

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power ) DOCKET NO. 941101-EQ  
Corporation for determination that )  
its plan for curtailing purchases ) FILED: April 10, 1995  
from Qualifying Facilities in )  
minimum load conditions is )  
consistent with Rule 25-17.086, )  
F.A.C. )  
\_\_\_\_\_ )

ORIGINAL  
FILE COPY

DIRECT TESTIMONY AND EXHIBIT

OF

ROGER A. YOTT

ON BEHALF OF ORLANDO COGEN LIMITED, L.P.

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2                   **DIRECT TESTIMONY AND EXHIBIT**

3                   **OF**

4                   **ROGER A. YOTT**

5                   **ON BEHALF OF ORLANDO COGEN LIMITED, L.P.**

6                   **DOCKET NO. 941101-EQ**

7   **Q.   PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

8   **A.   My name is Roger A. Yott. My business address is 7201**  
9       **Hamilton Boulevard, Allentown, Pennsylvania 18195-1501.**

10 **Q.   BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

11 **A.   I am employed by Air Products and Chemicals, Inc. (Air**  
12 **Products) as Manager, Power Sales Contracts.**

13 **Q.   PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**  
14 **PROFESSIONAL EXPERIENCE.**

15 **A.   I received a Bachelor of Science Degree in Electrical**  
16 **Engineering in 1972 from Oregon State University. I**  
17 **received a Master in Business Administration in 1975 from**  
18 **Portland State University and a Master of Science in**  
19 **Electrical Engineering in 1980 from Washington State**  
20 **University. I am a registered Professional Electrical**  
21 **Engineer in the State of Oregon.**

22               **I have six years of cogeneration project development**  
23 **and administration experience during which I participated**  
24 **in activities related to competitive bidding of waste-to-**  
25 **energy and cogeneration projects, power contract**

1 negotiation and administration, FERC OF certification,  
2 strategic marketing analysis, state public service  
3 commission relations and intervention, the exploration of  
4 project acquisition opportunities, and supporting project  
5 financing.

6 I have seven years of electric utility experience in  
7 special project management, fuel price forecasting and  
8 business planning during which I managed, supervised and  
9 participated in a variety of activities including: a  
10 public acceptance process for siting a hydro power  
11 project; a utility competitive position analysis; entry  
12 strategies for a number of business activities including  
13 development of cogeneration opportunities; utility fuel  
14 price forecasting; and preparing research and development  
15 funding request proposals, negotiating funding contracts,  
16 and managing execution of utility research and  
17 development projects. I also have nine years of  
18 electric utility experience in engineering and  
19 construction including: nuclear, combustion turbine, and  
20 hydro power plant design, distribution/transmission  
21 substation design, nuclear plant construction, and  
22 additions to a utility distribution system.

23 **Q. WHAT ARE YOUR RESPONSIBILITIES AS MANAGER, POWER SALES**  
24 **CONTRACTS FOR AIR PRODUCTS?**

25 **A. I negotiate and administer power sales contracts for Air**

1 Products. As a negotiator, I work with various business  
2 areas to develop and negotiate the terms and conditions  
3 of power sales contracts and, when required, wheeling  
4 agreements for cogeneration projects and waste-to-energy  
5 facilities. When acting as an administrator I work with  
6 the electric utility to resolve any problems that might  
7 arise and act as the primary point of contact with the  
8 utility.

9 Q. ON WHOSE BEHALF ARE YOU TESTIFYING?

10 A. Orlando CoGen Limited, L.P. (OCL).

11 Q. WHAT IS OCL?

12 A. OCL is a partnership whose general partners are Orlando  
13 CoGen (I), Inc. and Orlando Power Generation I, Inc. OCL  
14 owns a natural gas-fired cogeneration facility in  
15 Orlando, Florida.

16 Q. WHAT IS THE RELATIONSHIP BETWEEN AIR PRODUCTS AND OCL?

17 A. Orlando CoGen (I), Inc., the managing general partner of  
18 OCL, is a second tier wholly owned subsidiary of Air  
19 Products. Pursuant to an Operating and Administrative  
20 Services Agreement, Air Products is responsible for the  
21 operation of the OCL facility.

22 Q. BRIEFLY DESCRIBE OCL'S INTEREST IN THIS PROCEEDING.

23 A. In March 1991, OCL and FPC entered into a Negotiated  
24 Contract pursuant to which OCL has committed to provide  
25 FPC 79.2 MW of firm capacity ("the Power Purchase

1 Contract"). OCL financed, constructed, and now operates  
2 its \$86 million gas-fired QF in Orlando with which it  
3 performs the obligations of the power purchase contract.  
4 The power purchase contract was one of eight virtually  
5 identical power purchase contracts that resulted from an  
6 RFP process initiated by FPC in January 1991 and was  
7 approved, along with the other seven contracts, under  
8 FPSC Order No. 24734 on July 1, 1991. OCL is one of the  
9 QFs to which FPC's proposed curtailment plan is intended  
10 to apply.

11 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

12 A. The issues in this case are twofold. The first issue is  
13 whether FPC has made the requisite showing to justify the  
14 curtailment of purchases from QFs pursuant to federal and  
15 state regulations implementing PURPA. Witnesses Roy  
16 Shanker and Ken Slater have presented testimony  
17 supporting OCL's position that FPC's proposed curtailment  
18 plan is deficient and that curtailments to date have been  
19 unwarranted because FPC has not proven the existence of  
20 operational circumstances and negative avoided costs  
21 which would allow it to curtail its power purchases under  
22 the applicable regulations.

23 Assuming that FPC can demonstrate valid grounds to  
24 curtail firm purchases from QFs in a particular minimum  
25 load situation, the second issue is whether the proposed

1           curtailment plan treats affected QFs fairly and without  
2           discrimination.    The purpose of my testimony is to  
3           demonstrate that the proposed curtailment plan fails in  
4           this regard.

5   **Q.   WOULD YOU PLEASE SUMMARIZE YOUR TESTIMONY?**

6   **A.**   It is OCL's contention that FPC has devised its  
7           curtailment plan for implementation during FPC declared  
8           minimum load "emergencies" as part of FPC's efforts to  
9           obtain the dispatch or cycling rights it chose not to  
10          pursue when it developed the power purchase contract for  
11          its January 1991 RFP.  Further, the curtailment plan is  
12          designed to reward only those QFs who have agreed, many  
13          for other considerations, to provide FPC with  
14          "contractual" reductions in FPC's purchase obligations  
15          through long term modifications to their approved power  
16          purchase contracts with FPC.  FPC's curtailment plan  
17          refers to these QFs as Group A NUGs.  The plan provides  
18          favorable treatment to the Group A NUGs without extending  
19          the same treatment to those QFs like OCL who have elected  
20          to provide short-term non-contractual "voluntary"  
21          assistance to FPC with its minimum load problems.  The  
22          result is an unfair and discriminatory treatment of OCL  
23          who elected to provide "voluntary" rather than  
24          "contractual" assistance to FPC.

25                 FPC's plan also fails to provide a mechanism to take

1           into account the QFs' disparate responses over time to  
2           FPC involuntary curtailments. To achieve fairness, I  
3           propose a simple crediting mechanism. First, however, I  
4           want to respond to some characterizations of OCL in FPC's  
5           presentation that OCL regards as unfair.

6   **Q.    TO WHAT CHARACTERIZATIONS DO YOU REFER?**

7   A.    In his prefiled testimony, FPC witness Robert D. Dolan  
8           paints a picture of a utility calling on QFs to "step up  
9           to the plate" and "cooperate" in assisting FPC to  
10          mitigate the likelihood of a minimum load "emergency."  
11          By portraying those QFs who have agreed to long-term  
12          "contractual" reductions in FPC's purchase obligations as  
13          good citizens, he impliedly portrays OCL who has made  
14          short-term, firm non-contractual curtailment concessions  
15          to FPC as unreasonable and irresponsible. This  
16          characterization is unfair.

17 **Q.    WHY DO YOU THINK THIS PORTRAYAL IS UNFAIR?**

18 A.    With respect to FPC's contention that OCL has been  
19          unwilling to "step up to the plate" and "cooperate" with  
20          FPC, the facts speak otherwise. If anything, it is FPC  
21          that is being unresponsive.

22 **Q.    PLEASE EXPLAIN.**

23 A.    During FPC's first declared minimum load event, FPC  
24          called upon all QFs providing firm power deliveries,  
25          i.e., the Group A and Group B NUGs, to involuntarily



1           reduce their net output by 50% of their committed  
2           capacity, and the QFs providing as-available power, i.e.,  
3           the Group C NUGs, to reduce their deliveries by 100%. At  
4           the time, OCL was only able to comply with FPC's  
5           involuntary curtailment request by completely shutting  
6           off its facility, which it did. In doing so, OCL  
7           provided FPC 39.6 MW more of curtailment than it  
8           requested. At the same time, some other Group A and  
9           Group B NUGs failed to comply with the amount of  
10          involuntary curtailment demanded by FPC. Moreover, FPC's  
11          own University of Florida facility failed to curtail its  
12          output at all due to certain operating constraints.  
13          FPC's witness Charles Harper in his pre-filed testimony,  
14          at page 20, line 4, notes that "[t]he net effect of  
15          [OCL's] offsetting reduction was that the system achieved  
16          almost exactly the 150 MW of total generation reductions  
17          needed to match the minimum loads."

18    **Q.   HOW HAS OCL RESPONDED TO CALLS FOR CURTAILMENT SINCE THAT**  
19           **FIRST EPISODE?**

20    **A.   Although OCL challenges the basis for FPC's involuntary**  
21           **curtailment requests, OCL has fully complied in each of**  
22           **the additional six declared minimum load events to date.**

23    **Q.   HAS OCL UNDERTAKEN ANY OTHER EFFORTS TO ASSIST FPC WITH**  
24           **ITS MINIMUM LOAD PROBLEMS?**

25    **A.   As I testified earlier, since December 19, 1994, OCL has**

1 voluntarily and without compensation by FPC provided FPC  
2 with at least a 5 MW voluntary reduction from its  
3 committed capacity on a daily basis from 11:00 p.m. to  
4 6:00 a.m., the hours when FPC has indicated it is most  
5 vulnerable to minimum load events. On most days, OCL  
6 provided FPC with a 17 MW voluntary reduction from its  
7 committed capacity during these hours, thereby helping to  
8 minimize the number of minimum load events FPC might  
9 otherwise have declared. While FPC has accepted and  
10 benefitted from OCL's voluntary reductions, it has  
11 refused, despite OCL's repeated requests, to afford OCL  
12 the same status and benefits under the curtailment plan,  
13 for the duration of OCL's voluntary assistance, that it  
14 has bestowed upon Group A NUGs.

15 Q. TO WHAT STATUS AND BENEFITS ARE YOU REFERRING?

16 A. Under its proposed curtailment plan, FPC looks first to  
17 Group B NUGs to involuntarily reduce their net output by  
18 up to 50% of their committed capacity before looking to  
19 Group A NUGs for any involuntary curtailment. As a  
20 result, during three of the seven declared curtailment  
21 events, Group A NUGs were exempted from any involuntary  
22 curtailment.

23 On at least four occasions, OCL has asked FPC for  
24 treatment as a Group A NUG during those periods when OCL  
25 provides "voluntary" assistance to FPC. FPC has

1 repeatedly denied OCL such treatment.

2 Q. WHAT WAS FPC'S REASON FOR REFUSING TO TREAT OCL'S  
3 VOLUNTARY REDUCTION ON A PAR WITH OTHERS?

4 A. FPC cited the absence of a long-term contractual  
5 agreement with OCL similar to the curtailment agreements  
6 which FPC has struck with Group A NUGs. See Exhibit  
7 No. \_\_\_\_ (RAY-1).

8 Q. IN YOUR MIND, DOES THE ABSENCE OF A LONG-TERM CONTRACTUAL  
9 AGREEMENT JUSTIFY THE DISPARITY IN TREATMENT?

10 A. No. The benefit FPC receives from OCL is as real and  
11 substantial and contributes as significantly to mitigate  
12 minimum load conditions as the benefits FPC receives from  
13 the Group A NUGs. FPC is making it clear that because  
14 OCL has refused to renegotiate its power purchase  
15 contract to provide for long-term reductions in FPC's  
16 obligations to purchase power by granting dispatch or  
17 cycling rights, FPC will subject OCL to a greater risk of  
18 involuntary curtailment by classifying it as a Group B  
19 NUG.

20 Q. IS THIS WHAT YOU HAD IN MIND WHEN YOU SAID FPC, NOT OCL,  
21 HAS BEEN UNRESPONSIVE?

22 A. Yes.

23 Q. WHAT DO YOU BELIEVE IS A FAIR WAY FOR FPC TO TREAT FIRM  
24 QFs WHO PROVIDE VOLUNTARY CURTAILMENT DURING THOSE SHORT-  
25 TERM PERIODS FPC INDICATES IT IS MOST VULNERABLE TO

1           **MINIMUM LOAD EVENTS?**

2    A.    To be fair, FPC should treat firm QFs who provide  
3           voluntary assistance during such short-term periods in  
4           the same manner as Group A NUGs.

5    Q.    **WOULD YOU PLEASE ADDRESS YOUR EARLIER CONTENTION THAT**  
6           **FPC'S PLAN FAILS TO PROVIDE A MECHANISM TO TAKE INTO**  
7           **ACCOUNT THE QFs' DISPARATE RESPONSES OVER TIME TO FPC'S**  
8           **DECLARED MINIMUM LOAD EVENTS?**

9    A.    OCL's position is that FPC should not make value  
10           judgments about the QFs' individual circumstances. Just  
11           as FPC's University of Florida Cogen project has  
12           experienced circumstances where it could not comply with  
13           FPC's involuntary curtailment demands and OCL and Tiger  
14           Bay on several occasions have elected to fully shut down  
15           during declared minimum load events, OCL anticipates that  
16           there will continue to be QFs that either cannot fully  
17           comply or will over-comply with FPC's requested  
18           involuntary curtailment operating levels. FPC's  
19           involuntary curtailment plan contains no mechanism to  
20           fairly deal with these unavoidable circumstances.

21   Q.    **WHAT IS YOUR PROPOSAL?**

22   A.    A fair involuntary curtailment plan would measure the  
23           cumulative MWh of curtailment actually provided by a QF  
24           against that requested. For example, if FPC imposed an  
25           involuntary curtailment of 10 MW from a QF for four

1 hours, that would be the equivalent of 40 MWh of  
2 involuntary curtailment for that particular minimum load  
3 event. If the QF only provided 5 MW for four hours due  
4 to operating constraints, it should only be credited by  
5 FPC with having provided 20 MWh of involuntary  
6 curtailment for that particular minimum load event. To  
7 be fair, that QF would still "owe" FPC 20 MWh of  
8 curtailment assistance. There might be two ways to repay  
9 this curtailment deficit during the next involuntary  
10 curtailment: the QF could agree to either provide the  
11 equivalent of 20 MWh more of involuntary curtailment than  
12 FPC would normally have demanded of it or agree to shut  
13 down for the duration of the next minimum load event to  
14 build up a credit against future involuntary curtailment  
15 requests.

16 By having a QF with an unbalanced curtailment  
17 "account" agree with FPC prior to the next involuntary  
18 curtailment how it wants to work off its deficit or  
19 credit, FPC would know with certainty how much  
20 involuntary curtailment to require from all the other QFs  
21 during future minimum load events.

22 Absent such a mechanism, the proposed curtailment  
23 plan will fall short of treating QFs in an equitable  
24 fashion. With such a mechanism, FPC can assure that the  
25 performances of the QFs "balance out" over time, without

1 having to make value judgments regarding the merits of a  
2 QF's explanation for its inability to respond to FPC  
3 demanded involuntary curtailment operating levels during  
4 a particular involuntary curtailment situation.

5 Q. DOESN'T THE PROPOSED PLAN ALREADY ADDRESS THE POSSIBILITY  
6 OF ADJUSTING THE REQUIREMENTS IMPOSED ON A PARTICULAR QF  
7 OVER TIME?

8 A. Not adequately. It says FPC will be receptive to  
9 arrangements the QFs work out among themselves to share  
10 the burden of involuntary curtailments over time. FPC  
11 thus defaults on an essential component of its plan. FPC  
12 should not be allowed to shift to the QFs the task of  
13 assuring that the burden of involuntary curtailments  
14 imposed by FPC falls equitably among them over time. The  
15 curtailment adjustment mechanism I have described should  
16 be a fundamental part of FPC's administration of any  
17 approved curtailment plan to insure its fairness.

18 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

19 A. FPC is using involuntary curtailment rights authorized by  
20 federal and state regulation to reward those QFs who have  
21 agreed to modify a portion of their power purchase  
22 contracts by limiting their exposure to involuntary  
23 curtailments. In doing so, FPC discriminates against QFs  
24 who have elected instead to provide short-term  
25 "voluntary" reductions.

1           The proposed plan also fails to assure that  
2 inadequate or excessive reductions by QFs will be taken  
3 into account in subsequent involuntary curtailments. Any  
4 approved plan should include an adjustment mechanism  
5 whereby a QF who reduces its output more or less than is  
6 required during an involuntary curtailment will receive  
7 or provide an offsetting adjustment as appropriate in the  
8 future. This is FPC's job, not the QFs'.

9   **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

10 **A. Yes.**

11

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Air Products and Chemicals, Inc.  
7207 Hamilton Boulevard  
Allentown, PA 18195-1501

Telephone (610) 481-4811  
Telex: 347418

**AIR**  
**PRODUCTS** 

16 January 1995

Mr. Robert Dolan  
Manager, Cogeneration Contracts Administration  
Florida Power Corporation  
3201 34th Street South  
St. Petersburg, FL 33711

RECEIVED

JAN 17 1995

LAW DEPT.

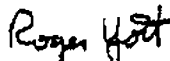
Re: Letter Agreement on the Allocation of Capacity and Energy from Orlando CoGen Limited's Qualifying Facility dated 7 October 1993 among Florida Power Corporation ("FPC"), Orlando CoGen Limited, L.P. ("OCL") and Reedy Creek Improvement District ("RCID") (the "Allocation Agreement")

Dear Robert:

This is to confirm OCL's 13 January 1995 phone conversation with your Mr. Charles Harper, in which FPC agreed to again manually override the Allocation Agreement during the hours of 11:00 p.m. through 6:00 a.m. daily commencing on 15 January 1995 at 11:00 p.m. and extending until 28 February at 6:00 a.m. to facilitate an agreement between OCL and RCID. During these hours RCID's Declined Energy ("DE") will be 12 MW or less. FPC's agreement will allow RCID to receive 35 MW less Declined Energy regardless of OCL's operating level for the hour during these hours; provided that, if OCL experiences a forced outage during any of the above hours RCID shall be responsible for obtaining its own replacement power as it is for any OCL forced outage under the Allocation Agreement.

During the period of this special agreement between OCL and RCID, OCL agrees to operate its facility at approximately 97.2 MW daily from 11:00 p.m. to 6:00 a.m., thereby reducing its deliveries to FPC by at least 5 MW below its Committed Capacity (79.2MW) as voluntary assistance to FPC with respect to its alleged minimum load problem. In recognition of this voluntary measure, OCL still expects that FPC will treat OCL as a Group A NUG under its 12 October 1994 proposed Generation Curtailment Plan for Minimum Load Conditions from 15 January 1995 through 28 February 1995. Of course, nothing in this letter constitutes nor should it be construed as an admission by OCL that FPC's proposed Generation Curtailment Plan is prudent, operationally required or permissible under federal or state law or regulations.

Sincerely,

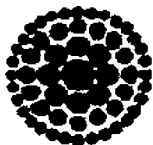


Roger A. Yott  
Manager, Power Sales Contracts

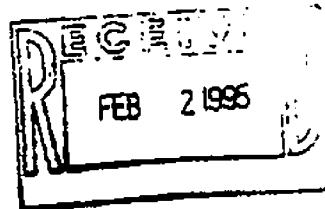
RAY/pe/oms

cc: T. Donchex  
~~\_\_\_\_\_~~  
S. Munday  
B. Reed - Utilco





**Florida  
Power**  
CORPORATION



January 21, 1995

Roger A. Yott  
Manager, Power Sales Contracts  
Air Products and Chemicals  
7201 Hamilton Boulevard  
Allentown, Pa 18195

Re: Letter Agreement on the Allocation of Capacity and Energy from Orlando CoGen Limited's Qualifying Facility dated October 7, 1993 among Florida Power Corporation, Orlando CoGen Limited, L.P. and Reedy Creek Improvement District

Dear Mr. Yott:

This is to confirm that Florida Power agrees to modify the ratios in order to allow Reedy Creek to receive the desired capacity up to 35 MW and override the Allocation Agreement software. This is to allow OCL to operate the facility at 97.2 MW and for RCID not to have their share limited to less than 35 MW due to projected reduction in OCL's output until February 28. This is in accordance to your telephone conversation dated January 13, 1995 and your letter dated January 16, 1995.

Florida Power, however, cannot agree to treat OCL as a member of Group A under the curtailment plan. Moreover, Mr. Harper assures me that Florida Power did not agree to treat OCL as a member of Group A during your January 13 telephone conversation with him. We have consistently required written long term agreements setting forth the actual curtailments that are agreed to. Florida Power remains willing to discuss a long term curtailment agreement that, among other things, would permit FPC to move OCL into Group A under the curtailment plan.

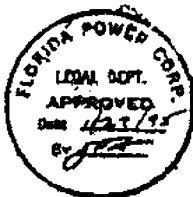
Sincerely,

Allen J. Honey  
Senior Cogeneration Engineer

AJH/mag

cc: R. D. Dolan  
J. P. Fama

ALL/2/You/Jan



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Direct Testimony and Exhibit of Roger A. Yott, on behalf of Orlando CoGen Limited, L.P., has been furnished by hand delivery\*, by Federal Express\*\*, or by U.S. Mail to the following parties of record, this 10th day of April, 1995.

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