforts succeed in obviating the need for
18 expensive new plant, all customers will
19 benefit. Because all customers will enjoy the
20 benefits of such cost avoidance we direct that
21 the authorized costs be recovered from all
22 customers on a per kilowatt hour or per them
23 basis. (emphasis added.)

24
25 **Q.** Has the Commission adhered to this reasoning over time?

1 **A.** Yes it has. Although some changes have been made, the
2 Commission has continually recognized that all customers
3 benefit from conservation programs and, therefore, all
4 customers should pay the ECCR costs allocated to them.

5

6 **Q.** Do all customers still enjoy the benefits of cost
7 avoidance from Commission approved conservation programs?

8

9 **A.** Yes. FEECA requires the Commission "to utilize the most
10 efficient and cost-effective demand-side renewable energy
11 systems and conservation systems in order to protect the
12 health, prosperity, and general welfare of the state and
13 its citizens." The Commission has consistently acted
14 according to FEECA to approve programs (and incur costs)
15 which are cost effective and which benefit all customers.
16 The Commission has done this by setting goals and
17 approving conservation programs which pass one or more
18 cost-effectiveness tests. The Commission has
19 historically used the Rate Impact Measure Test (RIM)
20 coupled with the Participant Test to make this
21 determination. Utilizing the RIM test ensures that the
22 expected benefits exceed the expected costs, such that
23 costs and rates on an overall basis are lower with the
24 conservation programs than they would be without the
25 conservation programs. Thus, all customers benefit from

1 cost-effective conservation and all customers should pay
2 their fair share of the conservation program costs.

3

4 **Q.** Has the Commission addressed the assignment of
5 conservation costs subsequent to the 1981 order?

6

7 **A.** Yes. In 1993, in Docket No. 930759-EG, the Commission
8 conducted a generic investigation into the appropriate
9 method for allocation and recovery of costs associated
10 with conservation programs. Two proposals were
11 considered which would have markedly altered the manner
12 in which costs were allocated and recovered. Both of
13 these proposals contained aspects similar to the proposal
14 of the intervenor witnesses in this proceeding.

15

16 **Q.** What were these proposals?

17

18 **A.** The first proposal was referred to as the Participant
19 Assignment Method. Under this approach, costs would be
20 directly allocated to the specific program participant
21 and recovered through a line item charge on each
22 participant's bill and non-participants would be relieved
23 from paying ECCR costs. The second approach was referred
24 to as the Rate Class Assignment Method. Under this
25 approach, each customer class's allocation of ECCR costs

1 would include only the costs of conservation programs in
2 which that customer class is eligible to participate.
3 The stated purposes of these proposals were to eliminate
4 potential cross subsidies between participants and non-
5 participants (intra-class subsidies) and to eliminate
6 potential cross subsidies among customer classes (inter-
7 class subsidies).

8
9 **Q.** What was the Commission's decision on these proposals?

10
11 **A.** The Commission did not adopt them. The Commission
12 rejected the Rate Class Assignment Method because it was
13 inequitable and was attempting to correct a problem that
14 did not exist, similar to the opt-out proposal being made
15 by the intervenor witnesses in this proceeding. In
16 essence, the Commission determined that there were no
17 inter-class subsidies to eliminate. In reaching its
18 decision in the generic investigation (Order No. PSC-93-
19 1845-FOF-EG), the Commission cited its earlier decision
20 in Order No. 9974 that "to the extent conservation
21 efforts succeed in obviating the need for expensive new
22 plant, all customers will benefit." The Commission went
23 on to state:

24 We agree that load forecasts and customer
25 behavior are difficult to predict and can

1 possibly lead to programs being approved which
2 might not be cost-effective for non-
3 participants. But to totally discount any fuel
4 or deferred plant savings are conferred upon
5 non-participating classes by assigning all the
6 costs of conservation to the participating
7 classes is not a more equitable and efficient
8 approach.

9
10 **Q.** In this citation, the Commission acknowledged that there
11 could possibly be subsidies between participants and non-
12 participants in specific conservation programs. Is this
13 a basis to approve the intervenor witnesses' proposal in
14 this proceeding?

15
16 **A.** No, for several reasons. First, while recognizing that
17 there possibly could be subsidies between participants
18 and non-participants in specific conservation programs,
19 because of uncertainties in load forecasts and customer
20 behavioral patterns, the Commission was dismissive of
21 this being a reason to change its policy on conservation
22 cost recovery. The Commission found that cost-effective
23 conservation programs benefit all customer classes.
24 Thus, there was no need to give preferential treatment to
25 certain customer classes or even certain customers within

1 those classes, as is being proposed by the intervenor
2 witnesses in this proceeding. Second, the Commission has
3 historically minimized subsidies between participants and
4 non-participants in specific conservation programs by
5 setting conservation goals and approving conservation
6 programs based on the RIM test. Under the RIM test, both
7 the costs and the rates for all customers are lower than
8 they otherwise would be and no subsidies would be
9 expected to exist between program participants and non-
10 participants. Third, allowing certain specified
11 customers to opt out would be inequitable to the
12 remaining customers and possibly discriminatory. And
13 fourth, allowing certain specified customers to opt-out
14 would potentially undermine the effectiveness and
15 efficiency of achieving cost-effective conservation under
16 FEECA.

17
18 **Q.** How would an opt-out option be inequitable and possibly
19 discriminatory?

20
21 **A.** Simply put, allowing certain customers to opt out would
22 result in the total amount of cost-effective conservation
23 costs being spread over fewer customers. This, in turn,
24 would raise rates for those remaining customers and would
25 be inequitable. It also could potentially be

1 discriminatory. Section 366.03, Florida Statutes,
2 states: "No public utility shall make or give any undue
3 or unreasonable preference or advantage to any person or
4 locality, or subject the same to any undue or
5 unreasonable prejudice or disadvantage in any respect."
6 And FEECA states: "Accordingly, in exercising its
7 jurisdiction, the commission shall not approve any rate
8 or rate structure which discriminates against any class
9 of customers on account of the use of such facilities,
10 systems, or devices." If the intervenor witnesses opt-
11 out proposal were implemented, it could potentially
12 result in undue discrimination and would certainly result
13 in opt-out customers receiving the benefits of cost-
14 effective conservation measures without having to pay
15 their fair share of the costs of those programs.

16
17 **Q.** Can rates be different among customer classes or within
18 customer classes and not be discriminatory?

19
20 **A.** Yes, if there is a cost basis to have different rates.
21 For example, rates are routinely different for different
22 classes of customers depending on the cost to provide
23 service to those respective classes. And rates can be
24 different within customer classes depending on specific
25 cost-based considerations, such as taking service at

1 transmission voltage or agreeing to have service
2 interrupted during peak times. All of these rate
3 differences are based on costs and are not
4 discriminatory.

5
6 **Q.** Is the intervenor witnesses' proposal to allow certain
7 specified customers to opt-out and not pay conservation
8 costs based on the cost to provide service to those
9 customers?

10
11 **A.** No. The opt-out customers' decision to opt-out will not
12 result in lower costs which would justify their exemption
13 from paying ECCR costs. To the contrary, the
14 conservation costs are incurred as the best means to
15 provide service to all customers in the most efficient
16 and cost-effective manner possible. As such, the
17 conservation costs are appropriately allocated to all
18 customers. Exempting the opt-out customers and requiring
19 the remaining customers "to make up the difference" could
20 constitute a discriminatory rate structure, prohibited by
21 Chapter 366, Florida Statute.

22
23 **Q.** Why would costs not be lower?

24
25 **A.** As a general proposition, the amount of conservation

1 costs to be recovered through the ECCR is independent of
2 the opt-out customers' conservation efforts. The amount
3 of costs to be recovered through the ECCR is a function
4 of the level of reasonably achievable goals and the costs
5 of the specific conservation programs approved to achieve
6 those goals. This is done pursuant to FEECA and Rule 25-
7 17.0021, F.A.C. Consistent with statute and rule, the
8 Commission, when setting conservation goals, considers
9 the amount of conservation that is reasonably expected to
10 naturally occur due to such things as appliance
11 efficiency standards, building codes, and cost-effective
12 conservation undertaken by customers on their own
13 initiative. This latter category of naturally-occurring
14 conservation is a function of the economic attractiveness
15 of various conservation measures and is usually evaluated
16 in terms of economic paybacks. The Commission has
17 historically used a two-year economic payback as a
18 conservative tool to avoid double counting conservation
19 that would reasonably be expected to occur without
20 Commission-approved conservation programs and their
21 concomitant costs. Rule 25- 17.0021, F.A.C. refers to
22 this phenomenon as "free riders" and requires that free
23 ridership be considered in setting appropriate
24 conservation goals. Thus, contrary to the intimations of
25 the intervenor witnesses, the amount of conservation that

1 has been or may be undertaken by the opt-out customers in
2 their own economic interests, will not lessen the amount
3 of costs that will be recovered through the ECCR.

4
5 **Q.** Are you classifying would be opt-out customers as being
6 free riders?

7
8 **A.** No, not in the classic sense. The classic definition of
9 a free rider, as used in Rule 25-17.002, F.A.C., is
10 someone that gets a rebate or incentive for adopting a
11 measure or practice that they would otherwise adopt
12 without the benefit of the incentive or rebate. In
13 essence, they are getting something for nothing. So to
14 this extent there is a similarity to would be opt-out
15 customers. They would be getting the benefits of the
16 cost-effective conservation goals and programs, but would
17 not be required to contribute their fair share of
18 recovering the associated costs through the ECCR. In
19 essence, the opt-out customers would be subsidized by all
20 other customers.

21
22 **Q.** Are you saying that the efforts of the opt-out customers
23 to be efficient and conserve are not important or do not
24 provide benefits?

25

1 **A.** No. To the contrary, it is important for all customers,
2 not just opt-out customers, to look for ways to conserve
3 and to take beneficial action where appropriate. If the
4 opt-out customers have taken such measures to remain
5 competitive and to improve their bottom-lines, they have
6 certainly acted rationally and appropriately. However,
7 such action does not necessarily result in lower costs
8 through the ECCR and does not justify rewarding opt-out
9 customers with lower electric rates by shifting costs to
10 the non-opt-out customers.

11
12 **Q.** Do non-opt-out customers also make decisions to conserve
13 regardless of Commission-approved conservation programs?
14

15 **A.** Yes, and this is an important point. If the logic of the
16 intervenor witnesses is extended to the residential
17 class, a residential customer who takes measures to
18 conserve and does not seek any incentives or is
19 ineligible for any incentives, would be eligible to opt
20 out and avoid paying ECCR costs. However, the intervenor
21 witnesses' proposal is exclusively for their specified
22 large customers with consumption in excess of 15 million
23 kWh per year or customers with loads of at least one
24 megawatt (aggregated). They conveniently ignore that
25 residential customers also take conservation measures

1 which are in their best economic interests, such as
2 installing compact fluorescent bulbs or installing
3 programmable thermostats. These and other such measures
4 which are routinely pursued by residential customers are
5 also beneficial, yet they are not allowed to opt-out from
6 paying ECCR costs. While stating that they have no
7 fundamental objection to residential customers having the
8 option to opt out, witness Baker justifies the exclusion
9 of residential customers as allowing for a "more minimal
10 administrative burden for the Commission and the
11 Companies."

12
13 **Q.** Should residential customers be allowed to opt out?

14
15 **A.** No. Given that all customers benefit from cost-effective
16 conservation, it would be equally inappropriate to allow
17 any of the customer groups to opt out. Moreover,
18 allowing all customers (including residential customers)
19 to opt out could place the sustainability of Florida's
20 conservation efforts under FEECA in jeopardy.

21
22 **Q.** Please explain.

23
24 **A.** Allowing all customers the option to opt out could result
25 in an ever increasing per customer cost burden. With the

1 cost burden increasing on the remaining customers there
2 would be an ever increasing incentive for additional
3 customers to then opt out. The cycle could continue to
4 the point that there is an insufficient number of non-
5 opt-out customers remaining to sustain Commission efforts
6 to achieve meaningful conservation pursuant to FEECA.
7 Given that cost-effective conservation pursuant to FEECA
8 benefits all customers, jeopardizing the sustainability
9 of FEECA conservation efforts would not be in the best
10 interest of customers as a whole.

11
12 **Q.** Witness Pollock asserts that opt-out customers are being
13 required to subsidize their competitors. Is he correct?

14
15 **A.** No, he has it backwards. If witness Pollock's clients
16 are allowed to opt-out, it will be his clients that are
17 being subsidized by all other customers, including his
18 clients' competitors who have operations in Florida.

19
20 **Q.** Please explain.

21
22 **A.** Cost-effective conservation benefits all customers and
23 makes all commercial/industrial customers more
24 competitive than they otherwise would be. All customers
25 enjoy the benefits of lower costs and lower rates under

1 RIM passing conservation programs. If witness Pollock's
2 clients are not required to pay their share of the cost
3 of the conservation programs which generate these
4 benefits, they will in fact be subsidized by all other
5 customers, including their competitors.

6
7 **Q.** If witness Pollock's clients are not allowed to opt out,
8 would they be motivated to not pursue additional
9 conservation measures?

10
11 **A.** While I cannot speak for his clients, the answer is an
12 obvious no. All companies, large and small, have an
13 innate motivation to implement cost-effective measures
14 which benefit them financially and give them a cost
15 advantage over their competitors. This includes energy
16 conservation measures, regardless of whether there is or
17 is not an opt-out provision. This is also evident by the
18 fact that witness Pollock's clients have (according to
19 witness Pollock's own testimony) pursued an impressive
20 array of conservation measures over the years, even
21 though they have not been allowed to opt-out.

22
23 II. Implementation Considerations

24
25 **Q.** How do the intervenor witnesses recommend that their opt-

1 out proposal be implemented?

2

3 **A.** They first limit eligibility to their specified large
4 non-residential customers. They then suggest that those
5 eligible customers would only be required to submit an
6 attestation letter stating that "the customer has
7 invested (or intends to invest) in energy efficiency or
8 has conducted an energy audit or analysis determining
9 that there are no cost-effective energy efficiency
10 measures." This letter is to include a certification of
11 the amount of verifiable power and energy savings, if
12 any.

13

14 **Q.** Is this an appropriate and workable approach to implement
15 an opt-out program?

16

17 **A.** No, it presents an approach that is not consistent with
18 FEECA, that would introduce elements of uncertainty, and
19 that would result in increased implementation and
20 regulatory costs.

21

22 **Q.** How is the implementation approach inconsistent with
23 FEECA?

24

25 **A.** Pursuant to FEECA, the Commission engages in a rigorous

1 and comprehensive conservation goal-setting process once
2 every five years. In fact, the Commission has just
3 recently concluded the hearing phase of this process.
4 Goal setting requires the determination of the full
5 amount of technical potential and then the full amount of
6 economic potential for all reasonably available
7 conservation for all customers. This includes the amount
8 of conservation reasonably available from the opt-out
9 customers. The Commission applies cost-effectiveness
10 tests and screens for free riders to set final goals.
11 The goals are then used as a basis to approve specific
12 conservation programs to achieve those goals in a manner
13 that benefits all customers. Allowing a sub-group of all
14 customers to now opt out, after they were initially
15 included in the goal-setting process, would at best be
16 disruptive and at worse could call into question the
17 appropriateness of the goals that result from that
18 process.

19
20 **Q.** How does the intervenor witnesses' proposal add a level
21 of uncertainty?

22
23 **A.** The proposal results in greater uncertainty in two ways.
24 First, the decision to opt out is voluntary, making it
25 difficult to anticipate the number of customers opting

1 out and their aggregate impacts on cost recovery.
2 Second, the amount of energy savings is done on a self-
3 reporting and self-certification basis, making it
4 difficult to verify actual conservation results.

5
6 **Q.** How does the intervenor witnesses' proposal add to
7 implementation and regulatory costs?

8
9 **A.** There would be potentially significant implementation
10 costs to enroll customers in the opt-out program, to
11 monitor their status, to devise and administer separate
12 billing for them, and to monitor the amount of costs
13 recovered on an aggregate basis. There would also be
14 greater regulatory costs to administer the program, both
15 for the companies as well as the Commission. Witness
16 Baker acknowledges this administrative burden on the
17 Commission and the companies when justifying his
18 recommendation to limit his opt-out proposal to only a
19 select few non-residential customers.

20
21 **Q.** Does the intervenor witnesses' proposal address these
22 incremental costs to administer the opt-out program?

23
24 **A.** No, they are ignored.
25

1 **Q.** Would this be fair to the general body of customers?

2

3 **A.** No. These incremental costs of the opt-out program
4 should be determined and charged to the cost causers,
5 which in this case would be the customers choosing the
6 optional opt-out service. This would be the fair thing
7 to do, so as not to burden the general body of customers,
8 whose rates would already be going up by the shifting of
9 conservation costs from opt-out customers to all other
10 customers. They should not bear the additional burden of
11 the incremental implementation and regulatory costs
12 designed to benefit only a select few customers. Of
13 course, the best alternative is not to approve the opt-
14 out proposal, so there is no shifting of conservation
15 costs from opt-out customers to all other customers and
16 no incremental implementation and regulatory costs to
17 recover.

18

19 **Q.** The Intervenor witnesses refer to opt-out programs
20 adopted in other states as support for this Commission
21 adopting an opt-out program for large customers. How do
22 you respond?

23

24 **A.** In many proceedings before the Commission, various
25 intervenors have pointed to actions taken in other states

1 as a basis for suggesting that this Commission should get
2 on board and adopt the same approach. Just because
3 regulatory bodies in California or Oklahoma or Vermont
4 have followed a particular path does not necessarily mean
5 that it is the right path for Florida. This Commission
6 has a solid reputation for doing what it believes is
7 right for all customers in Florida, based on the facts
8 and circumstances presented in proceedings over which it
9 presides.

10
11 **Q.** Please summarize your testimony.

12
13 **A.** The intervenor witnesses' opt-out proposal is contrary to
14 Commission practice, inconsistent with the manner in
15 which conservation costs are incurred pursuant to the
16 Commission's implementation of FECCA, would unfairly
17 burden non-opt out customers with higher rates, perhaps
18 to the point of being unduly discriminatory, and could
19 unnecessarily risk the continued sustainability of cost-
20 effective conservation pursuant to FEECA. In addition,
21 the proposed implementation methodology bypasses goal
22 setting pursuant to FEECA, would introduce elements of
23 uncertainty, and would result in increased
24 implementation and regulatory costs.

25

1 Q. What is your recommendation?

2

3 A. The intervenor witnesses' opt-out proposal should be
4 rejected. Implementation of an opt out proposal would be
5 unfair and a monumental departure from the Commission's
6 consistent view over three decades that all customers
7 benefit from Commission-approved conservation programs
8 that have been found to be cost-effective and, therefore,
9 all customers should help fund those programs.

10

11 Q. Does this conclude your rebuttal testimony?

12

13 A. Yes, it does.

14

15

16

17

18

19

20

21

22

23

24

25

1 BY MR. BEASLEY:

2 Q Mr. Deason, you also prepared a two-page
3 exhibit marked JTD-1, hearing Exhibit 12 that
4 accompanies your testimony?

5 A Yes.

6 Q Have you prepared a summary of your testimony?

7 A Yes.

8 Q Would you please present it.

9 A Yes.

10 Good evening, Commissioners. The intervenor
11 witnesses recommend a marked change in the way the
12 Commission has historically and consistently recovered
13 energy-efficiency-related costs through the Energy
14 Conservation Cost Recovery Clause.

15 They would have the Commission allow certain
16 large customers to opt out of paying their fair share of
17 those costs. Doing so would be contrary to Commission
18 practice, would be inconsistent with the manner in which
19 conservation costs are incurred pursuant to the
20 Commission's implementation of FEECA, would unfairly
21 burden non-opt-out customers with higher rates, perhaps
22 to the point of being unduly discriminatory, and could
23 jeopardize the continued sustainability of cost-
24 effective conservation pursuant to FEECA. In essence,
25 they are looking for preferential treatment at the

1 expense of all other customers.

2 In addition, the proposed implementation
3 methodology would introduce elements of uncertainty and
4 result in increased implementation and regulatory costs.
5 Thus, the intervenor witnesses' opt-out proposal should
6 be rejected.

7 Implementation of an opt-out proposal would be
8 unfair and a monumental departure from the Commission's
9 consistent view for over three decades that all
10 customers benefit from Commission-approved conservation
11 programs that have been found to be cost-effective.
12 Therefore, all customers should help fund these
13 programs.

14 This concludes my summary.

15 MR. BEASLEY: We tender Mr. Deason for cross
16 examination.

17 COMMISSIONER BROWN: Thank you.

18 FPL.

19 MS. CANO: No questions.

20 COMMISSIONER BROWN: Duke.

21 MS. TRIPLETT: No questions.

22 COMMISSIONER BROWN: Gulf.

23 MR. GRIFFIN: No questions.

24 COMMISSIONER BROWN: FPUC.

25 MS. KEATING: No questions.

1 COMMISSIONER BROWN: SACE.

2 MR. CAVROS: I have just a couple of
3 questions.

4 COMMISSIONER BROWN: Sure.

5 EXAMINATION

6 BY MR. CAVROS:

7 Q Good evening, Mr. Deason.

8 A Good evening.

9 Q I just have a couple of questions for you.
10 You're familiar with the -- with the FEECA goal-setting
11 process, are you not?

12 A Yes.

13 Q And you're also very familiar with the DSM
14 plan-approval process as well?

15 A I'm sorry. The what process?

16 Q The DSM plan-approval process.

17 A Yes, I'm familiar with that.

18 Q And the order of that process is generally
19 that the goals are first set and then the utilities file
20 DSM plans to implement the goals. Is that your
21 understanding?

22 A Yes.

23 Q There has been a lot of discussion today and
24 evidence put into the record regarding the complexity
25 and the cost of implementing an opt-out if the

1 Commission were to approve it, and that -- you know,
2 those costs and complexities were raised in the program
3 plan area.

4 And I guess my question to you is -- you know,
5 you obviously have a lot of experience in regulatory
6 issues and have appeared before the Commission and
7 served on the Commission for many years.

8 Do you have an opinion as to whether it would
9 be prudent to review the goals, if the Commission, for
10 sake of argument, were to pursue an opt-out program of
11 some sort?

12 A Well, I have to qualify my answer by saying
13 that it would depend upon the details of the opt-out
14 program that was being proposed. I think what's in
15 front of us now lacks those necessary details. So, it
16 would be premature at this point to really opine as to
17 whether the goals should be reevaluated.

18 I think that when the Commission yesterday
19 approved the DSM programs, it was discussed that there
20 would be an opportunity, if the Commission were so
21 inclined, to consider opt-out proposals to look at the
22 programs, at least at this initial stage. And that
23 probably would be the best position to take at this
24 time.

25 MR. CAVROS: Okay. Thank you.

1 formulate my opinions. And in doing that, I also looked
2 at Commission orders, rules, statutes to help me
3 formulate responsive testimony.

4 Q And were all of the Commission rules and
5 orders and statutes that you looked at Florida --

6 A Yeah.

7 Q -- Commission -- Florida Public Service
8 Commission orders, Florida statutes, and Florida rules
9 as set forth in the Florida Administrative Code?

10 A Yes.

11 Q So, it follows -- and just to confirm, you
12 didn't endeavor -- or even though Mr. Pollock in his
13 testimony said, here is a list of states that have moved
14 forward with opt-out provisions, attached it as an
15 exhibit, and said there is more than the majority -- you
16 didn't endeavor to look or dig in with respect to any of
17 those other state programs, correct?

18 A That's correct.

19 Q And when you're hired as an expert, when you
20 see something that is raised in the case or aware of
21 something that might be raised as an issue, do you
22 typically bring that up with your client and say, you
23 know, here is something I've noticed, and have a
24 conversation about it in a general sense?

25 A Well, let me clarify my understanding of the

1 question. You're asking me what my role and scope is
2 when I'm asked to do testimony. Is that a fair
3 characterization of your question? Or is it more
4 specific than that?

5 Q The second question is more general. I think
6 I've covered what TECO asked you to do. But just as a
7 matter of fact, FIPUG has never hired you and retained
8 you, but I --

9 A I've been waiting for you to ask.

10 (Laughter.)

11 Q I've been -- I've been assuming that, if you
12 saw something, you would say, hmm, you know, this looks
13 like this might be an issue and, just kind of, as the
14 good of the order, bring it up with the client, given
15 your experience and practice and years and expertise.

16 A I would generally agree with that. You know,
17 I would have discussions with the client if something
18 rises to the level that I think that it needs further
19 discussion.

20 Q Okay. And you have previously given testimony
21 to this Commission on the issue of jurisdiction,
22 correct?

23 A I addressed matters that fall within the
24 jurisdiction of the Commission, but if you could be more
25 specific about whether something is or is not

1 jurisdictional --

2 Q Well, I think back in another docket, we had a
3 lot of conversations about whether the Commission had
4 jurisdiction to do certain things. So, I guess --

5 A I addressed policy issues concerning a
6 proposal that I think you're referring to. And there
7 were questions of law as to whether there was
8 jurisdiction.

9 And I think there was even a motion -- maybe
10 it was a motion to dismiss or maybe it was some other
11 type of a motion. And I think the Commission ruled on
12 it before we went to hearing --

13 Q Yeah. And I don't want to travel that road.
14 I just want to ask you specifically, you haven't
15 identified anything in your testimony here in this
16 docket that would question whether the Commission has
17 jurisdiction to consider an opt-out proposal, correct?

18 A I'm not raising that as an issue.

19 Q Okay. And I assume, based on your previous
20 answer, that if you're looking at something, if you
21 thought it would be an issue, you know, you might have
22 said, you know, I'm not sure they have jurisdiction on
23 that. You didn't do that in this case?

24 A I did not do that.

25 Q But what you did do is you've identified some

1 orders where the Commission in 1981 made a decision,
2 shortly after FEECA was enacted, right, the 1981 order?

3 A That's correct, I did refer to the 1981 order.

4 Q Okay. And I had asked the witness earlier
5 today -- that order speaks for itself. We can agree to
6 that, right?

7 A I agree that it does.

8 Q And my reading of it is related to an
9 allocation question that was presented and did not
10 involve the level of detail that's been provided in this
11 case through Mr. Pollock and the Wal-Mart witnesses
12 about opting out in the event that certain criteria are
13 met and certain conditions can be met, correct?

14 A I agree that what's in front of the Commission
15 is different to an extent, but the basic policy question
16 is the same. And the Commission did address that in
17 1981, and then reaffirmed that subsequently in 1993.

18 Q What's your understanding of FIPUG's opt-out
19 proposal?

20 A Well, my understanding has changed to some
21 degree because when I was asked to look at the testimony
22 that was first filed, I did that. And that was the
23 basis of my rebuttal testimony. And then I -- and there
24 has been surrebuttal testimony, which I think the
25 positions have changed to some degree.

1 So, which version do you want me to discuss?

2 **Q Well, I mean, sometimes -- you know, we've**
3 **been overtaken by events sometimes. I've been in cases**
4 **where revised forecasts come out. And so, just as you**
5 **sit here today -- you're a live witness on the stand.**
6 **What's your understanding as you sit here today?**

7 A My understanding is that there is a proposal
8 to opt out for certain customers which qualify. And
9 there is various standards between the witnesses or what
10 the qualifications would be, but it's basically based
11 upon the amount of demand or energy that's consumed.
12 And there are questions whether it should or should not
13 be aggregated.

14 For those qualifying customers, they would
15 have the ability to opt out of paying their allocated
16 portion of the energy-conservation costs recovery costs
17 and that, in turn, they would commit to provide or
18 engage in certain activities or pursue certain programs
19 that would result in energy savings.

20 **Q And do you have an understanding with respect**
21 **to any adjustments that may be made to either the goals**
22 **of the utility or credit for energy efficiency realized**
23 **as a result of eligible customers opting out?**

24 A This is one of the areas where I think there
25 is a lack of detail. But I know that it's been proposed

1 where there would be a credit given for the savings for
2 the opt-out customers and that those identified savings
3 would be applied toward achieving the goal.

4 Q Okay. Do you believe that, to the extent the
5 Commission said we should pursue an opt-out program and
6 order that it be done, that where we are in the
7 process -- it could be done without having to reopen --
8 I guess you said you thought you maybe could do it with
9 respect to reopening programs, but not -- not the goals;
10 is that right? That's not a good question.

11 What's your understanding, if the Commission
12 said let's go ahead and have an opt-out -- how could --
13 could it be done in an manageable way given where we are
14 in the process?

15 A Well, "manageable" is a relevant term. I
16 think it would be difficult. As I indicated in my
17 prefiled testimony, it would introduce elements of
18 uncertainty. It would increase administrative and
19 regulatory costs.

20 So, it would not be an easy undertaking. But
21 you know, the utilities in Florida have a very good
22 track record of complying with Commission orders. And
23 if the Commission order did, I'm sure the utilities
24 would endeavor to comply with the letter in the spirit
25 of that order and devise a means of accommodating it

1 such that it would be the least disruptive and the best
2 program for all of its customers, not just the opt-out
3 customers.

4 Q And you're aware that FIPUG and Wal-Mart
5 raised this opt-out issue in the goals docket
6 originally?

7 A That's my understanding, yes.

8 Q So, you're not suggesting procedurally we're
9 in an improper posture, are you, to have this issue
10 considered?

11 A No, I'm not suggesting that.

12 Q And just to confirm, you understand that
13 FIPUG's proposal does not envision shifting cost to
14 other ratepayers, correct? I mean, the question -- I
15 know you may have a little more to add. But I'm asking
16 you, with respect to your understanding of FIPUG's
17 proposal as to what is -- as to what is -- saying what
18 Mr. Pollock is suggesting.

19 A Yes, it is my understanding of what is
20 envisioned. But I would say what is envisioned and what
21 is implemented is sometimes not the same thing. And
22 based upon my understanding of the most direct approach
23 of implementation, mathematically would be a certainty
24 there would be costs shifted to other non-participating
25 customers.

1 Q And you and Mr. Pollock have a dispute on that
2 point with respect to cost-shifting, right?

3 A Yes.

4 Q And the basis of your belief that there will
5 probably be some cost-shift is the paint is not dry, we
6 haven't seen what it's going to -- how it's going to be
7 implemented; is that fair?

8 A That's partial -- that's fair. That's
9 partial -- partially true. A lot of it is the lack of
10 details. But it remains that if you take a segment of
11 the customers which are currently being allocated costs,
12 and they are taken out of that allocation, and the
13 amount of cost stays the same, well, then it's going to
14 increase costs for the remaining customers. That's just
15 a mathematical certainty.

16 Q And -- but if you assume costs don't stay the
17 same, that the utility -- kind of like with the fuel
18 clause, they come in and make midcourse adjustments. If
19 they came in and said, you know, we need to make
20 adjustments to the programs here because we've had opt-
21 out -- there is nothing that would prevent the
22 Commission from making such adjustments, is there?

23 A The Commission could consider that, but I
24 think it would be difficult to do that based upon the
25 record that we have and the information we have as to

1 how it would affect the goals, what programs would be
2 implemented, what savings they would achieve, whether
3 those savings pass a cost-benefit analysis, whether
4 those particular programs would pass a two-year payback
5 screen.

6 In essence, are these really incremental
7 savings that would rightfully be applied to the goals?
8 I think that the Commission loses some of the control
9 over that when that discretion is given to particular
10 customers who are acting in their own best interest
11 while it's the Commission's responsibility to make sure
12 that programs are implemented in all customer's best
13 interests.

14 **Q So, I think the question was: Could they make**
15 **adjustments. I think you said yes, but; is that fair?**

16 **A Yes, but, that's fair.**

17 **Q To the extent opt-out is approved and**
18 **customers who opted out made investments in energy**
19 **efficiency, that would benefit not only those customers,**
20 **but benefit other ratepayers as well, correct?**

21 **A Not necessarily, depending on what the savings**
22 **were and the cost associated with that. That's, here**
23 **again, some of the details that we don't know at this**
24 **point.**

25 **Q So, if I'm an industrial customer and I say,**

1 I'm going to invest my own money and I'm going to invest
2 in energy efficiency and it works, and it has the
3 downward impact that -- that doesn't necessarily benefit
4 all ratepayers?

5 A Not necessarily. I would need more facts than
6 what you've just presented in your questions.

7 Q Just assume the facts I've given you.

8 A Well, with those limited facts, I can't make
9 that determination. There's not enough facts to make
10 that judgment.

11 Q So, we've been hearing a lot of witnesses
12 coming in and saying, hey, this existing FEECA program
13 works because everyone benefits from the existing FEECA
14 program, the participants and the non-participants,
15 right?

16 A Yes.

17 Q And I am just exploring, isn't the corollary
18 to that which is it doesn't matter if you're in FEECA or
19 you're outside of FEECA; if you're making energy-
20 efficiency investments and those investments are working
21 and reducing demand and energy, that benefits the people
22 making the investments and the people that are not
23 making the investments in a similar fashion, correct?

24 A I agree it benefits the entity making the
25 investment or they would not make the investment. But

1 it does not necessarily benefit the other customers, and
2 it does not necessarily legitimately contribute to
3 meeting goals. It would depend upon the cost-
4 effectiveness of it, whether it would pass the two-year
5 payback screen.

6 For example, if one of the opt-out customers
7 were going to engage in a program that had less than a
8 two-year payback, it would have been screened out to
9 start with with the assumption that that's the type of
10 program that a customer should pursue on their own
11 interest. They shouldn't be given credit to meet the
12 goal for something that wasn't part of the goal-setting
13 process to begin with.

14 (Transcript continues in sequence in
15 Volume 4.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS, Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 331 through 477, are a true and correct record of the aforesaid 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 30th day of July, 2015.



ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #EE866180
EXPIRES FEBRUARY 09, 2017

Demonstrative Exh.

Staff's First Set of Interrogatories

GULF POWER COMPANY

Docket No. 140226-EI

June 1, 2015

Item No. 2

Page 1 of 1

for Floyd

2. Please provide a one-time and recurring annual estimate of the costs of implementing the internal processes described in Question 1.

ANSWER:

The details around how an opt-out could be implemented are numerous. Absent the specific details, Gulf cannot (with any certainty) estimate specific expenses. Therefore, estimates of expenses are provided in ranges based on the information provided by the opt-out proponents, as well as a number of other assumptions. Modifications would certainly be required upon final approval and with the complete set of requirements.

One-Time Expenses (Low Range): \$250,000

One-Time Expenses (High Range): \$400,000

Ongoing Expenses (Low Range): \$100,000

Ongoing Expenses (High Range): \$180,000

Floyd
on entered
Exh 32 of
Staff

1. For the proposals in the pre-filed direct testimony of Jeffrey Pollock and Kenneth Baker, please identify the impact on your residential customers if you allow non-residential customers to "opt-out" of paying the energy efficiency measures support under the energy conservation cost recovery clause on a:
 - a. total revenue requirements basis (i.e. costs that will be shifted to the remaining participants) and,
 - b. on a per 1000 kWh /month basis

For purposes of answering this, you should assume and answer separately three hypothetical scenarios whereby the largest (by revenue in each tier) non-residential customers comprising 10%, 20% and 30% of non-residential revenues would be eligible for and take advantage of such an option.

ANSWER:

- a. The table below shows the expenses allocated to each of Gulf's customer classes in the scenarios requested. Additionally, for comparison, Gulf included expenses as they were filed in the projection testimony of Gulf's Witness Jennifer L. Todd, Docket No. 140002-EG. The "Current Expenses" scenario does not assume any opt-out. As can be clearly seen, there is a definite shift of expenses under these scenarios for non-opt-out customers; specifically, to residential and small commercial customers.

In responding to this interrogatory, Gulf followed the assumptions put forth by OPC in three hypothetical scenarios. It is Gulf's position that while these assumptions accurately demonstrate the directional impact of such an opt-out, they do not capture all of the costs that will be incurred, nor do they realistically reflect the complexities associated with calculating the impacts of a customer-by-customer opt-out as proposed by the intervenor witnesses.

	Current Expenses	Scenario 1 – 10%	Scenario 2 – 20%	Scenario 3 – 30%
RS	\$12,997,620	\$13,874,449	\$14,758,721	\$15,698,932
GS	\$721,390	\$770,261	\$819,565	\$872,006
GSD, GSDT, GSTOU	\$6,518,040	\$6,961,535	\$7,409,179	\$7,885,447
LP, LPT	\$2,712,593	\$2,569,948	\$2,433,398	\$1,943,175
PX, PXT, RTP, SBS	\$3,523,636	\$2,273,226	\$1,004,413	\$0
OS – VI	\$239,630	\$256,373	\$273,323	\$291,387
OS – III	\$103,903	\$111,024	\$118,212	\$125,865

Staff's exh 37
 (Floyd testimony)

- b. The table below shows the impact of the expense shifts shown in response to 1a above on a typical 1,000 kWh monthly residential bill.

	Current	Scenario 1 – 10%	Scenario 2 – 20%	Scenario 3 – 30%
RS	\$2.50	\$2.67	\$2.84	\$3.03

6. Please provide a list and description of energy efficiency programs the utility is proposing as part of its new DSM programs pursuant to Order No. PSC-14-0696-FOF-EU that would be available to those customers that meet the proposed opt-out threshold requirements.

Answer:

The programs available to the customers that meet the proposed opt-out threshold include the following:

- Business Energy Check - commercial energy audit program
- Better Business - provides incentives on a portfolio of energy efficiency measures for commercial accounts. The measures included in this program include:
 - HVAC Equipment
 - Energy Recovery Ventilation/Demand Control Ventilation
 - Duct Leakage Test and Repair/Duct Seal
 - Ceiling Insulation Upgrade
 - Cool Roof/Roof Insulation
- Florida Custom Incentive Program - provides incentives for customized cost effective energy efficient technologies. Examples of technologies that would be considered under this program include, but are not limited to, new construction whole building projects, efficient compressed air systems, and thermal energy storage systems. Projects must be cost effective under RIM and incentives will not exceed 50% of the total project costs. The maximum incentive for a single project is \$500,000.

8. Please state whether your utility currently offer or plan to offer customized energy efficiency or demand-side management incentives to its larger (commercial and/or industrial) customers that would meet the proposed opt-out threshold proposals of FIPUG and Walmart. If so, please describe the program and provide specific examples of recent customized incentives under the program.

ANSWER:

Gulf does currently offer, and proposes to continue offering, a Custom Incentive Program to all Commercial/Industrial customers, including those who would meet the proposed opt-out threshold proposals of Walmart and FIPUG. This program provides potential incentives for unique project opportunities that may be identified in Commercial or Industrial customer settings. This program allows Gulf to provide a customized solution for projects that meet both the program standards and a customer's unique needs.

Recently, Gulf has provided incentives for the following projects under this program:

- 2 school chiller replacements
- 1 hotel chiller replacement
- 1 medical facility heat pipe installation
- 1 industrial plant chiller replacement
- 1 military base chiller optimization

**TAMPA ELECTRIC COMPANY
DOCKET NO. 140226-EI
STAFF'S FIRST SET OF
INTERROGATORIES
INTERROGATORY NO. 1
PAGE 1 OF 2
FILED: JUNE 1, 2015**

1. Please state what internal processes would need to be incorporated by the utility, including billing system changes for TECO to implement either of the opt-out proposals outlined by FIPUG and Walmart?

- A. Tampa Electric would incur significant amount of time and costs to add and make adjustments to several internal processes to accommodate the mixture of items being proposed.

The internal processes that would be affected by an Opt-Out provision include:

- Addition of a program manager that would oversee, coordinate and manage the opt-out provision internally. The program manager would facilitate adherence by customers to the provision standards and provide reports for participation.
- Programming changes to the customer information and billing system to provide opt-out status indicator on accounts, tracking of customer's participation, triggering mechanism when a customer meets the criteria to opt-out, reviewing and monitoring participation criteria, building reporting mechanisms and maintenance to the billing system.
- Changes to Tampa Electric's forecasting department processes including modifications to forecasting practices, adjustments to revenue forecasts and tracking and monitoring of customer participation in the opt-out provision for reporting purposes.
- Additional work and processes steps for Tampa Electric's Customer Service Department and Energy Management Services ("EMS") Department for checking participation in the opt-out provision prior to answering customer related questions.
- Additional work and process steps for Tampa Electric's Account Management Team in facilitating and explaining the opt-out provision to eligible and non-eligible customers.

The internal processes that would be affected by a Self-Direct provision include:

- Addition of a program manager that will oversee, coordinate and manage the self-direct provision internally. The program manager would facilitate adherence by customers to the provision standards, reconcile and validate the reported demand and energy savings by these customers. Provide routine reports for compliance on a monthly basis and collaborate with necessary departments for the effective management of the provision. The program manager would facilitate the performance of measurement and evaluation ("M&E") of customers implemented energy efficiency measures

**TAMPA ELECTRIC COMPANY
DOCKET NO. 140226-EI
STAFF'S FIRST SET OF
INTERROGATORIES
INTERROGATORY NO. 1
PAGE 2 OF 2
FILED: JUNE 1, 2015**

through an external electrician contractor. The program manager would work with Regulatory Department to perform cost-effectiveness to ensure the project passes the rate impact measure test ("RIM") and does not have a simple payback of less than two years.

- Programming changes to the customer information and billing system to provide self-direct status indicator on accounts, tracking of customer's participation, triggering mechanism when a customer meets the criteria to self-direct, reviewing and monitoring of participation criteria, building reporting mechanisms, and maintenance of the billing system.
- Changes to Tampa Electric's forecasting department processes including modifications to forecasting practices, adjustments to revenue forecasts, and tracking and monitoring of customer participation in the self-direct provision for reporting purposes.
- Additional work and processes steps for Tampa Electric's Customer Service Department and EMS Department for checking participation in the self-direct provision prior to answering questions.
- Additional work and process steps for Tampa Electric's Account Management Team in facilitating and explaining the self-direct provision to eligible and non-eligible customers.

**TAMPA ELECTRIC COMPANY
DOCKET NO. 140226-EI
STAFF'S SECOND SET OF
INTERROGATORIES
INTERROGATORY NO. 12
PAGE 1 OF 5
FILED: JULY 6, 2015**

12. For each of the following Commission proceedings or company practices, please explain in detail, what specific changes, if any, would be necessary if the Commission approved the opt-out proposals by the petitioners:

- a. DSM goals setting and annual reporting
- b. ECCR filings and timing of these filings
- c. Forecasting practices, including load and revenue forecasts
- d. Tracking and monitoring DSM program participation and achievements

A. Wal-Mart and FIPUG have suggested several provisions, including an opt-out, a self-direct, and in the recent surrebuttal testimony of FIPUG, a blend of other states provisions. If this vague proposal were to be approved, Tampa Electric would look to the Commission's decision for guidance as to the specific changes that would be needed to existing business processes used in the facilitation and management of the Company's DSM programs. Tampa Electric provides as much specificity in answering this question, recognizing that actual changes necessitated by the decision could be different and potentially more impactful depending on what is actually approved.

- a. DSM goals setting and annual reporting

The DSM goal setting process will change by the following:

- The technical potential will be required to be adjusted downward due to estimating which eligible opt-out customers will opt-out during the ten-year goals planning process.
- The demand and energy of measures used for the technical potential will be required to be reduced due to the opt-out eligible customer tendency to elevate the average savings achieved by applicable measures.
- The DSM goals setting order establishing procedure will need to recognize these assumptions and adjustments that need to be made which conflict with the Florida Administrative Code 25-17.0021 Goals of Electric Utilities.
- Bring additional discovery requests and depositions due to the technical potential being decreased which will lower the overall achievable potential and subsequent proposed DSM goals.

**TAMPA ELECTRIC COMPANY
DOCKET NO. 140226-EI
STAFF'S SECOND SET OF
INTERROGATORIES
INTERROGATORY NO. 12.
PAGE 2 OF 5
FILED: JULY 6, 2015**

- Lengthen the hearing for the DSM goals approval due to the introduction of the opt-out within the numeric DSM goals proceeding which would lower the goals, similar to the current discussions on simple payback screening and current economic and efficiency criteria.
- Potentially cause Tampa Electric's stated planned activities for a given year to fail to meet the goals approved by the Commission (i.e.-The DSM plan for that future year does not meet the approved goals due to timing assumptions with the opt-out customers).
- The opt-out provision will most likely introduce the substitution of cost-effective DSM measures for DSM measures that would have been screened out that opt-out customers implement and report annual energy and demand savings for.

The DSM annual reporting process will change by the following:

- The opt-out provision may require changes to FEECA. Through the 30-plus years of DSM history in Florida, the DSM related activities and reporting requirements imposed by the Legislature and the Commission has clear accountability. The opt-out provision will introduce significant complexity in the annual reporting process which will place additional administrative burden and the introduction of inaccuracy in these reports. The increased complexity and potential inaccuracy will come from reviews and follow up with opt-out eligible customers to hopefully measure and evaluate ("M&E") project savings and to normalize these to when Tampa Electric peaks.
- Lengthen the duration of preparing annual reports.
- May require the annual DSM goal achievements to be measured on another time frame other than annual. Depending on the provision adopted, it could make goals to be met or not met for that individual year. From Wal-Mart's and FIPUG's testimony these contributions, if approved and allowed, will be a moving target for when the project is installed assuming it is installed.
- Require another full time employee to facilitate and oversee the opt-out provision including updating eligible customer's records. This resource will also be required to field anticipated questions from non-eligible customers who are close to the opt-out threshold criteria or from non-eligible customers that have made significant improvements in energy efficiency to their commercial facility or residential home.

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DOCKET NO. 140226-EI
STAFF'S SECOND SET OF
INTERROGATORIES
INTERROGATORY NO. 12
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- Lengthen the audit process within the DSM docket due to the additional costs incurred and required justification. May require the Commission Auditor to perform site visits to opt-out customers to review and verify project reporting.
- In addition to these changes that will be necessary for Commission reporting, it will also add another level of complexity as Tampa Electric reports energy and demand savings to the Energy Information Administration ("EIA"), the Consortium for Energy Efficiency ("CEE") the American Council for an Energy-Efficient Economy ("ACEEE") and the North American Electric Reliability Corporation ("NERC") for a variety of benchmarking and analysis reports.

b. ECCR filings and timing of these filings

The ECCR filings will change by the following:

- Require additional administrative and review time in preparing ECCR filings. The majority of this time will be in reviewing eligible and non-eligible customers along with the associated individual approximate opt-out eligible customer's 10,000 accounts. Additional time will be needed to create and facilitate the necessary applications for the provision for each of the accounts being opted-out.
- Require time to accomplish coordination and understanding of reports from opt-out customers. Tampa Electric would be required to obtain the forecasted measures that each opt-out customer plans to implement enabling the completion of the projection forecast each year.
- Modification of filings to reflect the additional cost that will be recovered from other rate payers. This process change could create more volatility and unplanned variances with overall ECCR expenses, revenues and administrative burden to the process.
- Require additional information to reflect the number of eligible opt-out customers, number of participating opt-out customers, and impacts to the DSM goals as well as the current DSM Plan.
- Require more time in reviewing and verifying the assumptions and calculations of reports received by opt-out customers.
- Modification of filings to show DSM goal and activity impacts from opt-out customers.

**TAMPA ELECTRIC COMPANY
DOCKET NO. 140226-EI
STAFF'S SECOND SET OF
INTERROGATORIES
INTERROGATORY NO. 12
PAGE 4 OF 5
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- Adjustments to filings to show impacts to advertising due to the opt-out provision and the resultant loss of some ability to strategically plan and pay for advertising to assist with DSM goal achievement due to project timing and unknowns with opt-out customers.
- Alter the filings to show the attestation of opt-out customers that will be participating in the provision. Depending on what actually is approved the attestation for contribution to the DSM goals will also need to be shown.

The ECCR timing of filings will change by the following:

- Tampa Electric does not expect any timing of ECCR filings to change given an opt-out provision. As outlined above, the duration to complete the filings will be lengthened.

c. Forecasting practices, including load and revenue forecasts.

Tampa Electric load forecasting will change by the following:

- Reduction in the amount of documented DSM participation and the associated energy and demand of actual participation.

Tampa Electric ECCR revenue forecasting will change by the following:

- Estimate the amount of kWh and kW that would be billed to an opt-out customer.
- Calculate the amount of dollars that these opt-out customers will avoid paying into the ECCR clause.
- Reallocate the costs that would not be paid into the ECCR clause by opt-out customers and re-project those costs using the existing allocation method onto the other rate classes.
- Require discovery on the increase in ECCR factors due to now having a smaller population of customers sharing the total costs of conservation.

d. Tracking and monitoring DSM program participation and achievements

Tracking and monitoring DSM program participation will change by the following:

- Change projected participation due to opt-out customer changes.

**TAMPA ELECTRIC COMPANY
DOCKET NO. 140226-EI
STAFF'S SECOND SET OF
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- Participation rate projection accuracy will be eroded by not knowing when a participating opt-out customer chooses to not opt-out to participate in one of Tampa Electric commercial/industrial DSM programs or when a current participating opt-out eligible customer chooses to opt-out.

Tracking and monitoring DSM program achievements will change by the following:

- Change average demand and energy achieved from commercial/industrial programs.
- The opt-out provision could potentially lead to missing DSM goals achievement on an annual basis due to the timing of opt-out participation and projects.
- The opt-out provision may lead to the insertion of volatility in cost-effectiveness tests due to opt-out customers influencing average demand and energy contributions. This volatility will be created by the lowering of the average demand and energy savings.
- Tampa Electric will incur increased costs due to time necessary to follow up with opt-out customers regarding the M&E of the project list Wal-Mart and FIPUG propose providing for the substitution of cost-effective DSM contributions toward the DSM goal.
- Tampa Electric will incur increased costs due to M&E time and equipment to monitor, verify and normalize opt-out customer projects. Normalizing the data will be required to determine the actual demand of the project that is coincident with Tampa Electric's peak.
- Tampa Electric will need an additional resource to perform and oversee the tracking and monitoring of the opt-out provision and to stay abreast of those measures that opt-out customers intend on installing.
- The opt-out provision will cause an increase in discovery regarding program achievements.
- The opt-out provision will require more time in reviewing and verifying assumptions, calculations and cost and compiling data internally as well as with each opt-out customer for the final DSM accomplishments report.