

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to determine  
need for an electrical power  
plant in Martin County by  
Florida Power & Light Company.

DOCKET NO. 020262-EI

In re: Petition to determine  
need for an electrical power  
plant in Manatee County by  
Florida Power & Light Company.

DOCKET NO. 020263-EI  
ORDER NO. PSC-02-1315-PHO-EI  
ISSUED: September 27, 2002

Pursuant to Notice and in accordance with Rule 28-106.209,  
Florida Administrative Code, a Prehearing Conference was held on  
September 23, 2002, in Tallahassee, Florida, before Commissioner J.  
Terry Deason, as Prehearing Officer.

APPEARANCES:

CHARLES A. GUYTON, ESQUIRE, JOHN T. BUTLER, P.A.,  
ESQUIRE, WILLIAM HILL, P.A., ESQUIRE, GABRIEL E. NIETO,  
ESQUIRE, and ELIZABETH C. DALEY, ESQUIRE, Steel Hector &  
Davis, LLP, 215 S. Monroe Street, Site 601, Tallahassee,  
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Power & Light Company, 700 Universe Boulevard, Juno  
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On behalf of Florida Power & Light Company.

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On behalf of CPV Gulfcoast, Ltd.

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On behalf of the Florida Action Coalition Team.

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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On behalf of Partnership for Affordable Competitive  
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On behalf of South Pond Energy Park, LLC.

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On behalf of the Florida Public Service Commission.

#### PREHEARING ORDER

##### I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case. Opening statements, if any, shall not exceed ten minutes per party, but FPL may have sufficient time to respond to the arguments of the other parties, given their number and the complexity of the issues. The parties are instructed to coordinate their opening statements to avoid repetition.

##### II. CASE BACKGROUND

Pursuant to Section 403.519, Florida Statutes, and Rules 25-22.080 and 25-22.081, Florida Administrative Code, on July 16, 2002, Florida Power & Light Company (FPL) filed an amended petition for a determination of need for electrical power plants to be located in Martin and Manatee Counties, Florida. These proceedings are held to determine whether the proposed Martin Unit 8 and

Manatee Unit 3 meet the need for electric system reliability and integrity, the need for adequate electricity at a reasonable cost, whether the proposed plants are the most cost-effective alternatives available, whether there are any conservation measures that can mitigate the proposed power plants, and any other matters within the Commission's jurisdiction that it deems relevant, according to the requirements of Section 403.519, Florida Statutes.

### III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapters 120, 366 and 403, Florida Statutes. This prehearing conference will be governed by those Statutes and Chapters 25-22 and 28-106, Florida Administrative Code.

### IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to

present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into

evidence, the copy provided to the Court Reporter shall be retained in the Division of the Commission Clerk and Administrative Services's confidential files.

V. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 80 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 80 words, it must be reduced to no more than 80 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

VI. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties and staff has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes; FPL's witness Silva shall be provided ten minutes. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so

answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VII. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Rene Silva	FPL	1-6, 9, 10, 11, 11(g), 14-17
Steven R. Sim	FPL	1-6, 9-11, 11(a)-11(f), 12-17
Leonardo E. Green	FPL	1-4, 14-17
C. Dennis Brandt	FPL	5, 6, 14-17
William E. Avera	FPL	12, 14-17
Donald R. Stillwagon	FPL	13-17
Alan S. Taylor	FPL	10, 11, 11(a)-11(f), 12-17
Gerard Yupp	FPL	7, 8, 14-17
Moray P. Dewhurst	FPL	12, 14-17
William L. Yeager	FPL	3, 4, 13-17
Douglas Egan	CPV GULFCOAST	Bias and unfairness in FPL's process of conducting RFP
*Sam Waters	CPV GULFCOAST	Aspects of FPL RFP and evaluation of bids
*Daisy Iglesias	CPV GULFCOAST	Process in which bids were evaluated
*Paul Evanson	CPV GULFCOAST	Factors underlying FPL's decision to self-build
*Identified as prefiled.	adverse	witnesses. No testimony

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Kenneth Slater	PACE	10, 11(a)-11(f), 12
Andrew L. Maurey	FPSC	Issue 12

Rebuttal

William E. Avera	FPL	12
William L. Yeager	FPL	11(c)
Alan S. Taylor	FPL	10, 11, 11(a)-11(f), 13, 14
Steven R. Sim	FPL	10, 11, 11(a)-11(f), 13, 14

VIII. BASIC POSITIONS

**FPL:** The Commission should approve FPL's Petitions for Determination of Need for Electric Power Plants, and grant favorable determinations of need for Martin Unit 8 and Manatee Unit 3. FPL needs both Martin Unit 8 and Manatee Unit 3 to maintain FPL system reliability through 2005 and 2006. Without the timely addition of Martin Unit 8 and Manatee Unit 3, FPL's customers will pay higher fuel costs and summer reserve margins would fall to 14.1% in 2005 and 11.1% in 2006, well short of the 20% reserve margin criterion approved by the Commission.

As demonstrated in FPL's Need Study and testimony, the proposed combination of Martin Unit 8 and Manatee Unit 3 is a highly cost-effective option for meeting FPL's customers' capacity needs. This addition is critically needed to meet reliability needs in 2005 and 2006, and there is no reasonably achievable DSM available to mitigate the need for these units. Moreover, the addition of these units will increase electric system reliability and integrity in FPL's system and throughout Peninsular Florida, provide adequate power at reasonable cost,

and represents the most cost-effective alternative to meet the needs of FPL's customers.

In making its determination that Martin Unit 8 and Manatee Unit 3 were the best, most cost-effective options for FPL's customers, FPL determined that these units were the best alternatives from among FPL's self-build options. These units competed against 134 proposals in two competitive capacity solicitations. A wide range of costs and thousands of combination plans were run, and there were only 32 alternative plans that were even within \$200 million dollars of the All FPL self-build plan. Of those 32 plans, five contained both FPL units plus another option. All the remaining plans contained at least one FPL unit and one El Paso option, and subsequent negotiations revealed that the El Paso options had been priced too low in FPL's analysis. The Martin 8/Manatee 3 plan would cost FPL's customers at least \$83 million less than any other combination not containing both FPL units and approximately \$500 million less than the lowest cost portfolio consisting of non-FPL alternatives. FPL's economic analysis was independently confirmed by a third party evaluator who found that the next lowest cost portfolio was at least \$135 million more costly than the all FPL self build plan.

FPL's capacity solicitations were the most inclusive IOU solicitations in Florida, and FPL's analysis of alternatives was rigorous, analytically sound and fair. FPL received 51 proposals from 16 bidders in its Supplemental RFP. FPL received 134 proposals from 18 bidders in both capacity solicitations. No other IOU solicitation in Florida has received more than four proposals from two bidders. FPL employed sound and well tested analytical models employing common assumptions to perform rigorous economic evaluations of both Supplemental RFP proposals and self-build options. FPL went beyond the requirements of the Bid Rule in its Supplemental RFP, hiring an independent evaluator and inviting



the Commission Staff to monitor FPL's economic evaluation and negotiations.

No party has demonstrated that it or any other bidder offered a more cost effective alternative than FPL. Unable to compete economically, CPV now raises fairness arguments that it failed to raise during the Supplemental RFP process and seriously misconstrues a very few selective documents out of thousands of pages of documents that set forth FPL's fair and reasonable RFP and evaluation process. PACE's witness admits that he has performed a less than exhaustive review, and he never concludes that FPL's analysis yielded the wrong result.

The record as a whole demonstrates that Martin Unit 8 and Manatee Unit 3 are needed and are the most cost-effective alternatives available to meet FPL's customer's needs, even without an equity penalty. The petitions for a determination of need should be granted.

**CPV GULFCOAST:** The FPL self-build options do not present the most cost effective alternative, as the RFP was not conducted in a fair and impartial manner. FPL's self-build cost estimates are not based on firm numbers but aggressive estimates. FPL cannot meet its burden of proving its self-build options are the most cost effective alternatives when it has failed to enter into contracts for the major cost components of its self-build proposals, rejected bids that the RFP required to be firm, and refuses to be bound by the terms of its self-build cost estimates. Further, FPL did not properly account for certain risks associated with its self-build option and unfairly imposed an equity penalty further casting uncertainty and doubt on the objectivity of its analysis.

FPL conducted its RFP in an unfair manner that was inequitably skewed to favor FPL's self-build options. The RFP and evaluation was designed to

favor FPL's self build options. All the criteria used to evaluate responses to the RFP were not disclosed to bidders in advance of the bids being submitted, disadvantaging the bidders.

**FACT:**

It appears that Florida Power & Light Company's ("FPL") process for determining the most cost-effective generation for its purported future capacity needs was biased in a manner so as to ensure that the FPL self-build options necessarily "won" the competition. The use of the so-called "equity penalty" is the most flagrant of the self-serving biases in the bid review process, but not the only one. It appears, based on the evidence to date, that other project submissions to FPL, or combinations of projects, would have been less expensive than the self-build options now before the Commission and, thus, more "cost-effective" within the meaning of Section 403.519, F.S.

The Commission should deny one or both of the self-build generating projects now before it for approval and order FPL to immediately reanalyze the last bids submitted to it, but without use of the equity penalty adjustment or any other adjustments or techniques the Commission finds inappropriately and unfairly biased the bid review process to the FPL self-build options.

**FIPUG:**

FIPUG's interest in this proceeding is to ensure that when capacity is required to meet the needs of retail consumers, the capacity that is secured is the most cost-effective available--whether the capacity is the self-build project of an investor-owned utility or the project of a competitive power producer. It appears that in this case, due to the skewed capacity selection process FPL employed, FPL may not have chosen the most cost-effective project available. FIPUG is further concerned over FPL's selection of its own project due to FPL's unwillingness to commit to be bound by its bid. If the bid process FPL conducted was truly

competitive and FPL participated on the same footing as other bidders, it should have no hesitancy in agreeing to collect no more from ratepayers than it bid. Finally, it appears that the capacity represented by the conversion of Martin 8 is not actually needed by FPL until the year following the year in which FPL proposes to build it (2006, rather than 2005).

**PACE:**

Particularly when the unwarranted and prejudicial "equity penalties" are removed from consideration, the differences in costs between FPL's self-build options and other alternatives are small. At the same time, the operating parameters that FPL assumed for its self-build options were unrealistically aggressive, and FPL's simplistic modeling of the impact of the bidders' options on system costs was flawed and imprecise. As a result, FPL skewed the selection process in favor of its self-build options. These circumstances create a serious potential for choosing an alternative that is not the most cost-effective available. The wrong choice would expose ratepayers to adverse consequences in the form of the risk of cost overruns and the risk that FPL may not meet its aggressive performance projections if FPL's non-binding proposal is selected. Exacerbating the risk of a non-cost effective choice is the fact that FPL proposes to bring the 700+ MW of Martin 8 capacity on line in 2005 in order to cover only a 15 MW shortfall in meeting its 20% reserve margin standard. (This assumes that capacity in an amount equivalent to proposed Manatee 3 is added in 2005). Taking into consideration the minimal risk of adverse impacts (in the form of unserved energy) to ratepayers that would be associated with a denial of the petitions in this case, ratepayers' interests will be served by denying FPL's petitions.

**SOUTH POND:**

The way that Florida Power & Light Company ("FPL") evaluated the cost effectiveness of its self-build options was so fundamentally flawed that the

Commission cannot conclude with confidence that the self-build options that FPL selected are the most cost-effective alternatives available.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

IX. ISSUES AND POSITIONS

NEED FOR ADDITIONAL GENERATING CAPACITY

**ISSUE 1:** Does Florida Power & Light Company have a need for Martin Unit 8, taking into account the need for electric system reliability and integrity?

**POSITIONS**

**FPL:** Yes. FPL needs both Martin Unit 8 and Manatee Unit 3 to maintain FPL system reliability through 2005 and 2006. Without Martin Unit 8 and Manatee Unit 3, FPL's summer reserve margins will fall to 14.1% in 2005 and 11.1% in 2006, well short of the 20% reserve margin criterion approved by the Commission. (Sim, Silva, Green)

**CPV GULFCOAST:** While FPL may have a need for Martin Unit 8, the process it used to fill that need, along with its failure to secure firm contracts for the major cost components of the Martin 8 unit, results in the Martin 8 Unit not being the most cost effective alternative. Moreover, Martin Unit 8 is not needed in 2005 as the plant is being proposed with a 2005 in-service date to meet a 15 megawatt shortfall from a 20% reserve figure. Thus, ratepayers are not benefitted and the petition should be denied.

- FACT:** FACT adopts the position of CPV Gulfcoast.
- FIPUG:** It appears that FPL has a need for the capacity represented by Martin 8 in 2006, not 2005. However, such capacity may be able to be provided more cost-effectively by a competitive provider.
- PACE:** No. FPL proposes to add the 700+ MW of Martin 8 in 2005 to meet a need of only 15MW. Further, when the consequences of choosing the wrong alternative are taken into account, and the de minimis value of expected unserved energy associated with a delay is considered, ratepayers will be served better by a denial of the petition.
- SOUTH POND:** South Pond adopts the position of PACE.
- STAFF:** No position at this time pending review of the evidence at hearing.
- ISSUE 2:** Does Florida Power & Light Company have a need for Manatee Unit 3, taking into account the need for electric system reliability and integrity?

**POSITIONS**

- FPL:** Yes. FPL needs both Martin Unit 8 and Manatee Unit 3 to maintain FPL system reliability through 2005 and 2006. Without Martin Unit 8 and Manatee Unit 3, FPL's summer reserve margins will fall to 14.1% in 2005 and 11.1% in 2006, well short of the 20% reserve margin criterion approved by the Commission. (Sim, Silva, Green)
- CPV GULF COAST:** While FPL may have a need for Manatee Unit 3 in 2006, the process it used to fill that need, along with its failure to secure firm contracts for the major cost components of the Manatee Unit 3 unit results in the Manatee Unit 3 not being the most cost effective alternative. Thus, ratepayers are not benefitted and the petition should be denied.

**FACT:** FACT adopts the position of PACE.

**FIPUG:** It appears that FPL has a need for the capacity represented by Manatee 3. However, such capacity may be able to be provided more cost-effectively by a competitive provider.

**PACE:** When the consequences of choosing the wrong alternative are taken into account, and the de minimis value of expected unserved energy associated with a delay is considered, ratepayers will be served better by a denial of the petition.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** Yes.

**ISSUE 3:** Does Florida Power & Light Company have a need for Martin Unit 8, taking into account the need for adequate electricity at a reasonable cost?

**POSITIONS**

**FPL:** Yes. The combination of Martin Unit 8 and Manatee Unit 3 is the best, most cost-effective alternative to meet FPL resource needs for 2005 and 2006. Both units will have very favorable capital and non-fuel operating cost characteristics, highly efficient heat rates, high availability factors and low forced outage rates. Thus, the combination of Martin Unit 8 and Manatee Unit 3 will provide adequate and highly reliable electricity to FPL's customers at a reasonable cost. (Sim, Yeager)

**CPV GULFCOAST:** While FPL may have a need for Martin Unit 8, the process it used to fill that need, along with its failure to secure firm contracts for the major cost components of the Martin 8 unit results in the Martin 8 Unit not being the most cost effective alternative. Moreover, Martin Unit 8 is not needed in 2005 as the plant is being proposed with a 2005

in-service date to meet a 15 megawatt shortfall from a 20% reserve figure. Thus, ratepayers are not benefitted and the petition should be denied.

**FACT:** It appears that FPL's use of the "equity penalty" adjustment biased FPL's determination that Martin Unit 8 was the least cost or most cost-effective generating alternative available to it with the result that there may not be a need for Martin Unit 8 on the basis of its costs being the most reasonable.

**FIPUG:** It appears that FPL has a need for the capacity represented by Martin 8 in 2006, not 2005. However, such capacity may be able to be provided more cost-effectively by a competitive provider.

**PACE:** No. FPL proposes to add the 700+MW of Martin 8 in 2005 to meet a need of only 15 MW. Further, when the consequences of choosing the wrong alternative are taken into account, and the de minimis value of expected unserved energy associated with a delay is considered, ratepayers will be served better by a denial of the petition.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

**ISSUE 4:** Does Florida Power & Light Company have a need for Manatee Unit 3, taking into account the need for adequate electricity at a reasonable cost?

**POSITIONS**

**FPL:** Yes. The combination of Martin Unit 8 and Manatee Unit 3 is the best, most cost-effective alternative to meet FPL resource needs for 2005 and 2006. Both units will have very favorable capital and non-fuel operating cost characteristics, highly efficient

heat rates, and high availability factors and low forced outage rates. Thus, the combination of Martin Unit 8 and Manatee Unit 3 will provide adequate and highly reliable electricity to FPL's customers at a reasonable cost. (Sim, Yeager)

**CPV GULFCOAST:** While FPL may have a need for Manatee Unit 3 in 2006, the process it used to fill that need, along with its failure to secure firm contracts for the major cost components of the Manatee Unit 3 unit results in the Manatee Unit 3 not being the most cost effective alternative. Thus, ratepayers are not benefitted and the petition should be denied.

**FACT:** It appears that FPL's use of the "equity penalty" adjustment biased FPL's determination that Manatee Unit 3 was the least cost or most cost-effective generating alternative available to it with the result that there may not be a need for Manatee Unit 3 on the basis of its costs being the most reasonable.

**FIPUG:** It appears that FPL has a need for the capacity represented by Manatee 3. However, such capacity may be able to be provided more cost-effectively by a competitive provider.

**PACE:** When the consequences of choosing the wrong alternative are taken into account, and the de minimis value of the expected unserved energy associated with a delay is considered, ratepayers will be served better by denying the petition.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** Yes.

#### **CONSERVATION**

**ISSUE 5:** Are there any conservation measures taken by or reasonably available to Florida Power & Light



**Company that might mitigate the need for Martin Unit 8?**

**POSITIONS**

**FPL:** No. FPL is already pursuing and fully implementing every conservation and load management measure reasonably available to it, and is in fact a recognized industry leader in the area of demand side management. There is no reasonably available conservation measure that would allow FPL to forego either Martin Unit 8 or Manatee Unit 3. (Brandt, Sim)

**CPV GULFCOAST:** CPV Gulfcoast adopts the position of PACE.

**FACT:** No position.

**FIPUG:** No position.

**PACE:** FPL proposes to add the 700+MW of Martin 8 in 2005 to meet a need of only 15 MW. FPL has failed to address whether conservation in the amount of 15 MW, or a one year purchase of 15MW, or a combination thereof would be feasible and more cost-effective.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No.

**ISSUE 6:** Are there any conservation measures taken by or reasonably available to Florida Power & Light Company that might mitigate the need for Manatee Unit 3?

**POSITIONS**

**FPL:** No. FPL is already pursuing and fully implementing every conservation and load management measure reasonably available to it, and is in fact a recognized industry leader in the area of demand

side management. There is no reasonably available conservation measure that would allow FPL to forego either Martin Unit 8 or Manatee Unit 3. (This issue does not appear to be controverted.) (Brandt, Sim)

**CPV GULFCOAST:** No position.

**FACT:** No position.

**FIPUG:** No position.

**PACE:** No position.

**SOUTH POND:** No position.

**STAFF:** No.

**FUEL AVAILABILITY**

**ISSUE 7:** Has Florida Power & Light Company adequately ensured the availability of fuel commodity and transportation to serve Martin Unit 8?

**POSITIONS**

**FPL:** Yes. As explained in FPL's Need Study and the prefiled testimony of Gerard Yupp, FPL has adequately ensured the availability of fuel commodity and transportation to serve Martin Unit 8 and Manatee Unit 3. (Yupp)

**CPV GULFCOAST:** No. It has failed to secure firm contracts for fuel supply or transportation.

**FACT:** No position.

**FIPUG:** No position.

**PACE:** No position.

**SOUTH POND:** No position.

**STAFF:** No position at this time pending review of the evidence at hearing.

**ISSUE 8:** Has Florida Power & Light Company adequately ensured the availability of fuel commodity and transportation to serve Manatee Unit 3?

**POSITIONS**

**FPL:** Yes. As explained in FPL's Need Study and the prefiled testimony of Gerard Yupp, FPL has adequately ensured the availability of fuel commodity and transportation to serve Martin Unit 8 and Manatee Unit 3. (Yupp)

**CPV GULFCOAST:** No. It has failed to secure firm contracts for fuel supply or transportation.

**FACT:** No position.

**FIPUG:** No position.

**PACE:** No position.

**SOUTH POND:** No position.

**STAFF:** No position at this time pending review of the evidence at hearing.

**COST EFFECTIVENESS**

**ISSUE 9:** Did Florida Power & Light Company's Supplemental Request for Proposals, issued on April 26, 2002, satisfy the requirements of Rule 25-22.082, Florida Administrative Code.

**POSITIONS**

**FPL:** Yes. FPL fully complied with the requirements of Rule 25-22.082. Indeed, in allowing bidders a

second chance to submit proposals, addressing various concerns of bidders that were not required by the rule, retaining an independent evaluator and allowing Staff to monitor the economic evaluation and negotiations, FPL went beyond the requirements of Rule 25-22.082. Many different options were evaluated in great detail to find the most cost-effective alternative for FPL and its customers. (Sim)

**CPV GULFCOAST:** No. Having failed to comply with Rule 25-22.082 in its initial RFP (failure to properly identify its next planned generating unit, failure to short list any bidders), FPL issued a supplemental RFP. The bid rule was not complied with during the supplemental RFP in that FPL listed a methodology to be used to evaluate alternative generating proposals which was not followed, as additional criteria, not listed in the supplemental RFP, were used in evaluating bids. This is a clear violation of section 4(d) of the rule. Moreover, as the bid was not conducted in a fair and impartial manner, the rule was also violated.

**FACT:** No. It appears that FPL's use of an equity penalty, as well as other adjustments, biased the competition results to the advantage of its own self-build options in a manner that was unfair, unreasonable, and inappropriate.

**FIPUG:** No, it does not appear that the requirements of the bid rule were applied so as to ensure the selection of the most cost-effective proposal. The comparison of proposals appears to be skewed in favor of FPL's self-build option.

**PACE:** No. Implicit in the rule is the requirement that the evaluation called for by the rule be fair and adequate for the purpose of identifying the most cost-effective alternative.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

**ISSUE 10:** Was the process used by Florida Power & Light Company to evaluate Martin Unit 8, Manatee Unit 3, and projects submitted in response to its Supplemental Request for Proposals, issued on April 26, 2002, fair, reasonable, and appropriate?

**POSITIONS**

**FPL:** Yes. FPL appropriately screened proposals for eligibility. FPL conducted a rigorous economic evaluation employing sound analytical tools and consistent assumptions. FPL's economic analysis was independently confirmed and subject to monitoring by the Commission Staff. FPL's assessment of non-price factors reinforced the conclusion of the economic analysis that the All FPL Plan was the best option for its customers. FPL negotiations with the short-list bidders demonstrated the non-binding nature of proposals and resulted in the All FPL Plan being the most cost-effective proposal by \$83 million. (Sim, Silva, Taylor)

**CPV GULFCOAST:** No.

**FACT:** No. It appears that FPL's use of an equity penalty, as well as other adjustments, biased the competition results to the advantage of its own self-build options in a manner that was unfair, unreasonable, and inappropriate.

**FIPUG:** No, it appears that the comparison of proposals was skewed in favor of FPL's self-build option.

**PACE:** No.

**SOUTH POND:** South Pond adopts the positions of PACE and CPV

Gulfcoast.

**STAFF:** No position at this time pending review of the evidence at hearing.

**ISSUE 11:** In its evaluation of Martin Unit 8, Manatee Unit 3, and projects filed in response to its Supplemental Request for Proposals, issued on April 26, 2002, did Florida Power & Light Company employ fair and reasonable assumptions and methodologies?

**POSITIONS**

**FPL:** Yes. FPL used the same, reasonable assumptions in analyzing the Supplemental RFP proposals and self build options. The models employed by FPL and the independent evaluator were analytically sound and well tested. Similarly, the methodologies employed to complete the economic analyses were appropriate and reasonable. (Sim, Taylor)

**CPV GULFCOAST:** See positions taken for subparts (a)-(g), below.

**FACT:** See positions taken for subparts (a)-(g), below.

**FIPUG:** See positions taken for subparts (a)-(g), below.

**PACE:** See positions taken for subparts (a)-(g), below.

**SOUTH POND:** See positions taken for subparts (a)-(g), below.

**STAFF:** No position at this time pending review of the evidence at hearing.

11(a) Were the assumptions regarding operating parameters that FPL assigned to its own proposed units reasonable and appropriate?

**POSITIONS**

**FPL:** Yes. FPL used reasonable and appropriate average annual values for heat rates, capacity, availability, etc. The operating parameters used for FPL reflect FPL's demonstrated capability to achieve superlative combined cycle performance. (Yeager) FPL actually gave the benefit of the doubt to RFP proposers, using values provided without question, even though some such values were better than the values used for FPL. (Sim, Taylor)

**CPV GULFCOAST:** CPV Gulfcoast would adopt the position of PACE.

**FACT:** FACT adopts the position of PACE.

**FIPUG:** FIPUG adopts the position of PACE.

**PACE:** No. FPL assumed overly aggressive and unrealistic values for such parameters as heat rates and forced outage rates, thereby biasing the comparisons in favor of its self-build options.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

11(b) Did FPL appropriately model variable O&M costs in its analysis?

**POSITION**

**FPL:** Yes. FPL modeled variable O&M costs as they were bid or submitted. Variable O&M costs for bids exhibited a wide range, and FPL modeled them as they were bid. Variable O&M costs for FPL's self-build options were modeled as they were published in the Supplemental RFP. (Sim, Taylor)

**CPV GULFCOAST:** CPV Gulfcoast adopts the position of PACE.

**FACT:** FACT adopts the position of PACE.

**FIPUG:** FIPUG adopts the position of PACE.

**PACE:** No. In the EGEAS modeling FPL attributed "full" variable O&M costs to bidders' proposals, but only the relatively small category of "consumables" to its self-build option. The disparate treatment of variable O&M introduced ambiguity and imprecision into the results of the evaluation.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

11(c) When modeling and quantifying the costs of all options, did FPL fairly and appropriately compare the costs of projects having different durations?

**POSITION**

**FPL:** Yes. FPL appropriately used filler units to fill in behind short term purchases to meet annual reserve margin requirements so that various alternatives of different lengths were consistently considered. The use of greenfield rather than brownfield units as filler units was appropriate given the number of necessary filler units and the limited number of possible brownfield sites. Mr. Taylor's sensitivity analysis using a brownfield unit as a filler unit (and Gulfstream rather than FGT gas transportation) confirmed the All FPL plan to be the most cost effective. (Sim, Taylor)

**CPV GULFCOAST:** Gulfcoast adopts the position of PACE.



**FACT:** FACT adopts the position of PACE.

**FIPUG:** FIPUG adopts the position of PACE.

**PACE:** No. FPL inappropriately applied to the bidders' shorter proposals the assumption that the bidder's project would be followed by the construction of a "greenfield" generating unit. The effect of the assumption was to increase artificially the cost of the purchased power options.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

11(d) When modeling and quantifying the costs of all options, did FPL employ assumptions regarding the gas transportation costs applicable to "filler units" that were fair, reasonable and appropriate?

**POSITION**

**FPL:** Yes. FPL modeled gas transportation costs for proposals as specified by the bidders. FPL modeled gas transportation costs for the filler units assuming the FGT pipeline because it is already interconnected with FPL's system, and it serves more of the state. Filler units with FGT costs were used for both the Martin 8 / Manatee 3 plan and plans including RFP proposals. This assumption did not prejudice the bidders relative to FPL options. (Sim, Taylor)

**CPV GULFCOAST:** Gulfcoast adopts the position of PACE.

**FACT:** No position.

**FIPUG:** FIPUG adopts the position of PACE.

**PACE:** No. FPL arbitrarily assumed that the filler units would be served by FGT, the more expensive of the available pipelines, thereby artificially increasing the transportation costs of bidders relative to the FPL self-build options.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

11(e) When modeling and quantifying the costs of all options, including its own, did FPL appropriately and adequately take cycling and start-up costs into account?

**POSITION**

**FPL:** Yes. FPL modeled both FPL's and the bidder's combined cycle unit start-up costs exactly the same way. FPL assumed 6 start-ups per year at the cost provided by the bidder and FPL. The impact of start up costs on the entire analysis is de minimus, and bidders with heat rates higher than FPL may have been advantaged by this assumption. (Sim, Taylor)

**CPV GULFCOAST:** Gulfcoast adopts the position of PACE.

**FACT:** No position.

**FIPUG:** FIPUG adopts the position of PACE.

**PACE:** No. The EGEAS model is incapable of modeling cycling and start-up costs. FPL had to manually provide rough estimates of such costs. The effect was to introduce imprecision into the modeling.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the

evidence at hearing.

11(f) When modeling and quantifying the costs of all options, did FPL appropriately and adequately take into account the impact of seasonal variations on heat rate and unit output?

**POSITION**

**FPL:** Yes. Modeling seasonal variation of combined cycle units with similar heat rates was an unnecessary refinement that would have diverted precious computer resources from optimization of the many combinations of bids considered in the analysis. Modeling seasonal variation of similar combined cycle units would not have significantly changed the analysis results, namely the fact that the All FPL plan is \$83 million less costly than the next best plan.  
(Sim, Taylor)

**CPV GULFCOAST:** Gulfcoast adopts the position of PACE.

**FACT:** No position.

**FIPUG:** FIPUG adopts the position of PACE.

**PACE:** No. The impact of FPL's failure to take such seasonal variations into account injected another source of imprecision and error into its modeling.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

11(g) Did FPL act in a fair, reasonable and appropriate manner in not considering for the short list portfolios that included TECO and other bidders, in part, because TECO's reserve margin

**requirement might be impaired?**

**POSITION**

**FPL:** Yes. Neither TECO, Calpine, nor El Paso, the bidders along with FPL's Martin Unit 8 that comprise the portfolios in question are contesting FPL's decision not to include TECO and Calpine in the short list. The decision was based on two factors: serious concerns about Calpine and concerns about TECO's ability to sell its offered capacity to FPL and preserve its 20% reserve margin. FPL was legitimately concerned whether the capacity sold by TECO would be committed to FPL's customers if needed by TECO's customers and could not justify to the Commission a purchase which would cause TECO to miss its reserve margin commitment. (Silva)

**CPV GULFCOAST:** No. FPL decided not to further consider a competing proposal from TECO based on a concern that TECO's reserve margin might be negatively impacted. FPL did not discuss this issue with TECO, but unilaterally made the decision not to move forward with negotiations with TECO without raising the concern with TECO. It is TECO's responsibility to maintain its reserve margins, not FPL's responsibility to maintain TECO's reserve margins.

**FACT:** FACT adopts the position of CPV Gulfcoast.

**FIPUG:** No position.

**PACE:** No position.

**SOUTH POND:** No position.

**STAFF:** No position at this time pending review of the evidence at hearing.

**EQUITY PENALTY**

**ISSUE 12:** Was Florida Power & Light Company's decision to apply an equity penalty cost to projects filed in response to its Supplemental Request for Proposals appropriate? If so, was the amount properly calculated?

**POSITION**

**FPL:** Yes. The inclusion of this cost factor was consistent with the Supplemental RFP and was appropriate. Investors view capacity payments in firm purchased power contracts as off balance sheet obligations that increase a utility's financial leverage. To balance this effect, a utility must offset this imputed debt with increased equity. Consideration of this cost is appropriate and consistent with the incremental capital structure used for analyzing FPL's self build options. (Avera, Dewhurst, Sim, Taylor)

**CPV GULFCOAST:** No. FPL's equity penalty is just that, a penalty against outside proposals. The equity penalty is particularly burdensome to proposals that offer large amounts of capacity over long periods of time. Constructing and operating a power plant imposes many risks that can be shifted to an Independent Power Producer and away from the utility's ratepayers through a power purchase contract. Even if one assumes, for purposes of argument, that a power purchase contract increases the utility's financial risk, to single out that factor while failing to consider the universe of risks associated with construction and purchasing unfairly skews the comparison in favor of the self-build options.

**FACT:** The use of the equity penalty was inappropriate and unfair.

**FIPUG:** No; it appears that use of an "equity penalty"

unfairly penalizes competitive projects and skewed FPL's choice in favor of its self-build option, for the reasons set forth in the testimony of Staff witness, Andrew Maurey.

**PACE:** No. Constructing and operating a power plant imposes many risks that can be allocated away from the utility's ratepayers through a power purchase contract. Even if one assumes, for purposes of argument, that a power purchase contract increases the utility's financial risk, to single out that factor while failing to consider the universe of risks associated with construction and purchasing unfairly skews the comparison in favor of the self-build options. In addition, FPL has failed to justify the amount of penalty that it proposes. However, PACE's first and primary position is that no equity penalty is warranted.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

**ISSUE 13:** In its evaluation of Martin Unit 8, Manatee Unit 3, and projects filed in response to its Supplemental Request for Proposals, issued on April 26, 2002, did Florida Power & Light Company properly and accurately evaluate transmission interconnection and integration costs?

**POSITIONS**

**FPL:** Yes. FPL properly calculated and evaluated transmission interconnection and integration costs in its analysis. Interconnection costs were evaluated in the EAGAS modeling for each power supply option. After FPL identified top ranked portfolios of options, transmission integration costs for each portfolio were calculated based upon load flow studies to assess required

transmission upgrades. Integration costs were then included in the total costs of each of the top ranked portfolios. (Stillwagon, Sim)

**CPV GULFCOAST:** FPL did not break out the transmission and integration cost for each proposed facility. Thus, the actual costs for transmission and integration for each unit which is the subject of these proceedings cannot be ascertained with certainty and, consequently, these costs were not properly and accurately evaluated.

**FACT:** No position.

**FIPUG:** No position.

**PACE:** No position.

**SOUTH POND:** No position.

**STAFF:** No position at this time pending review of the evidence at hearing.

**ISSUE 14:** Is Florida Power & Light Company's Martin Unit 8 the most cost-effective alternative available?

**POSITIONS**

**FPL:** Yes. FPL conducted a detailed evaluation of all its power supply options. This included a ranking of the various available combinations of options taking into account system wide costs. Based on this analysis FPL determined that the combination of Martin Unit 8 and Manatee Unit 3 is the most cost effective portfolio to meet FPL's 2005 and 2006 resource needs by over \$83 million. FPL's analysis of its options was confirmed by the independent evaluation conducted by Sedway Consulting using its own computer model, which similarly determined that the combination of

Martin Unit 8 and Manatee Unit 3 is the most cost-effective alternative available by \$135 million. (Silva, Sim, Green, Yupp, Brandt, Avera, Dewhurst, Yeager, Taylor, Stillwagon)

**CPV GULFCOAST:** It cannot be demonstrated that the Martin Unit 8 is the most cost effective alternative available, as the RFP was not conducted in a fair and impartial manner and FPL's self-build cost estimates are not based on firm numbers but are aggressive estimates.

**FACT:** It appears that the use of the equity penalty, plus other unfair evaluation methodologies results in Martin Unit 8 not being the most cost-effective alternative available.

**FIPUG:** Because the bidding process was unfairly skewed in favor of FPL's own proposal, the Commission cannot reach this conclusion at this time

**PACE:** FPL has failed to support its petition with an adequate basis on which the Commission can conclude that the 700+MW of Martin Unit 8 is the most cost-effective alternative available to meet FPL's need for 15 MW in 2005. (The 15MW figure assumes that an amount of capacity equivalent to Manatee 3 is added in 2005).

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

**ISSUE 15:** Is Florida Power & Light Company's Manatee Unit 3 the most cost-effective alternative available?

**POSITIONS**

**FPL:** Yes. FPL conducted a detailed evaluation of all its power supply options. This included a ranking



of the various available combinations of options taking into account system wide costs. Based on this analysis FPL determined that the combination of Martin Unit 8 and Manatee Unit 3 is the most cost effective portfolio to meet FPL's 2005 and 2006 resource needs by over \$83 million. FPL's analysis of its options was confirmed by the independent evaluation conducted by Sedway Consulting using its own computer model, which similarly determined that the combination of Martin Unit 8 and Manatee Unit 3 is the most cost-effective alternative available by \$135 million. (Silva, Sim, Green, Yupp, Brandt, Avera, Dewhurst, Yeager, Taylor, Stillwagon)

**CPV GULFCOAST:** No.

**FACT:** It appears that the use of the equity penalty, plus other unfair evaluation methodologies results in Martin Unit 8 not being the most cost-effective alternative available.

**FIPUG:** Because the bidding process was unfairly skewed in favor of FPL's own proposal, the Commission cannot reach this conclusion at this time.

**PACE:** FPL has failed to support its petition with a showing on which the Commission can reasonably conclude that Manatee 3 is the most cost-effective alternative available.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

**ISSUE 16:** Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition for determination of need for Martin Unit 8?

**POSITIONS**

**FPL:** Yes. The combination of Martin Unit 8 and Manatee Unit 3 is the best, most cost-effective alternative available to meet FPL's resource needs. There is not reasonably achievable DSM available to avoid the need for these units. Additionally, these units will provide adequate electricity at a reasonable cost and are necessary for FPL's system integrity and reliability in 2005 and 2006. Accordingly, the requested determinations of need should be granted. (All)

**CPV GULFCOAST:** No. The Commission should deny the petition and move to require a fair and unbiased selection process that will provide outcomes in which the Commission and the utility's rate payers can have confidence.

**FACT:** No.

**FIPUG:** No.

**PACE:** No.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

**ISSUE 17:** Based on the resolution of the foregoing issues, should the Commission grant Florida Power & Light Company's petition for determination of need for Manatee Unit 3?

**POSITIONS**

**FPL:** Yes. The combination of Martin Unit 8 and Manatee Unit 3 is the most cost-effective alternative available to meet FPL's resource needs. There is not reasonably achievable DSM available to avoid

the need for these units. Additionally, these units will provide adequate electricity at a reasonable cost and are necessary for FPL's system integrity and reliability in 2005 and 2006. Accordingly, the requested determinations of need should be granted. (All)

**CPV GULFCOAST:** No. The Commission should deny the petition and move to require a fair and unbiased selection process that will provide outcomes in which the Commission and the utility's ratepayers can have confidence.

**FACT:** No.

**FIPUG:** No.

**PACE:** No. The Commission should deny the petition and require a fair and unbiased selection process that will provide an outcome in which the Commission and the utility's ratepayers can have confidence.

**SOUTH POND:** South Pond adopts the position of PACE.

**STAFF:** No position at this time pending review of the evidence at hearing.

**ISSUE 18:** Has FACT proved up the allegations of standing set forth in its petition to intervene?

**POSITIONS**

**FPL:** No. FACT has made no effort to prove up its allegations of standing, although FPL has contested them. FACT should not be allowed to participate as an intervenor.

**FACT:** Yes.

**STAFF:** No position at this time pending review of the evidence at hearing.

X. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Brandt, Dewhurst, Green, Silva, Sim, Yeager, and Yupp	FPL	<b>Exhibit 1</b> Need Study for Electrical Power Plant 2005-2006	Detailed analysis containing (i) a description of proposed power plants, (ii) a discussion of FPL's need for the proposed power plants; (iii) and a discussion of FPL's process for determining best available options.
Rene Silva	FPL	<b>Exhibit 2</b> Need Study App. A.	Overview of FPL's interconnection with other utilities.
Rene Silva	FPL	<b>Exhibit 3</b> Need Study App. B.	Summary of FPL's current generating resources.
Steven Sim	FPL	<b>Exhibit 4</b> Need Study App. C.	Description of computer models used in FPL's integrated resource planning.
Steven Sim	FPL	<b>Exhibit 5</b> Need Study App. D.	FPL's 2001-2011 Ten Year Site Plan.
Steven Sim	FPL	<b>Exhibit 6</b> Need Study App. E.	FPL's 2002-2012 Ten Year Site Plan.
Steven Sim	FPL	<b>Exhibit 7</b> Need Study App. F.	FPL's supplemental request for proposals documents
Leonardo Green	FPL	<b>Exhibit 8</b> Need Study App. G.	FPL's forecast of net energy for load and summer and winter

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
			peak demand for the years 2001-2021, with supporting calculations.
Gerard Yupp	FPL	<b>Exhibit 9</b> Need Study App. H.	FPL's fuel cost and availability forecast,
Moray Dewhurst	FPL	<b>Exhibit 10</b> Need Study App. I.	Summary of financial and economic assumptions
Steven Sim	FPL	<b>Exhibit 11</b> Need Study App. J.	Advertisements and notices published for FPL's supplemental request for proposals.
Steven Sim	FPL	<b>Exhibit 12</b> Need Study App. K.	Final set of questions submitted by potential bidders in the supplemental request for proposals and the answers provided by FPL, as appeared on FPL's supplemental request for proposals website.
William Yeager	FPL	<b>Exhibit 13</b> Need Study App. L.	Overview of Martin Unit 8 and Manatee Unit 3.
Sim, Stillwagon	FPL	<b>Exhibit 14</b> Need Study App. M.	Transmission integration cost estimates.
Dewhurst, Sim	FPL	<b>Exhibit 15</b> Need Study App. N.	Equity penalty totals for top-ranked outside proposals.
C. Dennis Brandt	FPL	<b>Exhibit 16</b> Need Study App. O.	FPL approved DSM plan.
Steven Sim	FPL	<b>Exhibit 17</b> Need Study	(Confidential) Summary of Bid

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
Steven Sim	FPL	App. C-1 Exhibit 18 Need Study	Prices. (Confidential) Inputs and Outputs to EGEAS Runs.
Steven Sim	FPL	App. C-2 Exhibit 19 Need Study	(Confidential) Inputs and Outputs to EGEAS Runs.
Steven Sim	FPL	App. C-3 Exhibit 20 Need Study	(Confidential) Inputs and Outputs to EGEAS Runs.
Steven Sim	FPL	App. C-4 Exhibit 21 Need Study	(Confidential) Inputs and Outputs to EGEAS Runs.
Steven Sim	FPL	App. C-5 Exhibit 22 Need Study	(Confidential) Inputs and Outputs to EGEAS Runs.
Steven Sim	FPL	App. C-6 Exhibit 23 Need Study	(Confidential) Inputs and Outputs to EGEAS Runs.
Alan Taylor	FPL	AST-1	Resume of Alan Taylor.
Alan Taylor	FPL	AST-2	Sedway Consulting's Independent Evaluation Report
C. Dennis Brant	FPL	DB-1	Order No. PSC-99- 1942-FOF-EG, setting FPL's current DSM goals.
C. Dennis Brandt	FPL	DB-2	Overview of FPL's DSM goals through 2009.
C. Dennis Brandt	FPL	DB-3	Testimony of C. Dennis Brandt in Docket No. 971004-EG, Adoption of Numeric Conservation Goals.
C. Dennis Brandt	FPL	DB-4	FPL's approved DSM plan.
C. Dennis Brandt	FPL	DB-5	Order No. PSC-00- 0915-PAA-EG,

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
Donald Stillwagon	FPL	DRS-1	approving FPL's current DSM plan. Transmission integration direct costs summary for top-ranked portfolios.
Donald Stillwagon	FPL	DRS-2	Transmission integration cash flow summary for top-ranked portfolios.
Donald Stillwagon	FPL	DRS-3	Transmission integration facilities and costs for Martin Unit 8 and Manatee Unit 3.
Leonardo Green	FPL	LEG-1	Overview of FPL's mix of customer revenue classes for 2001
Leonardo Green	FPL	LEG-2	FPL's actual and projected net energy for load requirements for the years 1990-2011.
Leonardo Green	FPL	LEG-3	FPL's actual and projected summer peak requirements for the years 1990-2011.
Leonardo Green	FPL	LEG-4	FPL's actual and projected winter peak requirements for the years 1990-2011.
Leonardo Green	FPL	LEG-5	FPL's actual and projected total customers for the years 1990-2011.
Leonardo Green	FPL	LEG-6	FPL's per-customer net energy for load for the years 1990-2011.

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
Leonardo Green	FPL	LEG-7	FPL's actual and projected per-customer summer peak requirements for the years 1990-2011.
Leonardo Green	FPL	LEG-8	FPL's actual and projected per-customer winter peak requirements for the years 1990-2011.
Rene Silva	FPL	RS-1	Summary of FPL's current generating resources
Rene Silva	FPL	RS-2	Summary of FPL's planned power purchases for the years 1990-2011.
Rene Silva	FPL	RS-3	Summary of FPL's current power purchase contracts with qualifying facilities.
Rene Silva	FPL	RS-4	List of organizations submitting outside proposals
Rene Silva	FPL	RS-5	List of proposals received in response to FPL's supplemental RFP.
Rene Silva	FPL	RS-6	Overview of costs of top five combination portfolios relative to the Martin Unit 8 and Manatee Unit 3 portfolio, as presented to FPL management on June 18, 2002.
Rene Silva	FPL	RS-7	Updated version of Exhibit RS-6,



<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			adjusted to take into account certain cost factors that came to light in short list negotiations.
Rene Silva	FPL	RS-8	Graph of combined cycle unit heat rates.
Steven Sim	FPL	SRS-1	Projection of FPL's 2005 and 2006 capacity needs.
Steven Sim	FPL	SRS-2	List of organizations submitting outside proposals
Steven Sim	FPL	SRS-3	List of proposals received in response to FPL's supplemental RFP.
Steven Sim	FPL	SRS-4	EGEAS ranking of individual outside proposals.
Steven Sim	FPL	SRS-5	Summary and ranking of best outside-proposal/FPL unit combination plans.
Steven Sim	FPL	SRS-6	Summary of plans selected for transmission integration cost calculations.
Steven Sim	FPL	SRS-7	Summary of best plans, with total costs shown. (June 18, 2002).
Steven Sim	FPL	SRS-8	Summary of best plans, with total costs shown. (final).
Steven Sim	FPL	SRS-9	Summary of Best Plans with total costs

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			reflecting incremental costs of building one FPL unit only and El Paso adjustments
Steven Sim	FPL	SRS-10	Individual Rankings by Sedway Consulting and FPL of Outside Proposals with 2005 Start Date
William Avera	FPL	WEA-1	Illustration of equity penalty calculation.
William Avera	FPL	WEA-2	Resume of William Avera.
William Yeager	FPL	WLY-1	Diagram of typical combined cycle unit process.
William Yeager	FPL	WLY-2	List of FPL's combined cycle power plants.
William Yeager	FPL	WLY-3	Martin plant vicinity map.
William Yeager	FPL	WLY-4	Martin Unit 8 project boundary map.
William Yeager	FPL	WLY-5	Drawing of Martin Unit 8 power block.
William Yeager	FPL	WLY-6	Martin Unit 8 Fact sheet.
William Yeager	FPL	WLY-7	Water balance for Martin plant.
William Yeager	FPL	WLY-8	Overview of projected construction schedule for Martin Unit 8 and Manatee Unit 3.
William Yeager	FPL	WLY-9	Overview of plant construction cost components for Martin Unit 8 and Manatee

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
William Yeager	FPL	WLY-10	Unit 3. Manatee plant vicinity map.
William Yeager	FPL	WLY-11	Manatee Unit 3 project boundary map.
William Yeager	FPL	WLY-12	Drawing of Manatee Unit 3 power block.
William Yeager	FPL	WLY-13	Manatee Unit 3 Fact Sheet.
William Yeager	FPL	WLY-14	Water balance for Manatee plant.
Doug Egan	CPV GULFCOAST	DFE-1	Biography
Doug Egan	CPV GULFCOAST	DFE-2	Letter of Michael Caldwell dated February 11, 2002
Doug Egan	CPV GULFCOAST	DFE-3	Steve Sim e-mail of 1/10/02
Doug Egan	CPV GULFCOAST	DFE-4	Sam Waters e-mail of 10/31/01
Doug Egan	CPV GULFCOAST	DFE-5	Steve Sim e-mail to Daisy Iglesias of 7/18/01 and RFP evaluation
	CPV GULFCOAST		Documents listed by other parties
	CPV GULFCOAST		Documents introduced in depositions
	CPV GULFCOAST		FPL document No. 00101976
	CPV GULFCOAST		FPL document No. 00101949
	CPV GULFCOAST		FPL document No. 00101940

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<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
	CPV GULFCOAST		FPL document No. 00101917
	CPV GULFCOAST		Steve Sim email of 7/18/02 to Daisy Iglesias and two-page "draft" RFP evaluation that Ms. Iglesias prepared
	CPV GULFCOAST		FPL documents 00103506 through 00103510
	CPV GULFCOAST		FPL press releases dated April 22, 2002, June 19, 2002, and July 2, 2002
	CPV GULFCOAST		(Confidential) FPL document No. 00200773
	CPV GULFCOAST		FPL document No. 00114979
	CPV GULFCOAST		FPL documents 00201511 through 00201513
	CPV GULFCOAST		FPL documents 00201526 and 00201527
	CPV GULFCOAST		FPL documents 00117374 and 00117375
	CPV GULFCOAST		(Confidential) FPL documents 00116104 through 00116110

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
	CPV GULFCOAST		(Confidential) FPL documents 00116111 through 00116120
	CPV GULFCOAST		(Confidential) FPL documents 00116093 through 00116103
	CPV GULFCOAST		FPL document 00101365
	CPV GULFCOAST		FPL document 00101442
	CPV GULFCOAST		FPL documents 00115075 and 00115076
	CPV GULFCOAST		FPL documents 00114951 through 00114966
	CPV GULFCOAST		FPL documents 00104746 and 00104847
	CPV GULFCOAST		Power Generation Business Unit Business Plan
	CPV GULFCOAST		Letter of Mike Caldwell to Commissioner Jaber dated February 11, 2002
	CPV GULFCOAST		FPL document 00102057
	CPV GULFCOAST		FPL document 00101969
	CPV GULFCOAST		FPL press release of August 13, 2001

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<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
	CPV GULFCOAST		FPL document 00102056
	CPV GULFCOAST		FPL document 00107500
	CPV GULFCOAST		(Confidential) FPL documents 00104324 and 00104325
	CPV GULFCOAST		FPL documents 00104854 and 00104855
	CPV GULFCOAST		FPL documents 00104858 through 00104866
	CPV GULFCOAST		FPL documents 00104916 through 00104921
	CPV GULFCOAST		FPL documents 00104934 through 00104946
	CPV GULFCOAST		FPL document 00104975
	CPV GULFCOAST		FPL 00104993 through 00104996
	CPV GULFCOAST		FPL documents 00104856 and 00104857
	CPV GULFCOAST		FPL documents 00104968 and 00104969
	CPV GULFCOAST		FPL document 00104972
	CPV GULFCOAST		FPL documents 00104976 and 00104978
	CPV GULFCOAST		FPL document 00102037

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
	CPV GULFCOAST		FPL documents 00102047 and 00102048
	CPV GULFCOAST		FPL documents 00101886 through 00101897
	CPV GULFCOAST		FPL document 00102345
	CPV GULFCOAST		FPL documents 00104721 through 00104725
	CPV GULFCOAST		(Confidential) FPL documents 00105115 through 00105120
	CPV GULFCOAST		FPL document 00105038
	CPV GULFCOAST		FPL document 00105002
	CPV GULFCOAST		FPL document 00107490
Kenneth J. Slater	PACE	KJS-1	Technical Qualifications and Professional Experience
Kenneth J. Slater	PACE	KJS-2	List of Expert Testimony
Kenneth J. Slater	PACE	KJS-3	Comparison of Risks (Value of Expected Unserved Energy vs. FPL Cost and Performance Risk)
Andrew L. Maurey	FPSC	ALM-1	Electric Utility Index

<u>Witness</u>	<u>Proffered</u> <u>By</u>	<u>I.D. No.</u>	<u>Description</u>
Andrew L. Maurey	FPSC	ALM-2	S&P Risk-Adjusted Financial Targets
Andrew L. Maurey	FPSC	ALM-3	(Confidential) Capital Expenditures
Andrew L. Maurey	FPSC	ALM-4	Statistical Output Summary
Andrew L. Maurey	FPSC	ALM-5	Fuel Mix for Holding Companies
Andrew L. Maurey	FPSC	ALM-6	Capitalization Ratios
Andrew L. Maurey	FPSC	ALM-7	Percentage through Recovery Clauses
Andrew L. Maurey	FPSC	ALM-8	Staff's Interrogatories Nos. 26 & 35
Andrew L. Maurey	FPSC	ALM-9	Testimony of S.S. Waters, Docket No. 920648-EQ
Andrew L. Maurey	FPSC	ALM-10	RatingsDirect report 09/26/01
Andrew L. Maurey	FPSC	ALM-11	Ratio Guidelines
Andrew L. Maurey	FPSC	ALM-12	Standard & Poor's research summary
Andrew L. Maurey	FPSC	ALM-13	RatingsDirect report 01/22/02
Andrew L. Maurey	FPSC	ALM-14	Standard and Poor's research summary
Andrew L. Maurey	FPSC	ALM-15	Moody's report 04/16/02
Andrew L. Maurey	FPSC	ALM-16	Wall Street Journal article 12/19/01



<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Andrew L. Maurey	FPSC	ALM-17	Standard & Poor's Credit week
	FPSC		FPL Response to Staff's Second Set of Interrogatories #5, #6, #7, #35
	FPSC		Deposition of Steve Sim / Late-filed Deposition Exhibit #3
	FPSC		Deposition of Steve Sim/ Transcript pp. 6- 23
	FPSC		Deposition of Moray Dewhearst/ Late-filed Deposition Exhibit #2
	FPSC		FPL's Response to Staff's Requested Document Production, First Set, Nos. 1-8
	FPSC		FPL's Response to Staff's Requested Document Production, Second Set, Nos. 8-17
	FPSC		(Confidential) FPL's Response to Staff's Requested Document Production, Second Set, Nos. 18 & 19
	FPSC		FPL's Response to Staff's Interrogatories, First Set, Nos. 1-5

FPSC	FPL's Response to Staff's Interrogatories, Second Set, Nos. 20-22, 24-36
FPSC	(Confidential) FPL's Response to Staff's Interrogatory, Second Set, No. 23
FPSC	FPL's Response to Reliant's Interrogatory No. 15
FPSC	FPL's Response to CPV Gulfcoast's Interrogatories Nos. 88 and 89

FIPUG - None; however, FIPUG reserves the right to utilize cross-examination exhibits.

SOUTH POND - None at this time; however, South Pond may introduce exhibits, not identified herein, in its cross-examination of other witnesses in this proceeding.

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

XI. PROPOSED STIPULATIONS

None.

XII. PENDING MOTIONS

The following motions are pending at this time:

1. FACT's Motion for Protective Order to the full Commission.
2. FACT's Motion for Reconsideration to the full Commission.

3. FPL's Motion for Official Recognition.

4. PACE's Request for Oral Argument with respect to its Response to FPL's Motion to Compel and PACE's Motion for Protective Order.

5. Petition of Thomas B. Twomey and Genevieve J. Twomey to Intervene.

6. FPL's Motion for Summary Final Order removing FACT as a party.

7. PACE's Motion for Official Recognition of Order PSC-99-2507-S-EU.

XIII. PENDING CONFIDENTIALITY MATTERS

There are no requests for confidentiality pending at this time.

XIV. OTHER MATTERS

None at this time.

XV. RULINGS

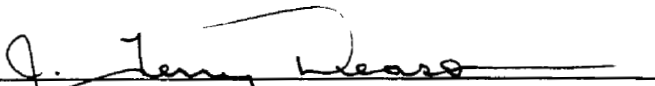
FPL's request to have an outside court reporter transcribe the hearing, for the use of FPL in preparing for the following day's hearing, is granted. Only the Commission's official reporters may maintain exhibits and produce the official transcript.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

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By ORDER of Commissioner J. Terry Deason as Prehearing  
Officer, this 27th day of September, 2002.

  
\_\_\_\_\_  
J. TERRY DEASON  
Commissioner and Prehearing Officer

( S E A L )

LDH/MB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk

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and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.