

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000824-EI

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In the Matter of:
REVIEW OF FLORIDA POWER
CORPORATION'S EARNINGS,
INCLUDING EFFECTS OF
PROPOSED ACQUISITION OF
FLORIDA POWER CORPORATION
BY CAROLINA POWER & LIGHT



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PROCEEDINGS: AGENDA CONFERENCE
 ITEM NO. 17

BEFORE: CHAIRMAN E. LEON JACOBS, JR.
 COMMISSIONER J. TERRY DEASON
 COMMISSIONER LILA A. JABER
 COMMISSIONER BRAULIO L. BAEZ
 COMMISSIONER MICHAEL A. PALECKI

DATE: Tuesday, May 15, 2001

TIME: Commenced at 2:45 p.m.
 Concluded at 3:50 p.m.

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

REPORTED BY: KORETTA E. STANFORD, RPR
 Official FPSC Reporter

1 PARTICIPATING:

2 JAMES McGEE, WILLIAM HABERMEYER, President and CEO;
3 VINCENT DOLAN, Vice President for Governmental and Regulatory
4 Affairs; MARK MYERS, Vice President for Finance, Florida Power
5 Corporation, 106 East College Avenue, Suite 800, Tallahassee,
6 Florida 32301.

7 JOHN McWHIRTER, Esq., McWhirter Law Firm, P.O. Box
8 3350, Tampa, FL 33601, representing Florida Industrial Power
9 Users Group.

10 MICHAEL B. TWOMEY, Esq., P.O. Box 5256, Tallahassee,
11 Florida 32314, representing Buddy L. Hansen and Sugarmill Woods
12 Civic Association.

13 JACK SHREVE, Office of Public Counsel, 111 W. Madison
14 Street, Suite 812, Tallahassee, FL 32399.

15 ROBERT ELIAS, and DEBORAH HART, FPSC Division of
16 Legal Services.

17 TIM DEVLIN, FPSC Division of Economic Regulation.

18 BOB TRAPP, FPSC Division of Policy Analysis and
19 Intergovernmental Liaison.

20 HAROLD McLEAN, Office of Public Counsel.

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P R O C E E D I N G S

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2 CHAIRMAN JACOBS: Item 17.

3 MR. DEVLIN: Item 17 is a recommendation for a rate
4 case for Florida Power Corp. And we're recommending the
5 Commission move forward with this docket. We're dealing with a
6 significant overearnings situation. FPC hasn't had a rate case
7 in nine years.

8 We think it's really important to have a
9 comprehensive review of FPC for the following reasons: To
10 determine the appropriate level of earnings and, therefore,
11 rates; determine the book value of existing assets as we move
12 into a restructuring environment, perhaps; to use as a basis in
13 evaluating any settlement proposals; to use in evaluating the
14 impact of the recent acquisition by Carolina Power & Light; and
15 last and not least, to be used in determining the
16 reasonableness and the appropriate method of recovery of costs
17 associated with the RTO.

18 So, our basic theme of the Staff is that this is time
19 to have a comprehensive review of Florida Power Corp., and the
20 rate case setting offers us that possibility. I mean, not only
21 would we be talking about MFRs, but we'd also be using the
22 audit process and the other investigative measures at our
23 disposal.

24 The other item that I'd like to talk about very
25 briefly, because I know we have a lot of speakers, we're

1 recommending the Commission put \$114 million, subject to
2 refund, to ensure consumers are protected during the case.
3 While we do have a letter from FPC agreeing to hold money,
4 subject to refund, there is no amount specified. With a
5 Commission order we eliminate that ambiguity, if you will, and
6 making it known what the extent of consumer protection is.

7 Thank you.

8 CHAIRMAN JACOBS: Very well.

9 MR. TRAPP: Commissioners, excuse me. I, too, have
10 an opening statement, if I may.

11 CHAIRMAN JACOBS: Briefly.

12 MR. TRAPP: Good afternoon. Thank you for having me.
13 It's not often I get to come to Agenda, but you may be
14 wondering why I'm here today on this overearnings case. My
15 purpose today is to explain why we've included discussion of
16 the RTO in this overearnings recommendation.

17 I want to first go back to the beginning of the RTO
18 development and tell you where we are now. We are beyond the
19 development phase of the Florida RTO. The form and the
20 function of the Florida RTO has been selected. This decision
21 was made during the collaborative process that the stakeholders
22 held. So, for better or for worse, GridFlorida is here, and is
23 to be a for-profit, stand-alone transmission company.

24 Where we are now really in this process, we're in the
25 implementation phase of the Florida RTO and, Commissioners, the

1 time has come for us to determine the rate impacts of
2 GridFlorida on the ratepayers of the distinct investor-owned
3 utilities that we regulate. In order to determine these rate
4 impacts, we need MFRs.

5 Now, Florida Power & Light and Florida Power
6 Corporation are the two power participant in GridFlorida.
7 While both do plan to participate in the RTO, their involvement
8 will be distinctly different. Florida Power & Light, for
9 instance, plans to divest itself of its transmission and
10 transfer the facilities to GridFlorida. Florida Power
11 Corporation, on the other hand, plans to retain the ownership
12 of their transmission facilities, but to turn over operational
13 control to GridFlorida.

14 At this point, a generic hearing is neither the best
15 nor the most efficient mechanism to gather distinct utility
16 data or to do individual utility ratemaking. Again, we're
17 beyond that point. We need utility-specific MFRs. Separate
18 but interwoven with the RTO rate issues, the Division of
19 Economic Regulation has determined that the MFRs are needed
20 from Florida Power & Light and from Florida Power Corporation
21 to address overearnings.

22 They have proposed a 2002 test year for which to
23 collect that MFR data. As it happens, a 2002 test year
24 perfectly overlaps the first year of operation of GridFlorida.
25 So, the MFR data for a 2002 test year is exactly the

1 information this Commission needs in order to address both
2 overearnings and the impact of GridFlorida on Florida Power &
3 Light and Florida Power Corporation's retail rates.

4 Let me turn now to the issues. What issues will MFR
5 data for test year 2002 help the Commission resolve? Well,
6 basically, two broad categories. The first issue is that of
7 prudence. And let me be very clear about what I mean by the
8 word prudence in the context of where we are at today.

9 I'm not referring to the prudence of selecting a
10 for-profit transco as the final form of GridFlorida. That
11 seems to be a done deal. Whether this is the most efficient,
12 most cost-effective form of an RTO is no longer the issue
13 before us. We had our chance to get this right from a
14 statewide perspective in the collaborative process.

15 Rather, the issue of prudence before us now is
16 whether or not GridFlorida is the right for the individual
17 utilities participating in it and for their ratepayers on an
18 individual basis, not a generic basis. In short, the issue is
19 whether Florida Power & Light and Florida Power Corporation's
20 ratepayers will benefit from participation in GridFlorida as it
21 has been structured. In order -- yes?

22 COMMISSIONER JABER: Let me interrupt you for just a
23 second. In your introduction, you're not implying that the PSC
24 was part of the selection process with respect to what kind of
25 RTO, because you said we're --

1 MR. TRAPP: The Commission has not had an opportunity
2 to sit as the Commission and make a judgment with respect to
3 overall GridFlorida formation, but the Staff and, I think, we
4 have been monitoring and participating to the degree that we
5 can in the collaborative process.

6 COMMISSIONER JABER: I just don't want to leave the
7 impression in anyone's mind that the PSC was part of a decision
8 on what kind of RTO was formed.

9 MR. TRAPP: No, ma'am.

10 In order to address this specific utility aspect of
11 prudence, we must look at, number one, specific costs to be
12 borne by Power & Light and Power Corp.'s ratepayers. The
13 specific benefits that the ratepayers of Power Corp. and of
14 Florida Power & Light can expect to receive, and whether on a
15 company-by-company basis, the cost to be paid by each company's
16 ratepayers are outweighed by the benefits that they will
17 receive.

18 Once the issue of cost versus benefits has been
19 addressed, again, on a company-specific basis, the second issue
20 is who should pay, ratepayers or stockholders? And then, if
21 it's determined that the ratepayers should pay all or a portion
22 of the cost associated with their participation in GridFlorida,
23 we must determine whether cost recovery should take place in
24 base rates or in cost recovery clauses.

25 Finally, we must address rate structure issues; that

1 is, what percent of total costs associated with the RTO should
2 be paid for by the residential, commercial, and industrial
3 class of customers? These are all ratemaking issues. That's
4 what this Commission does. We review and we set rates. We
5 can't set rates without evaluating MFRs and the associated cost
6 of service studies that go with them. So, again, I end where I
7 started; we need MFRs and the associated information that comes
8 within to make the appropriate ratemaking judgments with
9 respect to the RTO.

10 Thank you very much.

11 CHAIRMAN JACOBS: Very well. I think, we have a
12 presentation by the company?

13 MR. MCGEE: Yes. Commissioners, my name is James
14 McGee. I'm appearing on behalf of Florida Power Corporation.
15 I have with me Mr. William Habermeyer to my immediate right,
16 who is Florida Power's President and CEO. To his right is
17 Mr. Vincent Dolan, Vice President for Governmental and
18 Regulatory Affairs for Florida Power. And to his right is
19 Mr. Mark Myers, who is Florida Power's Vice President for
20 Finance.

21 Just to give you an idea of the way we intended to
22 proceed this afternoon, Mr. Habermeyer has some opening remarks
23 that he would like to make concerning a rate proposal that
24 Florida Power filed yesterday before the Commission, as well as
25 the company's overall direction over the next several years.

1 After that, I would like to address that proposal, not from the
2 standpoint of evaluating the merits, but to the extent that it
3 represents a reasonable alternative to going forward with
4 Staff's recommendation, I would like to deal with those points.

5 After that, Mr. Myers has several issues of concern
6 to the company that he would like to address concerning
7 specific components of the Staff's recommendation, in
8 particular, the schedule that's been proposed for the filing of
9 MFRs. And finally, Mr. Dolan has a few concluding comments
10 that he would like to make to the Commission.

11 With that, I would like to ask Mr. Habermeyer if he
12 would go forward with his opening remarks.

13 CHAIRMAN JACOBS: Very well. You may proceed, Mr.
14 Habermeyer. Welcome.

15 MR. HABERMEYER: Chairman Jacobs, Commissioners,
16 thank you very much for giving me the opportunity to speak
17 today. As you know, and as Jim pointed out, yesterday we took
18 a major step to address those issues which were related to our
19 company's docket, including the effects of the completed merger
20 and also to set forth some of the plans for operating the new
21 Florida Power. While some of our folks are here today to
22 discuss in more detail the questions that you may have, I would
23 like to, with your permission, make a few brief introductory
24 remarks regarding our future plans.

25 Our goal is today and has always been to resolve

1 these rate and merger issues before the existing settlement
2 expires on June 30th. You can be assured that I am doing all I
3 can and am committed to this goal in doing everything possible
4 to make that date.

5 The potential of major wholesale restructuring, of
6 course, in the legislation held up some of our plans. And, of
7 course, the legislature adjourned on May 4th and without action
8 on this issue and so, we're here today to make our presentation
9 on our proposal to address this issue of our rate stipulation.

10 The rate reduction plan that we are proposing,
11 basically, there are a lot of details related to our petition
12 proposal but, essentially, we're proposing a total \$127 million
13 rate reduction that will benefit our customers over the next
14 three and a half years. Included in this, our first and
15 immediate rate reduction of \$30 million annually for the next
16 three years comprised, in large part, by a reduction in our
17 ROE, as well as the contribution of Florida Power's share of
18 the net synergy savings from the merger.

19 Additionally, the second part of that is a commitment
20 by the company to accelerate approximately \$60 million of
21 payments to the Tiger Bay regulatory asset, which will complete
22 the amortization of this asset by 2003, five years ahead of
23 schedule. This will result in additional long-term rate
24 reduction of approximately \$37 million annually and bring the
25 total benefit to customer savings in excess of \$2 billion

1 projected over the life of the restructured contracts. This
2 will reduce the price for a typical residential customer who
3 uses 1,000 kilowatt hours by \$2.19.

4 Lower prices are really just a part of what the new
5 Florida Power will mean to our customers. We're six months
6 past our merger approval and just beginning to implement the
7 best practices, the progress energy family of companies. Some
8 of the results, first, an expanded generating fleet to ensure
9 our customers adequate energy supply for the future. Second,
10 new technology and upgraded equipment to improve response time
11 to outages and to enhance our reliability to the customer; an
12 expanded menu of customer service options to go along with the
13 continuation of our 24-by-7, state-of-the-art call center
14 operations.

15 And let me expand very briefly on these. In terms of
16 generation adequacy, we will meet our 20% reserve margin
17 commitment seven months ahead of schedule with the addition of
18 270 megawatt peakers that went into service in Intercession
19 City last December and the addition of a second unit at our
20 Hind site to be in service in late 2003.

21 Together, these investments of more than \$300 million
22 will increase our capacity by 10% and save customers up to \$40
23 million per year in fuel costs. We're also very proud of the
24 record established by Crystal Rivers since its turn-around,
25 which is among the best of the industry last year with a

1 capacity factor of over 98%.

2 In terms of transmission and distribution
3 reliability, the company will invest more than \$100 million
4 over the next three years to further improve reliability. The
5 company has already seen a 25% improvement in system
6 reliability over the last four years, and we're looking for
7 even better performance in the future.

8 Florida Power also plans to build several new
9 operating centers across its 20,000 square mile service
10 territory. These new centers will place Florida Power's lines,
11 service, engineering and management resources closer to the
12 customer, providing quicker outage restoration and improved
13 service.

14 In terms of customer service, we are opening 150 new
15 pay stations around the state to offer our customers expanded
16 hours and some around-the-clock billing opportunities and
17 paying services. We have significantly increased the
18 functionality of our telephone call system so that just about
19 any customer request can be done via telephone 24 hours a day.

20 We've added service enhancements allowing customers
21 to view and pay their bills on-line. In some, we've tried to
22 address customer issues and customer service that will result
23 in improvements to the customer, as well as improvements of our
24 own company operations.

25 In summary, our goal is to make Florida Power the

1 premiere energy provider in Florida; lower prices, abundant
2 generation capacity, improved reliability and top-notch
3 customer service. These are the areas we'll continue to focus
4 on and pursue to that goal. Approval of the plan that's before
5 you today is a necessary step in order to allow the company to
6 move in that direction.

7 I urge you and your Staff to consider and work
8 together with us to get it approved at the earliest possible
9 date so that our customers can enjoy the benefits of lower
10 prices, especially as we approach the hot summer months of high
11 customer usage.

12 I thank you for your time today to allow me to
13 address these issues, and I know that you have questions, and
14 we'll certainly be happy to answer them.

15 CHAIRMAN JACOBS: Thank you.

16 MR. MCGEE: Commissioners, I think, a point at the
17 heart of our suggestion that the rate proposal Mr. Habermeyer
18 described be allowed the opportunity for consideration by the
19 Commission before initiating a formal proceeding as the Staff
20 has recommended, is found at the opening of Staff's
21 recommendation when they state, "This recommendation is being
22 filed because FPC has not offered any acceptable written plan
23 to achieve a more permanent solution to its potentially high
24 earnings level.

25 Florida Power had hoped that Staff would continue the

1 deferral of the recommendation it had originally agreed to make
2 in early March until the legislative session did end, because
3 we thought we had made clear our commitment that once that
4 session did end and the regulatory landscape had remained
5 relatively unchanged, that we would file a rate proposal of our
6 own.

7 And even though Staff's recommendation was filed, we
8 remain committed to providing the Commission with an informal
9 alternative to resolving the issues that are pending in this
10 case. But because of the recommendation, we felt it necessary
11 to expedite the filing of that proposal so that you would have
12 it before you today when you considered Staff's recommendation
13 in an effort to remove the doubt that was reflected in Staff's
14 recommendation that a viable alternative to a formal proceeding
15 is really available.

16 And while it's certainly premature to consider the
17 merits of the company's proposal at this point, just to provide
18 an understanding of the alternative that's available to the
19 formal proceeding that Staff has suggested, with your
20 indulgence, I'd like to go through a brief highlighting of the
21 terms that are contained in that proposal.

22 As Mr. Habermeyer indicated, the proposal provides
23 for a three-year, \$30 million rate reduction that would be
24 effective immediately upon Commission approval, subject to the
25 order becoming final, of course.

1 In addition to that, the company will commit
2 approximately \$60 million over this three-year period to
3 accelerate and to fully complete the amortization of the Tiger
4 Bay regulatory asset in total with the \$90 million from the
5 cumulative effect of the rate reduction, and the \$60 million to
6 accelerate the amortization of Tiger Bay, it represents \$150
7 million commitment just in that three-year period of time.

8 Let me mention, though, that the significance of
9 contributing the \$60 million, or whatever it actually takes to
10 complete the amortization of the Tiger Bay regulatory asset, is
11 particularly significant because that asset, unlike the case
12 with most other regulatory assets when fully amortized, will
13 reduce fuel costs instead of base rate costs, and that will
14 result in an immediate reduction that flows through to
15 ratepayers through the fuel adjustment clause without the need
16 to wait for a subsequent rate case.

17 We estimate that those savings in the initial year
18 will be \$37 million, and Florida Power has committed to make
19 the attempt to complete that amortization before the end of the
20 three-year proposal period, by the end of 2003, so that when
21 the new fuel adjustment factors are set to go into effect,
22 beginning January 1st, 2004, the full effect, the full \$37
23 million effect of that rate reduction can be put into place at
24 that time.

25 And this will allow the amortization of Tiger Bay to

1 be completed, as Mr. Habermeyer indicated, five years ahead of
2 schedule. And the benefit of moving that forward adds
3 approximately -- well, actually, more than \$ 200 million to the
4 estimated \$2 billion of ratepayer savings that was before the
5 Commission when you approved the purchase of the Tiger Bay
6 facility in 1987.

7 The rate proposal also contains a surveillance
8 mechanism that's intended to ensure that both the synergy
9 savings that result from the merger and the cost that had to be
10 incurred to achieve those synergy savings are both reflected in
11 surveillance reporting, allowing the surveillance information
12 presented to the Commission to identify the net synergy savings
13 that is actually produced. These synergy savings estimated, in
14 their most optimistic way, have been included in the \$30
15 million three-year rate reduction that would go into effect
16 upon approval of the proposal.

17 The additional terms that are contained in the
18 proposal include a reduction in Florida Power's authorized --
19 excuse me, in the midpoint of Florida Power's authorized return
20 on equity to 11.75% with the same 100 basis points of a range
21 on either side. It includes a three-year freeze on Florida
22 Power's rates and its return on equity. It includes an
23 authorization for Florida Power to continue the surveillance
24 adjustment that was authorized in the current stipulation that
25 will expire on June 30th.

1 This adjustment is to the equity capitalization
2 ratios that are used for surveillance reporting, but this
3 proposal contains a limitation on the use of that adjustment
4 that's in response to some concerns expressed to Staff, and
5 that limitation would provide that the adjustment cannot result
6 in any equity ratio exceeding a predetermined equity cap that
7 was previously approved by the Commission in a different
8 proceeding.

9 The proposal includes an authorization that would
10 allow Florida Power to accelerate the amortization of certain
11 other regulatory assets without the need to get specific
12 approval asset by asset from Staff. It includes a requirement
13 that was suggested by a party to Florida Power that earnings
14 above the level allowed by the rate proposal would be refunded
15 directly to customers.

16 It includes a suggestion by a party to Florida Power
17 that Florida Power hold customers harmless from any adverse
18 impacts that could result from a six-year divestiture of
19 generation capacity that was required by the Federal Energy
20 Regulatory Commission in approving Florida Power's merger. And
21 finally, it also contains a requirement, again, suggested by a
22 party that Florida Power waive its right to assert that the
23 Commission's regulation of affiliated transactions is preempted
24 by federal law under some current case law.

25 Given this proposal, Florida Power is here today to

1 respectfully urge that the Commission provide the opportunity
2 for Staff to review and for the Commission to consider the
3 proposal that we've put forward and to defer the further
4 consideration of Staff's recommendation that a formal
5 proceeding be undertaken until you've determined that the
6 informal process is not likely to be productive.

7 With that, I would like to ask Mr. Myers to address
8 the subject of the particular concerns Florida Power has
9 regarding Staff's recommendation.

10 MR. MYERS: Yes, there's really two issues that I
11 wanted to talk about. One was the first issue raised in the
12 Staff's recommendation as far as the revenue subject to refund.
13 And, I guess, the way Staff developed that was they used the
14 February 2000 surveillance report that we file each and every
15 month, they used the February as the last one that was
16 available to them. And at that time they made several
17 adjustments to the filing that we had provided to them, and
18 they really didn't have complete knowledge at that point and
19 time of some of the information that we feel like that could
20 have been beneficial to them in making some of those
21 adjustments.

22 We did meet with Staff and other parties last week
23 and tried to start to communicate to them some of the
24 adjustments that we think they should consider in looking at
25 how they develop that total number and --

1 MR. ELIAS: Mr. Chairman, the way this item was
2 noticed, it appears to me that Mr. Myers' remarks are going to
3 the calculation of the interim, the amount of revenues held,
4 subject to refund, and that was specifically noticed for no
5 participation in accord with Commission practice.

6 MR. MCGEE: That may be my fault. I was under the
7 impression that there had been a change in the approach on that
8 because of the magnitude of the decision regarding placing
9 revenue, subject to refund, that discussion would be allowed on
10 that. If I'm mistaken, I apologize.

11 MR. ELIAS: Staff didn't make --

12 CHAIRMAN JACOBS: Excuse me. Tell me again. This
13 Issue 1 is noticed as --

14 MR. ELIAS: There's no participation. What the
15 recommendation says is that interested persons may participate
16 on Issues 2 and 3 only, which is the question of filing MFRs
17 and whether or not the docket should remain open.

18 CHAIRMAN JACOBS: And the rationale for holding Issue
19 1 is that --

20 MR. ELIAS: Under the statute it is a calculation.
21 Based on known variables it is not final action and,
22 historically, the Commission has not allowed parties to
23 participate.

24 CHAIRMAN JACOBS: Okay. Commissioner Jaber.

25 COMMISSIONER JABER: Mr. Chairman, this may be your

1 call and to the degree, you know, I apologize, it's completely
2 your call, but for what it's worth, I would like to hear from
3 the parties on this issue.

4 CHAIRMAN JACOBS: Okay. I would like consensus on
5 this. Is there a desire to hear from the parties on this?

6 COMMISSIONER DEASON: It's my understanding that
7 that's something that's within our discretion to do, and I
8 certainly have no objection to doing that.

9 CHAIRMAN JACOBS: What are your comments?

10 MR. MYERS: Thank you very much.

11 So basically, we met with Staff and other parties
12 last week to start the dialogue and to communicate some of the
13 differences that we would like them to consider and, briefly,
14 they fall into three basic categories.

15 The first is the company had a different viewpoint as
16 far as the CR-3 equity adjustment than the Staff. We have, in
17 our proposal, made some adjustments to our initial position to
18 try to accommodate that. That was one element.

19 Another piece of it, there was a number of issues
20 that were nonrecurring in nature that were factored into that
21 that came into a couple of categories; abnormal weather that we
22 experienced over that 12-month period, there was some early
23 synergy savings that were flowing through that weren't really
24 being offset against the cost to achieve those synergy savings,
25 and there was some timing early this year, as far as the O&M

1 expenses that will occur later this year. So again, all we're
2 asking here, as it relates to this, is to continue to work with
3 Staff and try to get a common understanding of what the issues
4 are and in reconciling those differences.

5 Staff also raised a point about the Tiger Bay
6 commitment. And again, we've addressed that, that we are
7 trying to move forward and make some commitments firmly going
8 forward that we do want to try to see that go away.

9 And so, really on Issue 1, we would just like to
10 continue to work with Staff to reconcile some of the
11 differences that we think we have with them and to try to
12 basically conclude that before we move forward on Issue 1.

13 On Issue 2, what I'd like to talk about is the timing
14 of the MFRs. We do agree with Staff that using 2002 as a test
15 year is the appropriate year to use for a lot of the reasons
16 that Mr. Habermeyer stated in his remarks. We are sort of
17 reshaping the company as we're going forward. There's a lot of
18 additional expenses and costs with emphasis on reliability and
19 some other things as we go forward, and we do think that 2002
20 is the right test year to use to make that kind of analysis.

21 The issue that we do have for that, though, is the
22 amount of time in order to prepare MFRs. Issue 2 talks about
23 September 15th as being a filing deadline. We really can't
24 meet that deadline, and there's some good reasons for it. Our
25 normal budgeting and forwarding process that we go through each

1 year starts about in July and runs through October. Through
2 that process detailed budgets are prepared by all the various
3 operating entities within our company.

4 We take that data, we prepare detailed financial
5 forecasts that we then present to management and the review
6 processes gone through. That, typically, runs July through
7 October. And at that point, then, it's reviewed a little bit
8 further by management and board recommendations are made in
9 early December.

10 Normally, when we're not in a rate proceeding, we
11 have 60 days after the end of the calendar year in order to
12 file projected surveillance reporting for the year coming up,
13 our forecast, until March 1st to do that. That extra 60 days
14 is provided so that we can go through with the jurisdictional
15 separations that are necessary in order to give you the retail
16 component that Staff then analyzes going forward.

17 Some of the complicating factors we have with the
18 merger and with some of the things facing us this particular
19 cycle is we're in the process of putting in a new budgeting
20 system. Our old legacy system that we had in place since the
21 early '80s we're replacing, we're putting in a new budgeting
22 system, and that's really beginning now.

23 We're in the process in the next couple of weeks to
24 start training the trainers, who will then train the budget
25 people who will be putting all this stuff in, and that's a

1 lengthy process that we'll be going through.

2 We're also in the process of changing our accounting
3 systems out which, beginning of next year we'll have a new
4 accounting system, new accounting codes, all the things that go
5 with that. And I share that, because that effects our budget.
6 We will be using new budgeting accounting codes and all of that
7 in the cycle that we're about ready to start.

8 And so, for the people that are involved in putting
9 together the budgets, there's just a lot of change management
10 that's going on right now. And I would submit that it's going
11 to be tough for us just to finish in our normal cycle of time
12 with all the change that we're facing by trying to change out
13 systems, it's not an insignificant factor. So, to try to speed
14 that up or shorten it really wouldn't be prudent for the
15 company or for you. And we really can't start any earlier than
16 we're talking about starting, because we are starting the
17 training almost immediately, so we're starting now because
18 that's when the calendar would typically would fall.

19 In the past, to provide rate quality review for
20 Staff, we really need the budget. We need the good budgeted
21 data in order to try to put together the kind of rate case
22 material that's really in your best interest and ours in trying
23 to go through that process.

24 Just getting through the budget and the forecast is
25 one component of that, and then there's just the task of

1 putting together all the rate materials, as far as getting the
2 test year MFRs done on a system basis, all the supporting work
3 papers, the separation and rate design studies and the
4 testimony, and then converting all of that into the retail
5 side, that's a lot that needs to be done.

6 Our task is further complicated, because most of our
7 financial systems will be converted in this next cycle. I
8 talked about our general ledger changing. We're also changing
9 our payroll, our corporate time entry, our accounts payable
10 system, plan accounting and materials management. Again, this
11 is an integral part of our synergies and what we're trying to
12 do. We're trying to get on common platforms as a new company
13 so we can achieve the synergy savings and provide better
14 service, but that's a lot for us to do in the same time period.

15 And so, I guess, I would respectfully request that
16 some consideration be given here to potentially push out the
17 timing of the MFRs and that it be postponed, at least until
18 March of next year, which would be the typical time period when
19 we would normally be providing a pro forma forecast.

20 And I would also respectfully request that if you do
21 decide to move forward with the MFR process that you consider
22 allowing the prehearing officer some discretion in looking at
23 the magnitude of the MFRs that needed to be prepared in that
24 process to maybe help facilitate this thing.

25 Thank you.

1 CHAIRMAN JACOBS: Mr. Dolan.

2 MR. DOLAN: Mr. Chairman, I'll just wrap up here
3 quickly. Just to reiterate what Mr. Habermeyer said, I think,
4 we have been targeted towards trying to get a new agreement in
5 place prior to the expiration of our existing agreement on June
6 30th, and nothing has changed about that, that's still our
7 goal. Mr. McGee mentioned Staff's specific concern about
8 getting something in writing and having the specific proposal
9 that perhaps would accelerate some of this discussion. We've
10 done that.

11 I think, we've tried to address a number of the
12 specific issues, and I won't go back through all of what Jim
13 said, but ROE was addressed in our proposal. We offered to
14 lower it. The concern about the discretionary nature of Tiger
15 Bay, we were offering a firm commitment about Tiger Bay.

16 Discussion about overearnings and revenues subject to
17 refund, I think, we had some discussion regarding that on
18 Friday. That's, obviously, in the area that's going to require
19 some additional discussion, and we're prepared to do that as
20 well. The concern with the CR-3 equity adjustment, we've
21 offered an alternative as part of our proposal to try to move
22 that issue forward as well.

23 Merger benefits for consumers, we've offered a
24 specific -- a dollar amount related to merger benefits for
25 consumers, and we've also offered a specific proposal as to how

1 to deal with the acquisition adjustment associated with the
2 merger.

3 So, I guess, where we find ourselves is we're
4 prepared to continue to meet with Staff and parties as soon as
5 this week and continue to have those meetings and discussions
6 in a way that we hope will resolve those issues favorably, and
7 we can put Staff in a position to write a favorable
8 recommendation for your consideration sometime between now and
9 the end of the month of June.

10 Thank you.

11 CHAIRMAN JACOBS: Very well. That concludes your
12 presentation, Mr. McGee?

13 MR. MCGEE: I would note, though, that as it relates
14 to Mr. Trapp's comments, the utilities had filed a joint motion
15 that proposed a way of dealing with the RTO issues that are
16 involved, both not with Florida Power just, but with Florida
17 Power & Light and Tampa Electric. We had understood that a
18 decision had been made, that the consideration of that motion
19 and the arguments and presentations, pro and con, that would go
20 along with that would not be taken up today and it would be
21 deferred until an early Commission Agenda.

22 And so, for that reason we did not come prepared to
23 discuss those issues, although if that is the Commission's
24 pleasure we can accommodate that, but we just wanted to make
25 sure that we were all going forward on the same basis. We had

1 the understanding that that was not on the table today.

2 CHAIRMAN JACOBS: That's correct. That is correct,
3 as to the consideration of that filing.

4 Mr. McWhirter.

5 COMMISSIONER JABER: I'm sorry. What filing are you
6 talking about?

7 CHAIRMAN JACOBS: As I understand it, there is a
8 joint motion that has been filed by --

9 MR. McGEE: Florida Power & Light, Tampa Electric,
10 and Florida Power Corporation.

11 COMMISSIONER JABER: And is it that that's been
12 served on the parties, then the response time has not expired?

13 MR. McGEE: Yes. It was filed on Friday, so I'm
14 confident the response time has not expired.

15 COMMISSIONER JABER: Okay.

16 CHAIRMAN JACOBS: In addition, Commissioners, there
17 was some noticing issues. I believe, one of the parties that
18 was a petitioner in that motion was not noticed today with
19 regard to that issue. And so, for a host of reasons that would
20 have made it more difficult, the decision was made to put on
21 the earliest Agenda following today.

22 Mr. McWhirter.

23 MR. McWHIRTER: Mr. Chairman, it's with reluctance
24 that I proceed to make comments, because I stand in the shadow
25 of the public counsel who is here and his presence and,

1 Mr. Twomey, a former significant Staff member who knows much
2 more about these things than I do, but having been called upon
3 first, then we ought to let the junior member go first, I
4 guess. I'll tell you, my perception of this and from
5 discussions with my clients they share the same view.

6 As you well know, in 1997, we entered into public
7 counsel, and the group that I represent, entered into a rate
8 freeze agreement in which we agreed that we would not complain
9 about base rates for a period of three years, and we wouldn't
10 address return on equity and those issues, unless Florida Power
11 sought to reduce its rates. And I'm gratified to say that
12 Florida Power has done that and removed the duct tape from my
13 lips with respect to that issue, and I thank you.

14 Florida Power has been most forthcoming with us over
15 the last year. Our first concern arose in August of 1999 when
16 there was an announcement of a merger between Florida Power
17 Corporation and Carolina Power & Light and the creation of the
18 then unknown but now known name of Progress Energy, Inc. And
19 at that time, the press reported that the justification for the
20 merger would be that there would be a savings by the
21 consolidation that would range somewhere between 150 and \$180
22 million a year. They were going to be cost savings.

23 And the old idea light came on in my head, said wait
24 a minute, if there are cost savings, since we have cost-based
25 rates in Florida, there may be some suggestion that Florida

1 will do as other states have done and pass along some of these
2 savings to the consumers, and we approached Florida Power with
3 that suggestion as the merger went forth. And as you know, in
4 the state of Florida and like most other states, you don't have
5 any say with respect to mergers. You just sit back and wait
6 until it's been accomplished and see what the impact on the
7 rates is, and then react accordingly.

8 We met with Florida Power and they were very
9 forthcoming and they said, yes, we recognize that there are
10 going to be savings, there are certainly benefits to our
11 stockholders. And as you know, and as the motion that
12 Mr. McGee addressed, the stockholders in November of this year
13 received \$1.27 billion as their share of the benefits of the
14 merger. The stockholders got their money, and they got it last
15 November.

16 The then management of Florida Power Corporation, as
17 your Staff recommendation has pointed out, got somewhere in the
18 range of \$64 million in the year 2000. I don't know what it is
19 that goes for it, but that's a considerable sum of money. I
20 applaud your Staff to have the courage to come forth in this
21 recommendation and explain the facts pretty much as we
22 understand the facts, based upon the limited information that's
23 available. I also applaud your Staff for the fact that it
24 wants to get more information on the subject so that it can
25 make the correct decisions in its recommendations to you.

1 I applaud Senator Campbell, who wrote you a letter,
2 Mr. Chairman, earlier this week that you sent on to the other
3 parties which suggests that Minimum Filing Requirements should
4 be made so that the public, who is obligated to buy power from
5 Florida Power, know the facts that concern -- that result in
6 the rates that people pay.

7 And having applauded the Staff and applauded Senator
8 Campbell, I applaud each of you in the action you took in Item
9 12. In Item 12, you set the rates for mom-and-pop water and
10 sewer companies, and you concluded with a very persuasive
11 commentary, as I listened here carefully, I moved up to the
12 front bench so I could hear it even more carefully, that you
13 ought to use a model for the default for the return on equity.

14 And in the Staff recommendation that you voted on,
15 they had a comparative model for electric companies, gas
16 companies, and water and wastewater companies. The electric
17 model that's used by the Staff and you, presumably, think
18 models are a good idea, you found that if you had an electric
19 utility with 46% equity and 54% debt, the appropriate return on
20 equity would be 9.6%. Hmm. Florida Power, we have determined
21 in earlier discussions, has an equity component in its capital
22 structure of somewhere around 60% or it may be less than that,
23 if you allow it to consider the Tiger Bay program as a debt
24 obligation that is borne by the company and not by the
25 ratepayers.

1 So, what we have is a statutory problem, because if
2 you wanted to do something about the rates and you wanted to do
3 something about the findings of your Staff, the findings of
4 which are that Florida Power Corporation last year, not this
5 year, not 2002, but last year had a return of 17% on its
6 equity.

7 If you wanted to do something about that, there's not
8 very much you can do about it, because if you wanted to have a
9 reverse make-whole case, you can't bring them down to 9.6% as
10 your model suggests. The maximum you can bring them down to is
11 13% while you study the situation. And it looks like that
12 study may be a long time.

13 It's suggested by Mr. Myers that they can't even be
14 ready, start to get ready, until after October. You know,
15 utilities, when we were having rate cases every year -- my mind
16 kind of goes back and wanders back to those old days -- and
17 those days they passed a bill that said you've got to handle a
18 rate case in eight months, because we need to get these matters
19 resolved when rates are going up.

20 They haven't been quite that fast on coming in when
21 rates have gone down on base rates. In fact, it appears that
22 we may not get through this until the end of calendar year
23 2002, based on the proposal. But while we're waiting for that,
24 while we're waiting for that, the utility is -- will be
25 earning, by your Staff's preliminary recommendation with

1 limited knowledge, the ratepayers will be paying around \$115
2 million a year in extra money in their rates.

3 And Florida industrial bills, as you know, are the
4 highest in the southeast; their rates, maybe not the bills.
5 The residential bills, not the rates, but the bills, are the
6 highest of anywhere in the United States, except Texas and
7 Hawaii. So, the utilities are doing very nicely in Florida
8 because of the base rate structure.

9 We don't have in Florida -- the utilities don't have
10 the problem that California has, because in Florida the base
11 rates are set, and those are all yielding now at or above the
12 ceiling of the authorized return, but the things where costs go
13 up, they can just pass those through, and we've seen that
14 happen. We saw the cost and fuel go up \$1 billion since 1999.

15 So, when I think about that, that's kind of where our
16 people diverge from the viewpoint of your Staff. Your Staff
17 suggests that you take the rates, the \$113 -- well, 97 million
18 till July and 113.8 after July, and you hold that subject to
19 refund, and then you have a test year, the MFRs that have a
20 test year; that is, I believe, a 2001 test year. And the
21 earliest that any action that consumers could get under that
22 base is going to be in the spring of 2002. But in the
23 meantime, the utility can continue to earn money. Beg your
24 pardon?

25 COMMISSIONER JABER: Isn't that a 2002 test year that

1 Staff recommends?

2 MR. McWHIRTER: I'm glad you pointed that out, 2002.
3 So, we really won't get any result. It's a pro forma -- and
4 that's kind of an interesting thing. I'm glad you raised that,
5 Ms. Jaber.

6 When I first came with the Commission, the growth in
7 electric sales consumption was growing at a rate of 12% a year,
8 and utilities were very concerned about that, because they had
9 to make new investment and capital assets to meet that customer
10 growth.

11 And instead of using a historic test year, which the
12 statute sort of indicates you should do, the Commission pushed
13 the envelope, and they said we'll use a historic year-end test
14 year. We'll use the rate base that it is at the end of the
15 year. And that's based on the proposition, I went to the
16 Supreme Court at the behest of the public counsel, and the
17 Supreme Court said based on the dynamic growth in Florida, a
18 year-end test year is okay.

19 Several years later after Opec and consumer
20 consumption went down and the growth of electric utilities had
21 fallen from 12 to 6%, the Supreme Court came back in a GTE case
22 and said what you should use is an average test year, average
23 historical test year. Mr. Cresse, who, may still be in the
24 room, came to the Commission as a budget guy, and he's always
25 forward-thinking. And he persuaded the Commission during his

1 regime that you shouldn't actually use an average year, you
2 shouldn't even use a year-end test year, but you ought to use a
3 pro forma future year, and you've been doing that so far. The
4 Staff has recommended now that you use a test year that ends 19
5 months from today, 19 months from today.

6 And so, what we're going to do instead of getting
7 actual historical known facts for setting rates, we're going to
8 get guesses. Mr. Myers' problem would easily be alleviated if,
9 instead of using a 2002 test year, we use the historical test
10 year that's already here, and the facts are known.

11 Now, I don't want to be unfair to Florida Power
12 Corporation. I think, you ought to adjust that test year for
13 known changes. And certainly, that could be done very rapidly.
14 So, I'm speaking too long and haranguing you, and I apologize
15 for that, but sometimes the emotion wells, and I in no way mean
16 to sell Florida Power short. They've been very gentlemanly
17 with us, and they have talked to us. The only thing is we
18 haven't been able to come to terms on money, and conversations
19 were held fairly frequently, and Florida Power wanted to go
20 forward.

21 Their stockholders had gotten relief, the former
22 management had gotten golden parachutes, and they felt like
23 there ought to be something for the consumers, and they wanted
24 to do it as soon as the deal closed in December, but we didn't
25 have much fact. And then, the 20/20 bill came out, and they

1 were going to freeze the base rate at the current level for
2 three more years, and those discussions kind of stopped until
3 the legislature was over.

4 And I was gratified that the legislature didn't race
5 into freezing base rates, but there's a possibility that base
6 rates will be frozen next year. That legislation is not dead.
7 It's being given the consideration it deserves. If Florida
8 Power can stall this case for another year, then base rates may
9 be frozen and consumers will continue to pay more than they
10 should.

11 So, what I would recommend that you do is not what
12 the Staff has recommended. I think, you should take the
13 Staff's report, it's a good one. It's based on competent
14 substantial evidence that it has. You should enter an interim
15 order to be effective on July 1. That is what we would call a
16 reverse make-whole case.

17 And in this case, reduce the base rates so that
18 Florida Power will get not 9.6, as your model suggests, but a
19 13% return on equity based upon a 2000 test year, which you
20 have in hand, the information in hand. And that you do that on
21 an interim and that you request MFRs to be filed so that you'll
22 know the facts.

23 Everytime I raise this, the utility people say, well,
24 you know, your clients get a special deal, and when we adjust
25 these rates and have cost of service studies you may be very

1 surprised that you don't get any reduction when other people do
2 and, you know, you only represent 4% of our sales. So, you may
3 be sticking your nose out when you get into the revenue
4 picture.

5 And I've discussed this with my clients, and they
6 understand that. They also understand that they pay the
7 highest industrial rates in the southeast, and they are
8 concerned that they think you'll do -- treat them fairly and
9 that we won't get any disproportionate treatment.

10 All we're asking for is that you do what the law
11 allows. We know that base rates are too high. Your Staff has
12 shown that. You know that. Florida Power knows that. They
13 have disguised the rate so that the fact they show on the
14 surveillance report that they're earning less than 13%, and
15 they do that by the Tiger Bay regulatory asset, which you've
16 heard a little bit more here about.

17 And what they do is they don't give that money back
18 to the customers, they keep that money and they say now we're
19 doing a fast write-off of Tiger Bay. Well, I guess, only two
20 of you were around -- well, three of you were around in
21 different capacities, but when Tiger Bay came up, the deal was
22 that they had this PURPA contract by which they were buying
23 electricity from U.S. AgriChem, and they were paying as though
24 the fuel being used was coal. Pretty good deal.

25 And the capacity, they were paying what the cost to

1 build that capacity was at the time that the plant was built
2 and they were paying a capacity charge, but they had loaded the
3 capital payment to U.S. AgriChem so the payments, the big
4 payments, would be made in the latter years.

5 So, what they did was they came in and they did a net
6 present value study and said if we can get out of making these
7 big payments in the latter years, then there'll be a net
8 present benefit to consumers. So, what we would like to do is
9 for the next four years raise rates \$100 million a year and
10 write off Tiger Bay very rapidly.

11 And the public counsel and other consumers went in
12 screaming about that. They said we don't want a rate increase.
13 The plant's going to be there for 25 years. Why not just write
14 it off over the useful life of the facility? We know in order
15 to get out of that contract you have to pay four times what the
16 plant costs to build, but you say that's prudent, and we'll go
17 along with that, but let the contract pay out over its normal
18 period and be done in 2008.

19 But what's happened now, last year, and what is
20 proposed in the proposal that you were told about was that they
21 continue to disguise the cost of Tiger Bay by -- and keep the
22 base rates, apparently, low by using base revenue to pay down
23 this regulatory asset.

24 I would suggest to you that rather than the customers
25 may get \$37 million a year later on after that has -- that

1 plant has been fully amortized and you eliminate, if you do,
2 that capacity surcharge that comes through, but my clients say
3 they may not be here when that happens, and they'd rather get
4 some relief now. And maybe that would help to offset the
5 current high fuel costs, and we'd like to get relief now.

6 So, I think, if you would take that money that's
7 going to Tiger Bay, as your Staff suggests, if you will
8 recognize the nonrecurring expenses, as your Staff suggests,
9 for the merger and you'll give us an immediate -- an interim
10 relief to bring their rate return on equity, not to 9.6 that
11 your model shows, but to 13%, which is what statute permits,
12 that would please us very much. We think it would be fair.

13 We understand there's great risk for the industrial
14 consumer that when you go to classify your customers that the
15 industrial consumers who have been squeaking wheel may suffer
16 as a result of that, but I think you'll be fair with us and
17 base the rates on cost of service, and we're willing to take
18 that chance.

19 But with respect to the RTO issue, which is a big
20 issue with you -- postpone to another day, Mr. Chairman? I
21 won't say anything about that.

22 CHAIRMAN JACOBS: Excuse me. At the expense of
23 interrupting your high moment, I would ask you to keep those
24 comments --

25 MR. McWHIRTER: Well, I'm done, and I appreciate your

1 consideration and I compliment the Staff on its fine report,
2 and I hope you'll give us some consideration.

3 CHAIRMAN JACOBS: Thank you. Mr. Twomey.

4 MR. TWOMEY: Mr. Chairman, Commissioners, I'm Michael
5 B. Twomey. I've filed this morning a petition to intervene in
6 this case on behalf of Buddy L. Hansen and the Sugarmill Woods
7 Civic Association, Inc. Mr. Hanson is a residential customer
8 of Florida Power Corporation, filling more than one half of the
9 members of the civic association, our customers as well. The
10 action you're entertaining here will clearly affect their
11 substantial interests. They're entitled to intervention, and I
12 would urge that upon you.

13 It's always a challenge to follow Mr. McWhirter.
14 I'll try and be brief, and I'll try and take a different tact
15 than he did. I'd like to start, first of all, as he did by
16 complimenting your Staff on two excellent recommendations. I
17 speak to this one, as well as Item 18 that follows.

18 I'd like to read very quickly from the first
19 paragraph of your Staff's analysis under the discussion of
20 issues. I think, it's Page 2 of the Staff's recommendation, at
21 least as mine is numbered. And it says, "On April 13th, 2001,
22 FPC filed its earnings surveillance report for the 12-month
23 period ending February 28th, 2001. As reported on the ESR, FPC
24 had an achieved ROE of 11.48% on a, quote, FPC adjusted, closed
25 quote, basis. When additional adjustments are made to reverse

1 the effects of FPC's one-time merger cost, discretionary
2 accelerated amortization of the Tiger Bay regulatory asset, the
3 nonrecurring write-off of a regulatory asset for previously
4 flow-through taxes, and the Crystal River III adjustment to
5 common equity, the achieved ROE increases to approximately
6 17.2%. This exceeds the currently authorized maximum ROE of
7 13%."

8 And I will emphasize there, as Mr. McWhirter did,
9 it's the maximum, the 13% is the maximum of the range
10 previously or currently authorized. And, of course, under the
11 interim statute, it's the number you have to use in
12 establishing monies held subject to refund. But when you take
13 out these adjustments, one-time nonrecurring, perhaps some upon
14 further analysis, an investigation, additional facts, MFRs,
15 discovery, expenses might be viewed, perhaps, as not
16 sufficiently prudent.

17 When you take those out, whether they're prudent or
18 not, your Staff says they're going to be earning 17.2% or in
19 that ballpark at the conclusion of this agreement currently
20 before you. In response to that, Florida Power Corporation has
21 come in -- I think, I got the numbers right. They say we've
22 got a check here for \$127.5 million divided by 3, if you want
23 to look at the annual basis, but we have a check here we're
24 going to give you and we're going to cut things short and we're
25 going to benefit our customers, we're going to share the

1 synergies with them, we're going to reduce rate case expense
2 and all that.

3 Now, if you take that, Commissioners, how much money
4 do you leave on the table? Or do you even know how much money
5 you would leave on the table without the benefit of the MFRs
6 and fully allocated cost of service study that your Staff has
7 repeatedly asked you to provide here? And the answer is that
8 you would not know.

9 I'd like to tell a brief summary of the earlier case
10 with this company, and from that summary try and draw some
11 lessons as it may apply to not only this case with Florida
12 Power Corporation but the FP&L case that will follow.

13 In 1987 or '86, I forget exactly when it was, Florida
14 Power Corporation's then largest industrial customer,
15 Occidental Chemical, filed a case for rate reduction. My
16 recollection is they suggested that rates should be reduced by
17 some \$400 million on an annual basis. Staff wrote a
18 recommendation to the Commission and said that Occidental had
19 established a prima facie case, that they were legally under
20 the statutes entitled to receive a rate reduction case and have
21 MFRs filed.

22 On the morning of the Agenda Conference in which that
23 recommendation was to be heard, Florida Power Corporation, I
24 think, in the person of General Counsel and Vice President,
25 Dick Nyzer, presented the Commission with a letter offering to

1 unilaterally reduce their rates by \$100 million, if they didn't
2 consider the recommendation or otherwise, dismiss the case.

3 Occidental refused to go along with that and,
4 consequently, the Commission rejected the \$100 million and
5 ordered that MFRs be filed, my recollection, it was within two
6 to three months. Subsequently, Power Corp filed the MFRs, a
7 hearing schedule was established, traditional eight-month deal,
8 discovery completed, prehearing, all that, and Florida Power
9 Corporation came in, they negotiated with Jack Shreve, they
10 negotiated with -- the Staff participated, they negotiated with
11 Mr. McWhirter and others and Occidental, and it was all said
12 and done, my recollection, and Mr. McGee can correct me if I'm
13 wrong, they entered into a stipulation and a settlement
14 agreement whereby they agreed to reduce their rates \$140
15 million a year.

16 The consequence of having the data, whereas the
17 utility previously held all the cards, they had all the
18 numbers, and the passage of time from the previous case before
19 that was substantially shorter than the eight or nine years you
20 have now. Having the numbers, having the MFRs, having the cost
21 of service study, and having a schedule to tie them to a
22 hearing, allowed the other parties, the customer parties, to
23 negotiate from a position of strength, not weakness.

24 The \$40 million extra that were saved by those
25 negotiations which were enabled by the MFRs and the hearing

1 schedule times the six years, approximately, until the next
2 rate case, provided an incremental savings of some \$240 million
3 beyond which the customers would have, otherwise, received had
4 they accepted the utility's seemingly generous offer of \$100
5 billion a year.

6 Now, what do we draw from that lesson? I would say
7 you negotiate from a position of strength, if you negotiate at
8 all. You have to have the numbers that your Staff is asking
9 you to give them that flow from the MFRs. MFRs are
10 substantial. They take a lot of work to put together, that's
11 true. Is there expense associated with their preparation?
12 Yes, of course, there is. Customers end up paying for it. But
13 one thing we don't want to be, Commissioners, in my opinion, is
14 pennywise and pound foolish here.

15 The MFRs, in the last Power Corp. case, the one I
16 spoke of, saved \$40 million a year times six years, so I would
17 urge you not to accept this agreement. If they're willing to
18 give 127.5 today, what do they have left that they can hand
19 over to the customers? You need to give the MFRs to your Staff
20 and to Mr. Shreve, Mr. McWhirter, and the rest of us, so we can
21 bargain, if there's going to be a bargain, from a position of
22 strength. You need to set a schedule.

23 I don't know whether it's going to take them more
24 time because of their legacy computer systems, I don't know.
25 I'm here to support your Staff's recommendation that you go

1 ahead and order the MFRs, that you order a rate reduction, that
2 you hold money subject to refund, pursuant to the statute which
3 you have to observe, in any event.

4 Mr. Trapp, I think, gave you an excellent and precise
5 argument for why the establishment of the RTO requires a
6 fully-allocated cost of service study and why it requires MFRs.
7 Again, for both companies, you need to have that information,
8 Commissioners.

9 CHAIRMAN JACOBS: Because, to be fair and because
10 also, I believe, we're going to have adequate opportunity to
11 address all the range of issues regarding that with the
12 discussion of the motion --

13 MR. TWOMEY: That's all I was going to say on that,
14 Mr. Chairman.

15 CHAIRMAN JACOBS: Great.

16 MR. TWOMEY: So, I'll conclude by saying we support
17 the Staff. You need the MFRs, you haven't seen MFRs in ages,
18 you need the data, you need the cost study.

19 Thank you.

20 CHAIRMAN JACOBS: Thank you. Mr. Shreve.

21 MR. SHREVE: Thank you, Mr. Chairman. I'll be very
22 brief. I agree with everything that Mr. McWhirter and
23 Mr. Twomey have said. We support the Staff recommendation.
24 The one thing that I would differ on is my thoughts were that
25 the filing of the MFRs should be moved up.

1 One of the reasons -- and I'll tie this into the
2 interim or the subject to refund money that was requested --
3 you can't lower that. If anything, it should be higher. The
4 higher that subject to refund is, it's not going to hurt the
5 company when the final decision is made in the rate case.

6 If you were to come out, set a subject to refund for
7 \$50 million, and found out in the final analysis it should have
8 been 100, then you've cost the ratepayers \$50 million, and
9 we've had that happen in the past when it wasn't set high
10 enough.

11 On the other hand, it's where it should be. And if
12 you set it at \$500 million, it's not going to cost the company
13 anymore money than the final decision in the rate case. The
14 one thing that I do have a problem with, the delay that's
15 requested is going to cost the ratepayers money, because when
16 you set the rates, you're going to set those at the new
17 midpoint. And if there's to be any delay at all, then the
18 company should agree to make their money, subject to refund,
19 everything above the midpoint set in the final analysis,
20 because that delay is going to put money in the pockets of
21 Florida Power and take it out of the pockets of the ratepayer.

22 I think, there's going to be uncertainty in the stock
23 market for Florida Power, and I'm a little surprised they want
24 to delay because of that. I think, instead of the delay you
25 should move the filing up, possibly by a month, go to a

1 historic test year, which will make it easier for them to file,
2 get the rate case over, take their uncertainty out of the stock
3 market, go ahead and get the rates right, get the interim
4 refunded, and not extend it any length of time at all that it's
5 going to cost the ratepayers of this company money. Beyond
6 that, I think, the Staff's done a good job.

7 COMMISSIONER JABER: Mr. Shreve, can I take this
8 opportunity to ask you a couple of questions?

9 MR. SHREVE: Please.

10 COMMISSIONER JABER: One of the focuses, I suppose,
11 I've had in looking at this recommendation has been from
12 reconciling it with our duty to assist the Energy Commission in
13 answering questions and providing assistance in dealing with
14 the issues that the Energy Commission is focused on. And you
15 may recall -- the reason I'm asking you these questions -- you
16 may recall one of the big impediments in moving the interim
17 report forward was the concern over the base rate cap.

18 And as I recall, there was concern with respect to
19 the level of base rate and, in fact, I think, Commissioner
20 Wood, on his own, addressed the issue, and then you followed-up
21 with some questions. I know I'm paraphrasing, but I went back
22 and listened to the tape to make sure I was capturing what I
23 thought he was crediting to be one of the successes that Texas
24 has had in restructuring, which was to make sure that the base
25 rate level is at a place where it accurately reflects cost

1 before any sort of restructuring takes place.

2 And that's a preventive measure, not to say that our
3 Florida good companies would price gauge or anything like that,
4 but it's a safety mechanism. And I recall that you asked
5 questions about that issue. Could you elaborate on what the
6 concern the Energy Commission had?

7 MR. SHREVE: Well, the big concern I had was
8 originally, when the recommendation was coming out, they had it
9 down as a cap when the cap meant we could have lowered the
10 rates. Then, when it finally came out, it was frozen. And, as
11 you know, I had an objection to this all along that we were
12 freezing the rates of several of the electric companies too
13 high. At one point had, it looked like it was going to fly, I
14 was going to go in to suggest that we have a rate case for each
15 one of the major companies to get the rates right before
16 they're frozen, because that's going to lead into the future.

17 There are other problems that we had concern with at
18 the Energy Commission, and I was on the Commission report, but
19 that's one that I had throughout the entire time and was hoping
20 that that would be addressed, but you're absolutely right. And
21 I don't think we can do anything with the Energy Commission's
22 recommendations until we get the rates right on a going-forward
23 basis, if we're going to freeze them.

24 COMMISSIONER JABER: Well, we're going to -- I want
25 to talk to you about the other concerns the Energy Commission

1 had, but that is precisely my concern --

2 MR. SHREVE: Right.

3 COMMISSIONER JABER: -- that if we do not act in a
4 fashion that allows us to take a look at the rates and be able
5 to represent to the Energy Commission and the legislature and
6 the governor's office or whoever is going to ask us that, you
7 know what, the base rate level is where it needs to be, your
8 concerns are taken care of.

9 MR. SHREVE: That's right.

10 COMMISSIONER JABER: There was a sense of
11 frustration, at least on my part and probably shared by our
12 Staff and the Commissioners, that we couldn't answer that
13 question, because we had not received the information from the
14 company. Did you -- do you agree with me that Chairman Wood
15 from Texas believed that one of the successes -- the reason
16 that Texas was so successful in transitioning into
17 restructuring was because their legislature had a comfort level
18 with the base rates?

19 MR. SHREVE: I think, that's correct. And if I
20 recall, he also mentioned that you had to get the -- transfer
21 the assets correct at that time; not that that has anything to
22 do with this, but I do recall those two points coming from him.

23 COMMISSIONER JABER: Now, absent an MFR filing or a
24 rate case, how can we look at that base rate level?

25 MR. SHREVE: I think, at this point, you're going to

1 have to have the MFR filing and, I think, the sooner the better
2 so that we get it out of the way and, I think, in some ways
3 that will benefit Florida Power. It will take away the
4 uncertainty from the stock market, and they won't be having to
5 worry about it.

6 COMMISSIONER JABER: You think the stock market needs
7 regulatory certainty?

8 MR. SHREVE: That's what they look for. And, I
9 think, delaying it is going to cause problems there and, I
10 think, it's going to cause problems for the Energy Commission's
11 decision. Perhaps we could move to a historic test year with
12 known changes, and we could all make pro forma adjustments that
13 we needed to; Florida Power certainly could and we certainly
14 could, but that way we could move forward much quicker, because
15 the longer this is delayed, the longer it's going to be before
16 we get the rates down to the midpoint where they should be, and
17 certainly go with the subject to refund, at least what the
18 Staff has.

19 COMMISSIONER JABER: It's my recollection that
20 another concern raised by the Energy Commission and then
21 legislature, I don't know formally or publicly or not, but
22 recollection is there was some concern expressed over the RTO
23 recovery clause that was proposed in the interim report. Do
24 you think a rate case or an MFR filing can address the
25 incremental costs that might have to be recovered through an

1 RT0 recovery clause?

2 MR. SHREVE: I would think it would have to. I
3 think, we would have a lot more information than we have now on
4 it. We don't have a great deal.

5 One other thing about the rates, and this is a little
6 different from some of the other stipulations that we've had,
7 and we've had a good working relationship with Florida Power,
8 and I congratulate them for that. But the agreement that we're
9 coming out of right now had nothing do with base rates. It had
10 all to do with the fact that they were to absorb the \$150
11 million that was additional fuel costs because of the nuclear
12 outage, and also absorb the repairs to the investment in
13 Crystal River III. So we didn't really, even in our
14 negotiations, do anything to adjust the rates. That was to
15 help give them an opportunity to recover some of that money
16 that they were going to absorb.

17 So, in some of our other situations, we did adjust
18 rates with information that we had and we certainly reviewed
19 that, the Staff saw it and everything, but in this case we
20 didn't review those.

21 COMMISSIONER JABER: Now, just one more question --

22 MR. SHREVE: Yes, ma'am.

23 COMMISSIONER JABER: -- and then I'll leave you
24 alone.

25 MR. SHREVE: No, that's fine.

1 COMMISSIONER JABER: Forward-looking, we know the RTO
2 should be implemented, according to the FERC rules December 15,
3 2001. We know the Energy Commission plans to issue a final
4 report December 1st. If the interim report is any guidance on
5 what the final report will look like, there's probably going to
6 be a proposal that consists of allowing the IOUs to spin out
7 their generation.

8 Absent a rate case, how do we look at the cost
9 associated with transmission so that we figure out what is FERC
10 jurisdictional and what is state jurisdictional? And how do we
11 figure out what costs are associated to generation so that we
12 can understand what's entailed in allowing the IOUs to spin out
13 generation and to allow everyone to transition into a
14 competitive market where, you know, more efficiencies can be
15 gained?

16 MR. SHREVE: I don't think you can without all the
17 information in the rate case. I don't think it can be done.

18 COMMISSIONER JABER: I have questions for Staff,
19 Mr. Chairman, but --

20 MR. SHREVE: But I would urge you to move the MFRs
21 forward, not delay them at all, if you have to change the test
22 year to accomplish that, okay, so we can get the rates right.

23 COMMISSIONER JABER: In fact, delaying the MFRs might
24 actually delay the work of the Energy Commission and FERC.

25 MR. SHREVE: I think, that's possible. I do. I

1 think, there could be some uncertainty out there that the
2 company wouldn't know the answer to and FERC and the Energy
3 Commission might not. Might be a way to say to the Energy
4 Commission we'll continue to a later time, but I think having
5 the answer ahead of time would be better. And it certainly
6 would be better for the ratepayers, get the rates down to the
7 midpoint, rather than as we know the money subject to refund is
8 only above the top of the range that exists now, you're
9 probably talking from \$50 to \$60 million more annually right
10 there.

11 CHAIRMAN JACOBS: I believe, that concludes the
12 presentations. Are there questions, Commissioners?

13 COMMISSIONER DEASON: I have a question for
14 Mr. McGee. Mr. McGee, you wrote a letter to the Commission
15 indicating that you represented that Florida Power would be
16 bound to a decision as of March the 13th, I believe; is that
17 the correct date?

18 MR. MCGEE: That's the May 5th letter that you were
19 looking at?

20 COMMISSIONER DEASON: I believe so. March 13th is
21 the correct date?

22 MR. MCGEE: Yes.

23 COMMISSIONER DEASON: Okay. Can you explain to me
24 how you envision the mechanics of that working? What
25 protection do you envision that you're providing to this

1 process by that letter?

2 MR. McGEE: Well, we felt that there was some benefit
3 from all concerned if we had the opportunity to pursue an
4 informal settlement, but we recognize that the Staff's concern
5 and the one that you're talking about right now, to make sure
6 that that wasn't done at the expense of providing protection
7 for the ratepayer, our view was, and this was after some
8 discussion with Staff to come up with a way to do that, that we
9 collectively thought that if we established a time when the
10 Commission would have gone to take the action, placing revenues
11 subject to refund, and provided that that date could be used,
12 irrespective of when it was actually done in the future, that
13 we would have eliminated the apprehension and the very
14 justifiable drawback that, otherwise, would have been prevented
15 in terms of delaying action to allow informal process going on.

16 On the other hand, by establishing that, we were
17 under the good faith view that we had allowed you to be
18 comfortable in giving us the time to pursue this. We felt
19 troubled that that was delayed because of this legislative
20 issue but, nonetheless, we are in a period of time where we
21 think that we can really accomplish that right now. And we
22 thought that by establishing that March 13th date, we would
23 have taken care of the considerations that time, in the event
24 it wasn't successful, would have been running against the
25 ratepayers and, I think, that's still the view that we have

1 right now.

2 COMMISSIONER DEASON: Okay, now, let's put it in
3 context of what's before us now. Now, I understand you
4 disagree with the numbers, but just for sake of argument, let's
5 accept Staff's recommended amount that they've identified
6 within this recommendation that we place subject to refund,
7 which is \$97 million, which would increase effective July the
8 1st to \$113 million.

9 Is it your position, then, that you would, in
10 essence, place \$97 million, subject to refund, as of March
11 13th? Whatever number you want to choose.

12 MR. MCGEE: Okay, right. You aren't asking me to
13 endorse their --

14 COMMISSIONER DEASON: No, no. Let's pick a number.
15 Let's just say that the Commission determines that \$100 million
16 should be placed subject to refund, just a nice round number.
17 It doesn't really have any meaning, other than it's a number.
18 Does your letter represent, then, that whatever monies the
19 Commission determines should be placed, subject to refund, that
20 that would go back effective March 13th?

21 MR. MCGEE: Yes, that's correct. What we have done
22 in the past, and it's consistent with the statute, is that we
23 have provided a corporate undertaking that has bound that
24 commitment. But in terms of the date that we envision that
25 corporate undertaking to apply back to it would be March 13th.

1 COMMISSIONER DEASON: Okay.

2 COMMISSIONER JABER: Just some questions for Staff,
3 Mr. Chair. The offer of settlement that Florida Power
4 Corporation filed, I don't know, when did they file it?

5 MR. DEVLIN: Late yesterday.

6 COMMISSIONER JABER: So that, too, has not been
7 noticed and, apparently, there was another motion to establish
8 a separate proceeding, that wasn't noticed, and we're not
9 discussing it?

10 MR. ELIAS: That's my understanding, yes.

11 COMMISSIONER JABER: So, even if we wanted to talk
12 about the offer of settlement, you haven't reviewed it and the
13 parties haven't reviewed it?

14 MR. ELIAS: That's correct.

15 MR. McLEAN: Commissioner Jaber, may I speak just
16 momentarily to that issue? I believe, part of what you said is
17 correct; however, the offer from the company is, essentially,
18 one that asks for deferral based upon your consideration of the
19 offer. I don't think the offer that they filed requires the
20 same notice that the motion you made brief reference to does.

21 COMMISSIONER JABER: Because that was served on the
22 parties?

23 MR. McLEAN: Say again, ma'am?

24 COMMISSIONER JABER: Because that was served on the
25 parties and requires or at least allows a response to be filed?

1 MR. McLEAN: I think, that's among the reasons. I
2 think that they have essentially moved, due to defer, have
3 suggested that you defer activity; that is to say, defer
4 consideration of the Staff recommendation and that they're
5 suggesting this as a reason by which you should do that.

6 COMMISSIONER JABER: In your opinion, Mr. McLean, as
7 the general counsel, is it your belief that a Staff
8 recommendation like this will actually preclude a future
9 settlement?

10 MR. McLEAN: No, ma'am, I don't think it does.
11 Certainly, they can continue to negotiate, they can offer
12 similar or, more or less, generous settlements as time goes on.

13 COMMISSIONER JABER: Staff has not analyzed this
14 settlement; is that correct?

15 MR. ELIAS: That's correct.

16 COMMISSIONER JABER: So, you don't know what -- you
17 can't make a recommendation to us with respect to the
18 settlement, because you don't know what the maximum consumer
19 benefit could be; is that correct?

20 MR. DEVLIN: One of the points I was trying to make
21 in my introductory remarks is to have the MFRs, all the other
22 information for evaluating settlements. So, yeah, we could do
23 -- we did a cursory review late last night but, again, we're
24 information poor at this juncture.

25 COMMISSIONER JABER: And that puts you in an awkward

1 position in negotiating a settlement, doesn't it?

2 STAFF MEMBER: Yes, Commissioner.

3 COMMISSIONER JABER: Borrowing Mr. Twomey's words,
4 you wouldn't be negotiating from a position of strength.

5 MR. DEVLIN: That's correct.

6 COMMISSIONER JABER: When was the last rate case
7 filed for FPC?

8 MR. DEVLIN: 1992.

9 COMMISSIONER JABER: 19 what?

10 MR. DEVLIN: '92.

11 COMMISSIONER JABER: 1992? When was the last case
12 filed for Florida Power & Light?

13 MR. DEVLIN: 1983, '84 time frame.

14 COMMISSIONER JABER: When was the last time the PSC
15 reviewed the allocations between the classes of customers and
16 the allocations of costs between production, distribution and
17 transmission?

18 MR. DEVLIN: I believe, it was in those rate cases,
19 but let me check. Everybody seems to be nodding yes in those
20 rate cases.

21 COMMISSIONER JABER: So, to the degree there were
22 additional costs to production, transmission, and distribution
23 or efficiencies, you haven't captured them.

24 MR. DEVLIN: I believe, that's correct.

25 COMMISSIONER JABER: If I wanted to understand the

1 difference between the ROE that these companies have currently,
2 based on your understanding and what the ROE might be in
3 today's dollars, do you have sort of a guesstimate on what the
4 return on equity would be?

5 MR. DEVLIN: The midpoint return on equity? Well, we
6 just had a discussion on Item 12 about that a little bit. And
7 this, again, is based on some crude information, but I would
8 gather 11, 11 1/2% range but, of course, that's subject to a
9 lot of opinion testimony, and there's a range of reasonableness
10 around that.

11 COMMISSIONER JABER: I think, Mr. McWhirter and
12 Mr. Shreve made reference to a historical test year being
13 appropriate for these cases of which used to go forward.
14 What's wrong with looking at a historical 12-month period?

15 MR. DEVLIN: A historical test year could work. We
16 chose the 2002 test year for two or three reasons; one, in the
17 Power Corp. case, we figured the integration between Carolina
18 Power and Power Corp. would be complete by then, and we'd have
19 a better feel for the future. We set rates for the future,
20 that's why future test year is preferable, in that respect.

21 And also, the RTO concern, we figured the dust would
22 settle with that issue by then. So, those were the reasons we
23 chose 2002, but there's nothing magic about that. And there
24 are advantages to using the historical test period; one, quite
25 frankly, it's more subjective, less subject to, I won't say

1 manipulation, but you know how forecasters are.

2 COMMISSIONER JABER: Tim, if the earnings level and
3 certainly a customer refund, especially when fuel prices are
4 going up and have been going up, is critical to me, I mean,
5 that is important. That is a short-term consumer benefit
6 almost immediate, relatively speaking. But what's a bigger
7 concern to me is being able to transition the industry and, to
8 a degree, the consumers into a wholesale competitive market, if
9 that's the pleasure of the legislature.

10 And I'm thinking ahead, based on the signals we got
11 in the last session and based on what was in the interim report
12 that we will be faced with that issue again in the next session
13 or the session after that. I want to be able to capture all of
14 the benefits and instill all of the consumer protections in
15 this industry before restructuring occurs.

16 Absent a rate case, is there any way to address base
17 rates and cost of service and allocations? And there's one
18 more thing I haven't talked about yet and you can comment on,
19 the allocations between the residential ratepayer and the
20 industrial user, absent a rate case.

21 MR. DEVLIN: We believe that's the way to do it. I
22 cannot imagine any other way because of those objectives that
23 you've just enumerated, rate case is the form that we should
24 choose.

25 COMMISSIONER JABER: Is there anything that prohibits

1 you or the parties from streamlining the MFR process or
2 streamlining the rate case process and waiving rules that are
3 just not appropriate anymore?

4 MR. DEVLIN: Rule waiver is a Bob Elias question.

5 MR. ELIAS: And, I think, the MFR rule offers the
6 Commission some flexibility in terms of what schedules may no
7 longer be appropriate to assure that the information that we
8 get is only the information we need. And failing that, I
9 think, the rule waiver statute gives us the ability to make
10 those kinds of decisions.

11 And if I could add one point on this question of the
12 timing, I've got to admit that I was surprised by some of
13 Mr. Myers' remarks about the need for an additional nearly 10
14 months to file these MFRs, based on some of the comments that
15 were made in their settlement proposal, and I'd like to read
16 about three or four sentences that are in there, and I'm
17 reading from Page 5.

18 "Now that Florida Power's emerging from a nearly
19 two-year merger transition period, the company has a much
20 clearer insight into its post-transition operations under its
21 new management. This increase in information and structure
22 have provided an improved ability to project the costs and
23 savings under the consolidated operations, a better focus on a
24 particular area of the company's core utility business and a
25 better understanding of the specific programs, planning, and

1 budget priorities required to meet this focus. As a result,
2 Florida Power is now better able to assess its operating costs
3 and earnings capability over the three-year period covered by
4 its rate proposal than it was during the understandably
5 uncertain period of transition from old to new management."

6 It kind of seemed to me, from reading that, that they
7 had a pretty good handle on what they were facing in the next
8 three years in terms of the ability to fairly project and
9 adequately project costs and expenses and revenues. And, I've
10 got to admit, 10 months to prepare the MFRs didn't really seem
11 to line up with those statements.

12 MR. MCGEE: Could I comment, briefly, on just the
13 accuracy of that?

14 CHAIRMAN JACOBS: I figured we were going to get
15 there, but I'm going to let you get a response --

16 MR. MCGEE: Sure.

17 CHAIRMAN JACOBS: -- but because we're going to be
18 getting into another matter that's going to take substantial
19 time, I don't want us to get too much into back and forth, but
20 go ahead, Mr. McGee.

21 MR. MCGEE: We're talking about six months, not ten
22 months. And the better ability to accomplish those numerous
23 functions that were just quoted is exactly what Mr. Myers was
24 talking about; the new accounting systems, the whole
25 forecasting technique going from budgeting to planning that he

1 was talking about that's being implemented is exactly what was
2 being referred to. We now know we have the ability to do that
3 in a much better way than existed during the uncertain times
4 when it wasn't clear what new management expected of us while
5 the transition was still in effect.

6 But that doesn't mean that that ability is present at
7 this moment. It is being implemented as quickly and rapidly as
8 possible. And what Mr. Myers referred to was the period of
9 time that we would need to actually produce and provide to you
10 the benefits that we were referring to in the quote that was
11 just read to you to.

12 CHAIRMAN JACOBS: Very well. We were on questions
13 still. Any other questions, Commissioners?

14 MR. SHREVE: Mr. Chairman, if I may comment on that
15 one thing, very briefly?

16 CHAIRMAN JACOBS: Very briefly.

17 MR. SHREVE: If Florida Power's having problems in
18 making their projections, perhaps we should move back to a
19 historical test year to solve that problem for them. And, I
20 think -- I know your Staff can and we can in working with
21 Mr. McWhirter, Mr. Twomey, and LaFace, and anyone else that
22 intervenes, we can develop that additional information in an
23 isolated way so it won't be as cumbersome for the company as
24 us. And we'll have the test year, historical test year, to
25 work with without a problem and then go into all the other

1 areas, it probably would work out better for everyone.

2 CHAIRMAN JACOBS: Very well. No further questions?

3 COMMISSIONER JABER: We are taking Florida Power
4 separately from Florida Power & Light; is that what we're doing
5 or --

6 CHAIRMAN JACOBS: Unless it's otherwise noted, I
7 would suggest we go ahead and take it separately, unless you
8 have a preference, otherwise.

9 COMMISSIONER JABER: No, I'm fine taking them
10 separately. I just -- we had not heard from FP&L, so I didn't
11 know if you were ready for a motion.

12 CHAIRMAN JACOBS: Yes.

13 COMMISSIONER JABER: It's not going to come as any
14 surprise to anyone in the audience when I say that, I believe,
15 settlements and mediation are in the public interest. I don't
16 think that anyone is surprised by that; as a matter of fact, I
17 prefer it. I think that the savings that are associated with
18 administrative costs, company costs, inure to the benefit of
19 consumers.

20 I think that, you know, consumers prefer when they're
21 not paying things like rate case expense and litigation expense
22 and, you know, and to some degree as a state agency we save,
23 and that's good all the way around. My problem with accepting
24 or even considering the offer of settlement that was presented
25 by Florida Power Corporation is I don't know -- I am not

1 empowered -- that's my favorite word now -- I'm not empowered
2 with the information I need to make a recommendation or a
3 decision on whether the settlement is in the public interest.

4 That's not to say that one day we won't know, but I
5 also believe that that offer of settlement, although
6 commendable, and I do want to do that, I think that Florida
7 Power Corporation has done an outstanding job in trying to
8 reach a settlement informally with our Staff and the consumer
9 advocates, and I don't want to stifle that.

10 It's quite the opposite. I want to make sure that
11 parties and Staff go forward and act expeditiously in reaching
12 a settlement for the benefit of the consumers, but you need to
13 make sure that it's for the benefit of the consumer, because
14 for me, the ball, and the eye that I always keep on that ball,
15 relates to the consumer. And at the end of the day, that's
16 what this is all about.

17 So, I am comfortable moving Staff's recommendation.
18 I'm not interested in moving the MFR filing date. I think,
19 that -- I think that that probably keeps everyone's feet to the
20 fire in moving forward and acting diligently in ongoing
21 negotiations and discussion.

22 I would not only suggest to Staff, I would require
23 Staff and direct our Staff to immediately begin and, of course,
24 this assumes, Commissioners, and I do ask, you know, for
25 discussion and agreement on this motion that I'm about to make,

1 but I would also like to direct our Staff to immediately
2 conduct an issue ID conference to identify what the issues you
3 envision in a rate case should be.

4 I want you to fully analyze whether the RTO issues
5 should be separated out and handled quicker. And I want you to
6 identify which rules can be streamlined. My goal is to make
7 this process efficient and to never lose sight of the fact that
8 this is all about benefitting and protecting the consumer,
9 while at the same time, allowing the utility to transition into
10 whatever it is this changing market will do. So, with that, I
11 can move Staff's recommendation.

12 CHAIRMAN JACOBS: We have a motion. Do I have a
13 second?

14 COMMISSIONER BAEZ: Well, I want to second the
15 motion, and I just want to say that I'm uncomfortable with the
16 kind of deadlines that we've identified here. They're very
17 quickly approaching. And it further discomforts me with the
18 lack of information that we have available in order to be ready
19 to perform our obligations in addressing questions that will
20 inevitably come back to us.

21 I agree with you, Commissioner Jaber, that I'm not
22 seeing any alternative on how to get that information and at
23 least do our best, everyone do our best, to be ready to address
24 those issues and answer those questions, other than at least
25 having set in motion the filing process.

1 I don't think that any part of this recommendation
2 forecloses anyone's ability to reach some kind of resolution in
3 an informal way, as Mr. McGee has suggested. But -- and with
4 all due respect and apologies to other nobler professions in
5 the room, this is, by and large, a room full of attorneys, and
6 we throw words around like reserving our rights, well, this is
7 the Commission reserving their rights.

8 We have to think in worst-case scenarios here, at
9 least on these types of matters. And if in the worst case we
10 can't agree on anything or the Staff and the parties can't come
11 to a resolution on it, we've got to be ready to move forward.
12 We've got to have the information flowing and available to us
13 so that we can discharge our obligations, and that's why I'm
14 going to second the motion.

15 CHAIRMAN JACOBS: Let me just state two points or
16 several points. One, Commissioner Jaber, with regard to the
17 direction you'd want to give Staff on the issue ID, I think, it
18 would be wise to defer any official action on that, because we
19 have a pending motion, the resolution of which could have some
20 substantial impact on that.

21 COMMISSIONER JABER: I would suggest the opposite.
22 If you allow them to have the issue ID conference immediately
23 and they are able to come back and say, you know what, it makes
24 more sense to separate the RTO issues, that you'll find that
25 the motion isn't necessary. I mean, I think, having everyone

1 go through the process of identifying the relevant issues
2 allows them to discuss each issue and streamline the process.

3 COMMISSIONER BAEZ: I would imagine that the issues
4 that the parties are focusing on in this motion will probably
5 come up in the conversation, and I would expect it to be
6 appropriate to discuss that within the context of identifying
7 all the issues.

8 CHAIRMAN JACOBS: So, I guess, I can agree that
9 meetings might be productive. I still -- we'll keep the
10 schedule as planned, to have that motion come back up in the
11 earliest possible Agenda. And if discussions prove fruitful,
12 so be it. Is that consistent with your thoughts?

13 COMMISSIONER JABER: Yes.

14 COMMISSIONER DEASON: I just have a question for
15 clarification. The motion is to approve Staff's recommendation
16 in its entirety?

17 COMMISSIONER JABER: Yes, Commissioner Deason, but
18 did you have --

19 COMMISSIONER DEASON: No, I just wanted to make --
20 we've -- there's been some discussion of a historic test year
21 which would facilitate MFRs being filed, and then there's been
22 representation made by Florida Power that the September 15th
23 date is not obtainable, given the relatively unique
24 circumstances of the merger and the changing of accounting
25 systems and budgeting process.

1 I suppose, if we make a decision, I would be hopeful
2 that it is a realistic target, the September 15th date is. And
3 I'd like some feedback from Staff as to their opinion about the
4 September 15th date, given what they've just heard to be
5 Florida Power's concerns and weighing that with the
6 advisability of continuing with the projected test year, as
7 opposed to changing it to a historical test year.

8 MR. DEVLIN: Well, in our recommendation, we laid out
9 the four-month period to recognize that the company is going
10 through some major restructuring. That's a judgment call on
11 our part. You know, we're not sure four months is reasonable.
12 Maybe five months is more reasonable, I don't know. It may be
13 a question we could pose to the company right now, since we are
14 at least considering using a historic test year. Maybe that
15 would offer the opportunity to shorten that cycle a little bit,
16 because of the historic test.

17 COMMISSIONER DEASON: Well, okay. And, I guess, I'll
18 ask that question to the company in just a moment but, you
19 know, I asked the question early on to Mr. McGee about the
20 effectiveness of his letter and he indicated and, I guess, it's
21 Staff's position, too, that we are protected as of March 13th,
22 correct?

23 MR. DEVLIN: That's correct.

24 COMMISSIONER DEASON: And I agree with the parties
25 that have indicated that the sooner we can reconcile this,

1 bring it to an ultimate decision, the better it is for
2 everyone, but the question is do we have -- are we going to
3 have the best information that we can have, if we keep it the
4 September 15th filing date?

5 And it seems to me that if we -- if it's necessary,
6 if we push that out a month or two or whatever, that we're
7 still protected back all the way to March the 13th. And it may
8 give an opportunity for the company to come back with an offer
9 of settlement. I understand the parties have indicated that
10 they feel like they need some basic information to be able to
11 negotiate, but it seems like that there is information that
12 could be obtained more readily than the massive filing of MFRs
13 that would empower the parties to negotiate, and maybe some of
14 that could be obtained through discovery. If we have a formal
15 docket, I guess, discovery could be initiated. Those are some
16 of the things I'm trying to weigh.

17 MR. DEVLIN: I think, Commissioner Jaber's suggestion
18 is right on point here where we'll sit down with the company
19 and go over the MFRs and see which ones maybe we can defer to a
20 later day or maybe modify, to some extent, and which ones we
21 can get in a more expeditious track. We haven't gone through
22 that exercise yet. And maybe that's what we could do next is
23 sit down with them and see, you know, just how realistic that
24 four-month clock is and, you know, what kind of modification we
25 can do to it.

1 COMMISSIONER DEASON: Well, then, let me ask this
2 question to Mr. McGee or Mr. Devlin, whoever wishes to answer
3 is, there's been a suggestion by a number of parties that MFRs
4 should be filed more quickly than later and that if it comes
5 down to a point to where things have to be inappropriately
6 delayed that perhaps we should consider a historic test year,
7 and I'd like feedback from the company on those
8 representations.

9 MR. MCGEE: Mr. Myers may have some feedback on the
10 specifics of the process, but if we're given the date by which
11 we need to file MFRs, then we will certainly comply. The
12 concern that we have in having gone through a number of rate
13 cases in the past, even though they haven't occurred lately,
14 the quality of rate case data is just essential for that
15 proceeding to proceed in an orderly way, in a meaningful way,
16 all of the discussion that we've had today about the importance
17 of having data really affirms that.

18 It would be almost a shame if you provided almost
19 enough time, but not quite enough time to get quality data.
20 And from past experience, that comes through the budget
21 process. It's kind of what the utilities do to get data that
22 they're comfortable with in running their business.

23 And, I think, in all fairness to everybody, you ought
24 to have that same kind of quality data. I don't know it would
25 serve anybody's interest to come up with the data that we need

1 to meet a filing obligation if you establish it as
2 mid-September only to have to come back later on and update it
3 to fix errors and incomplete information here and there, it's a
4 recipe for chaos.

5 COMMISSIONER JABER: You said earlier and, I guess,
6 Mr. Myers said in his presentation that the budget process and
7 the new system has a timeline, I think, you said July through
8 October. So, is November 1st a better filing date for you all?

9 MR. MYERS: Well, the planning and budgeting process
10 is the beginning of collecting the data to then fill out all
11 the MFRs and everything. So, I mean, it's -- unfortunately,
12 it's sequential in a lot of ways, so that would be the
13 beginning when we would start, really start the MFR process.

14 And we have in the past talked to Staff, this goes
15 back many years, about trying to eliminate the type of
16 requirements on some of the MFRs. And, unfortunately, you
17 know, the response we've gotten back in the past hasn't been
18 all that -- I mean, there's only a couple of schedules they
19 didn't find to be absolutely essential, so we are deeply
20 concerned about the magnitude about what's involved in all the
21 MFR filings. But again, it's a sequential process for us, and
22 we will be rushing, and the quality of the data, it will be
23 difficult for us to do this.

24 COMMISSIONER JABER: Commissioner Deason, to answer
25 your question of me, I had not contemplated changing the MFR

1 filing date or the test year. The test year, because of Tim's
2 statement that to capture all of the costs of the RT0, you
3 almost have to use a projected test year --

4 COMMISSIONER DEASON: Well, I'm concerned about
5 changing the test year, too. I mean, my main concern is not so
6 much the RT0, while that's important, is to make sure that we
7 capture the synergies of the merger, and that's certainly going
8 to have to be looked at on a going-forward basis.

9 MR. TRAPP: Commissioner Deason?

10 COMMISSIONER JABER: On the MFR filing date, I like
11 the idea of having the short time frame, because I want our
12 Staff to take that into account, and just based on my personal
13 experience, there are some MFRs that I know we could live our
14 whole life without having so, you know, there are places that I
15 am confident that Staff will act efficiently and identify
16 places where the process could be streamlined and maybe we
17 could move it up to their discretion to -- I don't know, at
18 that point will they be working with the prehearing officer or
19 the full Commission to identify what could be a more realistic
20 date, but --

21 COMMISSIONER DEASON: Well, since I'm not the
22 prehearing officer on this one, and I did look to see who it
23 is, I'm all for letting the prehearing officer handle it.

24 MR. TRAPP: I have one question.

25 CHAIRMAN JACOBS: Before you wade in, I do believe,

1 and this is interesting, and I listened with great interest to
2 Mr. McWhirter's presentation in the history of this process,
3 but I'm also convinced that we're at a crossroads and, quite
4 frankly, we as an agency have a challenge in front of us, and
5 that is how to honor the great tradition of ensuring the public
6 interest but yet and still, how to accommodate what we clearly
7 see are fundamental transitions in these industries.

8 And, I think, this decision is a classic example of
9 that. And it would be my interest to see how we can think
10 creatively and with innovation in approaching this. And, I
11 think, this is a classic avenue to approach that, to sit down
12 and figure out how to get information that addresses the issues
13 we absolutely need and yet minimize and undo an overly
14 burdensome bureaucracy.

15 And, I think, that we should be able to do that, and
16 I would like to give specific direction to that extent. I
17 don't know that we can give you specifications, but maybe you
18 can go away and come back with a suggestion to us about how
19 best you would anticipate that after you've had some discussion
20 with the parties.

21 Let's see, I have three hands: Mr. Dolan,
22 Mr. Twomey, and then Mr. Trapp. Very quickly, please.

23 MR. DOLAN: I think, in -- actually, I was going in
24 the direction of your suggestion, perhaps, if the Commission is
25 moving in the direction towards MFRs, perhaps we could leave

1 open, at least for today, the question of the date. I think,
2 what Commissioner Deason said should also weigh into that
3 decision in that, you know, to the extent Staff is right and
4 then there is money subject to refund, there should be some
5 comfort in the fact that there is a letter that moves that date
6 back to March 13th.

7 I would also suggest that in interpreting
8 Commissioner Jaber's remarks if, in fact, this is an exercise
9 that is kind of a one-time exercise to prepare us for perhaps a
10 changing environment that's out there and that's something,
11 obviously, the legislature will ultimately decide, then, I
12 think, we owe it to ourselves to take the necessary time and
13 not to rush it.

14 If this is understanding, you know, the meaning of
15 this exercise and the need to get it right, as Commissioner
16 Jaber pointed out, I think to the extent that the schedule is
17 adjusted by 60 days or 90 days or what have you, I think, it's
18 appropriate that we take the amount of time necessary to do the
19 job correctly.

20 Although, I will also say that there has been a lot
21 of discussion about the need to do the MFRs and yet, you know,
22 I think, to the -- there are other means to get to the answer.
23 I don't know that we have to go through the level of detailed
24 information. We've shown in the past that we've been able to
25 do that through a settlement process, so I don't want to leave

1 here with the presumption that we can't do the same thing and
2 be within a zone of reasonableness as to what the correct
3 answer is that we're seeking here.

4 So, I would at least ask that or suggest that perhaps
5 maybe we leave open the timing issue for today. But I also
6 would say that we would think that if we do go forward on this
7 path, the 2002 is more appropriate and also that more time
8 would give us more time to get more accurate information
9 related to the RTO. And, I think, that information may start
10 to appear in more detail later in the year, so...

11 CHAIRMAN JACOBS: Mr. Twomey, real quickly.

12 MR. TWOMEY: Briefly, Mr. Chairman, first of all, on
13 the delay, notwithstanding the monies held subject to refund,
14 the sooner you have a resolution to this and get new rates,
15 especially if they're established on a low or midpoint, which
16 would seem to be the case, the better for customers.

17 Secondly, on the issue of the test year, a thought:
18 Which do you have more confidence in, known historic audited
19 data from which you make pro forma adjustments to or
20 fully-projected test year? They say -- the utility says that
21 they can't timely do the projected. They have the historic
22 data.

23 In an ideal world of rate regulation, you would get
24 to the same result, so I would say to you consider again going
25 with the known historic data, make your pro forma adjustments

1 where necessary and get it done sooner rather than later.

2 CHAIRMAN JACOBS: Thank you. Mr. Trapp.

3 MR. TRAPP: As a guest speaker with my standing kind
4 of unknown with respect to the legal motions floating around, I
5 just want to add that these people have a filing to make in
6 Washington on October 15th. It's a rate filing on the RTO. If
7 they don't have a whole lot of information about the impact on
8 the company, perhaps we've got another prudence issue to
9 pursue.

10 CHAIRMAN JACOBS: Okay. Very well.

11 COMMISSIONER PALECKI: Mr. Trapp, on the test year
12 issue, will the historic test year give you the information you
13 need on the cost of RTO issue?

14 MR. TRAPP: It's been a very long time since I worked
15 with any kind of a test year. Obviously, the projected test
16 year coincides with what, I assume, the company had already
17 been looking at with respect to budgeting for 2002 for the
18 impacts of the RTO. But as I understand the historic test
19 year, if you use pro forma adjustments to adjust for known
20 changes, I think, we could handle it there as well.

21 COMMISSIONER PALECKI: So, you have no strong opinion
22 either way?

23 MR. TRAPP: I have no strong opinion, but that's not
24 my area of expertise. I think, that's Mr. Devlin's area.

25 COMMISSIONER PALECKI: Mr. Devlin, could you address

1 that issue?

2 MR. DEVLIN: I agree.

3 COMMISSIONER PALECKI: Thank you.

4 MR. DEVLIN: I agree with Mr. Shreve and Mr. Trapp.
5 You should get to the same place, whether you use the
6 forecasted test year or historical test year and you have the
7 proper pro forma adjustments, you should get to the same place.
8 And if it's easier and we keep the time frame where we think it
9 needs to be, then I would opt for the historical test year.

10 CHAIRMAN JACOBS: Okay. We need to -- Mr. Shreve.

11 MR. SHREVE: Mr. Chairman, very simple, what it will
12 do is simplify things. Right now if you have a projected 2000,
13 they're going to have to project everything, even information
14 that we have basically that's there for the year 2000. We can
15 still get at all of those things that come in the future; your
16 Staff can do it, we can do it, make the projections, we can do
17 the same thing, but it limits what you have to do as far as
18 projections, and it simplifies their job, and they should be
19 able to get it done a lot quicker.

20 COMMISSIONER JABER: Now, this would be historic test
21 year ended when?

22 MR. DEVLIN: Well, I was thinking we were talking
23 about calendar year 2000.

24 COMMISSIONER JABER: 2000?

25 MR. DEVLIN: Sure.

1 COMMISSIONER JABER: But if you -- pro forma would
2 only be for the next 12 months, right?

3 MR. DEVLIN: Well, we may be looking at pro formas
4 over the two-year period.

5 COMMISSIONER JABER: We can do that? Because that's
6 really why I hesitated with respect to the historic test year.
7 I thought, well, the RTO's not even going to be implemented if
8 they're on schedule until December 15, 2001.

9 MR. DEVLIN: That's correct.

10 COMMISSIONER JABER: You don't start to see the
11 impact of that probably until the next 12 months, so you're
12 confident that you can capture pro forma for at least two
13 years?

14 MR. DEVLIN: I don't know if I'm confident. I'm
15 saying that's a reasonable alternative to a forecasted test
16 year.

17 CHAIRMAN JACOBS: Commissioners, if I may --

18 MR. SHREVE: Commissioners, I'm confident that
19 Mr. Devlin can do it.

20 CHAIRMAN JACOBS: I don't want to cut off any
21 questions, I'm sorry.

22 COMMISSIONER JABER: Well, there is a motion, and I
23 was going to say I'm comfortable with it, but I really wanted
24 to hear Commissioner Deason's thoughts on the historic test
25 year.

1 COMMISSIONER DEASON: I agree with Mr. Devlin.

2 COMMISSIONER JABER: Then --

3 COMMISSIONER DEASON: I think that perhaps we do not
4 need to decide today the actual filing date for the MFRs, and
5 if it can be resolved before the prehearing officer in an
6 expeditious manner, that may be the preferable way to go. But
7 at the same time, I realize that if we specify a date that
8 Florida Power can always petition the Commission, the
9 prehearing officer, if there are fundamental areas which there
10 are difficulties which need to -- maybe there are areas that
11 can be filed sooner or maybe there are areas that need to be
12 filed later. I'm not trying to prejudge one way or the other.

13 COMMISSIONER BAEZ: That's one of the questions I
14 had. I mean, as part of an issue identification and whatever
15 other peripheral discussions are going to take place, I think,
16 you know, that there should be some agreement on what you need
17 first, what you absolutely need. I mean, we've identified at
18 least some priority items, according to Mr. Trapp.

19 You know, we're working with a very short date on RT0
20 issues. And I understand that we're not to get into RT0
21 issues, but to the extent that some agreement is reached along
22 those lines as part of your discussions, I think, you know,
23 maybe there can be some prioritization.

24 COMMISSIONER JABER: What -- Chairman Jacobs, what I
25 was going to say is I'm completely comfortable with the motion

1 that includes a filing date with the understanding that if
2 Staff, during their discussions, realizes it's just not
3 realistic, you know, they are free to come back in whatever
4 forum they believe appropriate.

5 I don't want anyone to misunderstand. I have the
6 bigger-picture concern with respect to making sure the pot is
7 right in preparing for restructuring and making sure the
8 allocations are right. But my other concern with respect to
9 the MFR filing date is the quicker we get the rate case done,
10 if we go all the way to a rate case, then the sooner the
11 customers receive their refund, if there's an overearnings, so
12 I'm comfortable with the motion and, I think, there was a
13 second.

14 CHAIRMAN JACOBS: Was there a second? I'm sorry, you
15 did.

16 COMMISSIONER DEASON: One quick question, and this
17 will be my last question. How does Staff envision that we're
18 going to get the pot right when it comes to the question of the
19 RTO cost, realizing that under the current FERC schedules, it's
20 to become operational December the 15th? We're looking at not
21 even getting MFRs, assuming they can be filed, won't even get
22 MFRs until September the 15th.

23 And then, to have a process, a normal eight months
24 process, you're looking at making a decision well into 2002,
25 and the RTO would have already been operational for months.

1 MR. TRAPP: Commissioner Deason, we have made every
2 attempt to try to cooperate and coordinate with FERC on timing
3 and everything else. When it comes right down to it, these are
4 ratemaking issues that I've come to you today with. Retail
5 ratemaking issues are the sole jurisdiction of this Commission.

6 We may have some timing overlap problems with respect
7 to FERC's ratemaking and our ratemaking, but based on the
8 guidance that you gave us at the last Internal Affairs strategy
9 session, I feel like I can only recommend going forward
10 exercising our jurisdiction as best we can, as quickly as we
11 can, and as thoroughly and accurately as we can and, I think,
12 that's what we're proposing to do here.

13 COMMISSIONER DEASON: We just operate as best we can
14 under the constraints we face.

15 MR. TRAPP: Yes, sir.

16 COMMISSIONER DEASON: Okay.

17 CHAIRMAN JACOBS: Very well. We have a motion and a
18 second. I would only add -- I would echo the interest in
19 having Staff sit down with the parties and figure out how to
20 make this filing process as smooth as possible. Even if we
21 come out with a date, there's nothing to stop the discussions
22 from going forward.

23 I would assume that when we come back to hear the
24 motion that there may be some further clarity about some of
25 those issues at that time anyway, so with that understanding,

1 we can proceed.

2 Let me say this also. This is an important
3 development and, I think, we ought to convey that the
4 representations by the company's participation here are
5 accurate, as indicated by the letter that was given previously
6 as indicated by the efforts to come forward now make
7 representation.

8 I, likewise, want to say that the representations of
9 our Staff are absolutely accurate. There's a lot of commitment
10 and expertise and professionalism that's been demonstrated on
11 both sides of this issue. And I would expect and hope and
12 encourage that that would be the spirit in which we move
13 forward, because I believe we are on the cusp of addressing
14 important issues for our future, in addition to issues that are
15 very important to your present-day operations, I understand.
16 But, I think, we have a window of opportunity here, and I hope
17 we'll seize that in the very spirit that we've demonstrated
18 thus far.

19 And with that, all in favor, aye.

20 COMMISSIONER DEASON: Aye.

21 COMMISSIONER JABER: Aye.

22 COMMISSIONER BAEZ: Aye.

23 COMMISSIONER PALECKI: Aye.

24 CHAIRMAN JACOBS: Opposed? Show Item 17 is approved.
25 Item 18.

1 MR. ELIAS: Commissioner, if I can just make sure,
2 and just point of clarification on two small issues. We're
3 going to, pursuant to your direction, sit down and meet as soon
4 as possible to discuss issues, but I don't want that direction
5 to be construed as foreclosing us from raising something that
6 wasn't apparent that was evidenced by the MFRs when they're
7 filing, if we get to that point. In other words, I don't want
8 to --

9 CHAIRMAN JACOBS: That's what MFRs do, right?

10 MR. ELIAS: I don't want to, because we sit down and
11 raise every -- in good faith, every issue that we can think of
12 now and then see something in the MFRs four months down the
13 road that wasn't readily apparent, somehow be precluded from
14 raising that issue.

15 COMMISSIONER JABER: And that's what the job of the
16 prehearing officer is.

17 MR. ELIAS: Okay.

18 COMMISSIONER JABER: But let me be clear, I think, if
19 you all act expeditiously and diligently in identifying all the
20 issues and figure out how to handle the fact that you need
21 information to go forward to identify what the earnings levels
22 are and what the appropriate level of rates is, you might find
23 that through compromise and negotiations that you don't need a
24 rate case, so...

25 MR. ELIAS: And I understand that. I think, we have

1 a clear understanding of what our directions are. I just don't
2 want to have to deal with the arguments that our obligation was
3 to raise every single issue that might be embodied in the MFRs
4 next week.

5 CHAIRMAN JACOBS: Again, I think, that's under the
6 discretion of the prehearing officer and, I think, he's more
7 than confident and capable of handling that. I think, we've
8 concluded that. If he's not, he's got a lot of attention
9 already. Thank you.

10 Item 18. Why don't we take just a few minutes.
11 Let's take 10 minutes, and we'll come back.

12 (Item 17 Agenda Conference concluded at 4:50 p.m.)

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1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4
5 I, KORETTA E. STANFORD, RPR, Official Commission
6 Reporter, do hereby certify that the Agenda Conference in
7 Docket No. 000824-EI was heard by the Public Service Commission
8 at the time and place herein stated.

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

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

19 DATED THIS Monday, May 21, 2001.

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