STEEL HECTOR & DAVIS

REGISTERED LIMITED LIABILITY PARTNERSHIP

ORIGINAL

Steel Hector & Davis LLP
215 South Monroe, Suite 601
Tallahassee, Florida 32301-1804
850.222.2300
850.222.8410 Fax
www.steelhector.com

Charles A. Guyton
850.222.3423

October 14, 2002

VIA HAND DELIVERY

Blanca S. Bayó, Director
Division of the Commission Clerk &
Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket Nos. 020262-EI and 020263-EI

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Power & Light Company ("FPL") are the original and fifteen (15) copies of FPL's Posthearing Statement of Issues and Brief, together with a diskette containing the electronic version of same. The enclosed diskette is HD density, the operating system is Windows 2000, and the word processing software in which the document appears is Word 2000.

If there are any questions regarding this transmittal, please contact me at 222-2300.

Very truly yours,

Charles A. Guyton

CAG:gc
Enclosure
Copy to: Counsel for All Parties of Record

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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**

FLORIDA POWER & LIGHT COMPANY'S POSTHEARING STATEMENT OF ISSUES AND BRIEF

BASIC POSITION

FPL: **The Commission should grant the requested determinations of need. Martin 8 and Manatee 3 are the most cost-effective alternative available to maintain FPL system reliability and provide adequate electricity at a reasonable cost. Without these units, FPL's customers will pay higher fuel costs and summer reserve margins would fall to 14.1% in 2005 and 11.1% in 2006. Building Martin 8 in 2005 will benefit customers by at least $18 million, not including $20 million in foregone revenue requirements.**

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?

FPL: **Yes. Without both units, FPL's summer reserve margins fall to 14.1% in 2005 and 11.1% in 2006, well short of the Commission-approved 20% reserve margin. Even with Manatee 3, Martin 8 is definitely needed to meet FPL's 2005 and 2006 need. It costs FPL's customers at least $18 million less to complete Martin 8 in 2005 than in 2006; there is no more cost-effective alternative available; and Martin 8 provides FPL flexibility to meet unforecasted customer demand. ** Tr. 292-95 (Sim); Ex. 3, 16.

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?

FPL: **Yes. FPL needs both Martin 8 and Manatee 3 to maintain FPL system reliability through 2005 and 2006. Without Martin 8 and Manatee 3, FPL's summer reserve margins will fall to 14.1% in 2005 and 11.1% in 2006, well short of the Commission-approved 20% reserve margin criterion. Mr. Slater's EUE calculation ignores the Commission-approved reserve margin criterion and is improper because it is a Peninsular Florida , not FPL, calculation that improperly includes non-firm resources unavailable to FPL. ** Tr. 128 (Silva), 292-95, 1393-94 (Sim); Ex. 3.

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?

FPL: **Yes. Martin 8 and Manatee 3 have very favorable capital and operating cost characteristics, highly efficient heat rates, high availability factors and low forced outage rates, all of which will result in electricity at a reasonable cost. FPL's estimates of costs and operating performance for both units are reasonable and are based upon FPL's demonstrated superior performance for combined cycle units. Thus, Martin 8 and Manatee 3 will provide adequate and reliable electricity to FPL's customers at a reasonable cost. ** Tr. 315-26, 332-33 (Sim), 939-44, 946-52, 960-62, 964-66 (Yeager); Ex. 3.

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?

FPL: **Yes. Martin 8 and Manatee 3 have very favorable capital and operating cost characteristics, highly efficient heat rates, high availability factors and low forced outage rates, all of which will result in electricity at a reasonable cost. FPL's estimates of costs and operating performance for both units are reasonable and are based upon FPL's demonstrated superior performance for combined cycle units. Thus, Martin 8 and Manatee 3 will provide adequate and reliable electricity to FPL's customers at a reasonable cost. ** Tr. 315-26, 332-33 (Sim), 939-44, 954-58, 960-62, 964-66 (Yeager); Ex. 3.

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?

FPL: **No. FPL is pursuing and implementing every reasonably available cost-effective DSM measure. FPL is a recognized industry leader in DSM. There is no reasonably available, cost-effective conservation measure that would allow FPL to forego either Martin 8 or Manatee 3. Using 15 MW of DSM that was not cost-effective to defer Martin 8 from 2005 to 2006 would be uneconomic to FPL's customers, unfair to bidders, and unnecessarily limit FPL's flexibility to meet unanticipated load growth. ** Tr. 551-53, 564, 569-71, 576, 580-82 (Brandt); 294-95, 341-42 (Sim); Ex. 3.

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?

FPL: **No. FPL is pursuing and implementing every reasonably available cost-effective DSM measure. FPL is a recognized industry leader in DSM. There is no reasonably available, cost-effective conservation measure that would allow FPL to forego either Martin 8 or Manatee 3. Using 15 MW of DSM that was not cost-effective to defer Martin 8 from 2005 to 2006 would be uneconomic to FPL's customers, unfair to bidders, and unnecessarily limit FPL's flexibility to meet

unanticipated load growth. ** Tr. 551-53, 564, 569-71, 576, 580-82 (Brandt); 294-95, 341-42 (Sim); Ex. 3.

FUEL AVAILABILITY

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

FPL: **Yes. FPL will have firm gas transportation and supply contracts necessary to serve Martin 8, as it has firm contracts to supply the other gas burning units on its system. It is premature to enter into such contracts until the plants are approved, but FPL is prepared to enter into such contracts when it is in the best interests of its customers. FPL will also have 4 million gallons of oil as back up fuel. ** Tr. 754, 761-63, 767-68, 771-72 (Yupp); Ex. 3.

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

FPL: **Yes. FPL will have firm gas transportation and supply contracts for Manatee 3, as it has firm contracts to supply its other gas burning units. It is premature to sign such contracts until the plant is approved, but FPL is prepared to enter into such contracts when it is in its customers' best interests. Manatee 3's close proximity to a gas pipelines which is interconnected to another pipeline will provide Manatee 3 a gas backup, making oil backup unnecessary. ** Tr. 754-55, 761-63, 767-68, 771-72 (Yupp); Ex. 3.

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.

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.** Tr. 296-98, 330 (Sim); Ex. 3.

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?

FPL: **Yes. FPL appropriately screened ineligible proposals. FPL conducted a rigorous economic evaluation employing sound analytical tools and consistent assumptions. FPL's economic analysis was independently confirmed and subject to Commission Staff monitoring. FPL's

assessment of non-price factors reinforced the conclusion that the All FPL Plan was the best option for FPL's customers. FPL negotiations with El Paso demonstrated the non-binding nature of proposals and resulted in the All FPL Plan being the most cost-effective proposal by at least $83 million. ** Tr. 298-26; 330-33 (Sim), 82-4, 93, 97-125, 129-32, 135-139 (Silva), 780-95, 797-99 (Taylor); Ex. 3, Ex. 24, AST-2.

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?

FPL: **Yes, FPL used the same reasonable assumptions in analyzing the Supplemental RFP proposals and self build options. These assumptions, load and fuel forecasts as well as financial assumptions, are uncontested. The models employed by FPL and the independent evaluator were analytically sound and well tested. EGEAS has been used by FPL and relied upon by the Commission for years. Similarly, the methodologies employed to complete the economic analyses were appropriate and reasonable. ** Tr. 302-08 (Sim), 501-12 (Green), 752-62 (Yupp), 834-54 (Dewhurst), 730, 1268-72 (Taylor); Ex. 3 App G, H, I.

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

FPL: **Yes. FPL used reasonable average annual (not new and clean) values for heat rates, availability and forced outages. FPL's availability parameters reflect FPL's demonstrated capability to achieve superlative combined cycle performance. FPL's heat rate values were well within the range of the RFP proposals and less favorable than demonstrated rates at Ft. Myers. FPL actually gave the benefit of the doubt to RFP proposers, using values provided without question, even though many such values were better than the values used for FPL. ** Tr. 756-63, 994-95, 1252-58 (Yeager)

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

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. FPL's variable O&M was modeled as budgeted, and FPL's budget included all O&M costs. Both Dr. Sim and the independent evaluator testified that FPL's variable O&M was properly modeled. ** Tr. 1273-75 (Taylor), 1378-80 (Sim)

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

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 filler units was appropriate

given the number of necessary filler units and the limited number of brownfield sites. Mr. Taylor's sensitivity analysis using a brownfield filler unit(and Gulfstream rather than FGT gas transportation) confirmed the All FPL plan to be the most cost-effective.** Tr. 311-12 (Sim), 1278-79 (Taylor), 1382-87 (Sim).

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?

FPL: **Yes. FPL modeled gas transportation costs for proposals as the bidders specified. FPL modeled gas transportation costs for the filler units assuming FGT 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 FPL plan and plans including RFP proposals. This assumption did not prejudice the bidders relative to FPL. Mr. Taylor's sensitivity showed that using Gulfstream did not change the most economic choice.** Tr. 1278-79 (Taylor), 1382-87 (Sim)

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?

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. Mr. Slater's criticism of the modeling of start-up costs was thoroughly rebutted by Dr. Sim and Mr. Taylor. ** Tr. 1270-76 (Taylor), 1377-80 (Sim).

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?

FPL: **Yes. Modeling seasonal variation of similar 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 at least $83 million less costly than the next best plan without both FPL units. ** Tr. 1273-76 (Taylor), 1377-80 (Sim).

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?

FPL: **Yes. None of the bidders comprising the portfolios in question contest FPL's decision not to short list TECO and Calpine. The decision was based on two factors: serious

concerns about Calpine and concerns about TECO's ability to sell 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 a purchase that would compromise TECO's reserve margin commitment. ** Tr. 103-08, 190-92, 273-75 (Silva); Ex. 1.

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?

FPL: **Yes. Consideration of this cost is necessary if purchased power is to be analyzed consistently with self build options. Without this adjustment, the capital structure resulting from the two options would not be the same. FPL stated in the SRFP that it would recognize this real cost. 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 equity. ** Tr. 321-22 (Sim), 589-614 (Avera), 392-93 (Taylor), 847-52 (Dewhurst), 929-49 (Avera), 1292-93 (Taylor), 1398-1400 (Sim).

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?

FPL: **Yes. FPL properly calculated and evaluated transmission interconnection and integration costs in its analysis. Interconnection costs were evaluated in the EGEAS modeling for each power supply option as provided by the bidder and FPL. 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. ** Tr. 713-48 (Stillwagon); Ex. 3, App. M.

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

FPL: **Yes. FPL's rigorous and detailed economic analysis determined that the Martin 8 / Manatee 3 plan is the most cost-effective portfolio to meet FPL's resource needs by at least $83 million. It is more cost-effective than the best all outside plan by $497 million. FPL's analysis was confirmed by the independent evaluator, who determined that the Martin 8/Manatee 3 plan is the most cost-effective alternative available by $135 million (or $423 million, relative to the best all outside plan). ** Tr. 92-93, 284-92 (Silva), 773-822, 1266-48 (Taylor); Ex. 2, RS-7; Ex. 3; Ex. 4; Ex. 12; Ex. 24; Ex. 45.

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

FPL: **Yes. FPL's rigorous and detailed economic analysis determined that the Martin 8 / Manatee 3 plan is the most cost-effective portfolio to meet FPL's resource needs by at least $83 million. It is more cost-effective than the best all outside plan by $497 million. FPL's analysis was confirmed by the independent evaluator, who determined that the Martin 8/Manatee 3 plan is the most cost-effective alternative available by $135 million (or $423 million, relative to the best all outside plan). ** *Id.*

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?

FPL: **Yes. The combination of Martin 8 and Manatee 3 is the best, most cost-effective alternative available to meet FPL's resource needs. There is no reasonably achievable cost-effective 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. ** *Id.*

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?

FPL: **Yes. The combination of Martin 8 and Manatee 3 is the best, most cost-effective alternative available to meet FPL's resource needs. There is no reasonably achievable cost-effective 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.**

POSTHEARING BRIEF

I. INTRODUCTION

FPL has clearly and unassailably demonstrated a need for 1722 MW of capacity, which in turn, triggered the need for Martin 8 and Manatee 3. The record evidence demonstrates without question that FPL needs at least an additional 1122 MW of capacity to meet its Commission-approved minimum reserve margin in 2005 and an additional 600 MW for 2006.

FPL employed a fair and rigorous process to determine the best means to meet those needs, while acting in the most cost-effective manner for its customers. It conducted what, in terms of

bidder participation, was most inclusive request for proposals ever conducted by a Florida utility. FPL received and analyzed dozens of proposals which were combined into thousands of generation expansion plans. Using its longstanding and well-proven EGEAS model, FPL compared these various combinations against each other to determine the most cost-effective plan.[1]

In conducting this evaluation FPL was focused on the costs to its customers. In the case of self-built and turnkey options, this included the cost of financing with a mixture of debt and equity at FPL's target 55/45 equity ratio. In the case of purchase power options, this included the cost of rebalancing FPL's capital structure to maintain this ratio and offset the imputed debt effects that undeniably occur from such contracts.

FPL's analysis was inherently favorable to outside proposals in that it did not consider certain economic issues that would have properly advantaged self-building, such as the residual value of the self-built units and foregone revenue requirements due to those units coming on-line while FPL has a revenue sharing agreement in effect. Even without considering these issues, the results showed clearly that the combination of Martin 8 and Manatee 3 (the "All FPL Plan") is, by far, the most cost-effective option. FPL's analysis reveled that the All FPL Plan was at least $83 million more cost-effective than the next-best option that did not include both FPL units. And, as compared to the best option using solely outside resources, the All FPL Plan was $497 million less expensive.

FPL's analysis was confirmed by the independent evaluation conducted by Sedway consulting. Sedway determined that the All FPL Plan was $135 million more cost-effective than the next-best option not including both FPL units, and $423 million better than any plan with neither

[1] Prior to conducting its evaluation FPL found that certain bidders were disqualified due either to (i) distressed financial condition coupled with pending allegations of financial misconduct, (ii) failure to provide adequate completion security as partial protection of FPL against from the risk of non-performance, or failure to perform under existing purchase power contract obligations.

unit. Although the economic decision was clear, FPL's choice was also reinforced by FPL's assessment of non-price factors.

The record evidence also demonstrates adverse consequences to FPL's customers from any delay in approval of Martin 8 and Manatee 3. First and foremost, FPL would fall short of its reserve margin criteria in 2005 and 2006 were Martin 8 and Manatee 3 not timely approved. Additionally, FPL's customers would lose the flexibility of having a fully permitted unit whose construction can be deferred if needs change, but is ready to be built if the need persists or demand increases. And, the timely addition of Martin 8 and Manatee 3 in 2005 will result in savings to FPL customers, as compared to a delay. A one year delay in the smaller unit could result in a lost savings to FPL customers of over $18 million NPV -- which does not even take into account the fact that FPL will not be able to seek cost-recovery for the units until nearly seven months after the projected in-service date, adding further savings of over $20 million NPV. Finally, the reliability and environmental benefits of the plant would be sacrificed during the period of any delay.

II. FPL HAS A DEMONSTRATED NEED FOR AT LEAST 1722 MW OF NEW CAPACITY FOR 2005/2006 AND THERE ARE NO REASONABLY AVAILABLE, COST-EFFECTIVE CONSERVATION MEASURES.

A. FPL has a demonstrated need for at least 1722 MW of new capacity.

In its 2000 and 2001 integrated resource planning (IRP) processes FPL identified the capacity need that led to this proceeding. As confirmed by its load forecast, FPL identified a need for an additional 1122 MW of capacity to achieve a 20% minimum reserve margin in the 2005 summer peak and an additional 600 MW to achieve this in 2006. Tr. 90 (Silva), 293 (Sim); Ex. 3 at 45, 49, 53. These capacity figures represent a conservative estimate of what is required to maintain reserve margin requirements in 2005 and 2006. Tr. 505-09, 522-23 (Green).

The load forecast underlying FPL's growth projections is based on the conservative application of data and forecasts from highly reputable sources. Tr. 503-05, 509, 522-23 (Green). For example, FPL utilized as inputs to its model weather information from the National Oceanographic and Atmosphere Administration (NOAA), economic information from recognized sources such as Standard & Poor's and Data Resources Incorporated/Wharton Economic Associates (DRI), population projections from the University of Florida's Bureau of Economic and Business Resources and pricing information from the Commission's approved base rates and adjustment clauses. Tr. 503-04; 511-12 (Green). Additionally, the growth rate in load forecast by FPL was below FPL's historic growth rate in peak demand. Tr. 508-09 (Green); Ex. 3 at 56-61.

B. There are no reasonably available, cost-effective conservation measures that would avoid or defer this need.

Prior to deciding to acquire new capacity resources, FPL determined that there were no cost-effective demand side measures (DSM) available to eliminate or mitigate this need. Tr. 293-95 (Sim); 569 (Brandt); Ex. 3 at 5. FPL, a national leader in DSM, is presently operating under Commission approved conservation goals. Tr. 553, 560, 569 (Brandt); Ex. 3 at 12, 97-99. Full performance under these goals was assumed in FPL's IRP process. Tr. 568 (Brandt); Ex. 3 at 12.

As part of that process a comprehensive determination was made as to the reasonably cost-effective level of conservation and load management available to FPL. Tr. 554-57, 569 (Brandt); Ex. This was factored into FPL's determination of its needs. Tr. 569-70 (Brandt); Ex. 3 at 5. Additionally, FPL took into account its ongoing efforts to identify new conservation measures that can mitigate the need for new generation. Tr. 564 (Brandt); Ex. 3 at 97-101. The analyses of potentially achievable demand side management revealed no cost-effective means to eliminate the need for the 1722 MW of new capacity at issue in this proceeding. Tr. 569 (Brandt); 293-95 (Sim); Ex. 3 at 11-13, 97-101. Nor is there any cost-effective DSM that could be used to defer Martin 8, as

there would be no cost savings from such a deferral to offset the cost of a new DSM program. Tr. 580-81 (Brandt).

III. MARTIN UNIT 8 AND MANATEE 3 ARE THE MOST COST-EFFECTIVE ALTERNATIVES AVAILABLE TO FPL AND ITS CUSTOMERS FOR FPL's 2005 AND 2006 NEEDS.

A. FPL's supplemental RFP was the most inclusive utility solicitation in Florida history.

Once FPL determined that it would need to add generating capacity to provide an additional 1722 MW in 2005 and 2006, it embarked on a competitive bidding process to identify the most cost-effective means to fill that need. Tr. 293-96 (Sim); Ex. 3 at 53-56, 65-68. FPL published its initial Request for Proposals (RFP) in August 2001, and received 81 proposals in response. Tr. 1345 (Sim); Ex. 3 at 54. The evaluation of those proposals revealed that the All FPL Plan was the most cost-effective means to meet the needs of FPL's customers. Tr. 92 (Silva); Ex. 3 at 54.

However, certain bidders raised technical questions and concerns regarding the RFP. Rather than spend time refuting the legitimacy of those, FPL instead chose to issue a supplemental request for proposals (Supplemental RFP) designed to deal with the various issues raised. Tr. 296-301 (Sim). The Supplemental RFP made numerous technical revisions to both the bidding process and the proposed terms in the RFP document.[2] In addition, FPL revised the Supplemental RFP forms to facilitate receipt of more complete cost and performance data for the various operational modes of bidders' proposed units. Tr. 296-98 (Sim); Ex. 3 at 66. And, FPL set out in detail its cost and performance estimates for Martin 8 and Manatee 3 to give bidders a firm target to beat. *Id.* The

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[2] As explained by Dr. Sim, these changes included allowing natural gas tolling arrangements, reducing the amount of time proposals had to be held open from 390 to 120 days, revising the provisions regarding reduction of contractual commitments in the event that cost recovery were disallowed, and removing provisions allowing termination in the event of legislative restructuring of the electric market. Tr. 298 (Sim); Ex. 3 at 67.

terms of FPL's RFP were thus fair and commercially reasonable, specifically addressed various issues raised by bidders, and provided the bidders ample information regarding the bid evaluation.[3]

Although it admits to having no economically competitive proposal, CPV has raised numerous arguments regarding the fairness of the terms of the Supplemental RFP.[4] Tr. 1052-53 (Finnerty). None has any merit. CPV's sole witness, Mr. Finnerty, criticized FPL for requiring bidders to state exceptions and suggested FPL failed to state how exceptions would be evaluated. Tr. 1031-32. However, on cross examination, he conceded that allowing exceptions to a RFP is a common practice that does not make the RFP unfair and it instead facilitates negotiations. Tr. 1069. And Dr. Sim testified in rebuttal that the Supplemental RFP clearly stated how exceptions would be treated.[5] Mr. Finnerty also criticized the inclusion of a "legislative out" clause in the initial RFP and a limited "regulatory out" clause in the Supplemental RFP (Tr. 1032), but on cross he was forced to admit that FPL had removed the legislative out clause in the Supplemental RFP and substantially lessened the impact of the regulatory out clause, both at the request of bidders.[6] Tr. 1070.

Perhaps the most telling evidence that the terms of the capacity solicitations were fair is the overwhelming number of responses to both solicitations. Tr. 1345-46 (Sim). FPL received 81 proposals in response to its original RFP. Tr. 1345 (Sim). Sixteen bidders submitted 53 proposals in

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[3] Additionally, bidders had additional insight into FPL's evaluation process and self-build costs in FPL's original need filing in these proceedings, which included a detailed need study setting forth the particulars of FPL's evaluation processes, along with the various model runs produced. Similar information regarding Sedway's evaluation process was provided in the independent evaluator's report included in the original need filing.

[4] It is indeed telling that the only criticism of FPL having been unfair in drafting the RFP form comes from the bidder that ranked dead last in the economics of its proposals. Tr. 1052 (Finnerty).

[5] Dr. Sim also testified that more elaboration about how exceptions would be treated was not possible without knowing the number and scope of exceptions. Tr. 1347-49.

[6] Mr. Finnerty also recanted his prior suggestion that the regulatory out provision would make the project unfinanceable and admitted that no potential investor had told CPV that the regulatory out clause would make its project unfinanceable. Tr. 1024, 1071.

response to the Supplemental RFP. Ex. 3 at 55. In terms of bidder participation, this was the most inclusive and successful utility solicitation in Florida. Tr. 136 (Silva) No other Florida utility's solicitation has received more than four proposals from two bidders. The overwhelming responses to the number of responses to the Supplemental RFP and the relatively few number of exceptions posed by bidders convincingly demonstrate that the bidders -- who were investing $10,000 per proposal -- felt that the terms were fair and commercially reasonable. Tr. 1345-46 (Sim).

B. FPL's analysis of the resulting proposal was rigorous, analytically sound and fair, and confirmed that the combination of Martin 8 and Manatee 3 is the most cost-effective alternative.

(i) FPL conducted a rigorous analysis.

After certain issues were resolved regarding the proposals and certain bidders were eliminated as ineligible, FPL was left with 31 proposals from 13 entities for evaluation, along with Martin 8 and Manatee 3. Tr. 302-03 (Sim). These were then evaluated to determine the best plan for meeting the needs of FPL's customers.

FPL evaluated the various proposals received in response to the Supplemental RFP using the EGEAS model (Tr. 302-03, 331; Ex. 3 at 73, App. C), FPL's longstanding optimization tool. Planning results from EGEAS have been accepted by this Commission in numerous proceedings over the last decade. As confirmed by Mr. Taylor, optimization with EGEAS or an equivalent model is the best method to evaluate a set of capacity expansion options. Tr. 1332-34.

Unlike a detailed production cost model, an optimization model such as EGEAS is specifically designed to compare numerous generating options and determine the best expansion plan by combining the options as needed to meet a given load requirement. However, although the model is designed to look at various options simultaneously, there are limitations on the number of options

that can be included in any one model run.[7] FPL therefore used a ranking of proposals to develop several tiers based on cost effectiveness. Tr. 303-07 (Sim). It then used a series of runs to allow each proposal a fair opportunity to compete against the proposals in the first tier and the other proposals.

FPL began this process by individually ranking the proposals according to cost. Tr. 303 (Sim); Ex. 3 at 70. Separate rankings were made for proposals with 2005 start dates and those with 2006 start dates. *Id.* Based on these rankings, proposals were separated into two tiers. *Id.* The evaluation focused primarily on proposals in the higher (i.e. the low-cost) tier, but allowed all others to repeatedly challenge the best plan compiled from the Tier 1 options. In this way all proposals were given a fair opportunity to be evaluated for inclusion in the chosen plan.

In several weeks of exhaustive work, FPL conducted hundreds of model runs that evaluated thousands of possible combinations of expansion options. In addition to the All FPL Plan there were four types of plans considered, (a) all outside plans, (b) plans that included Martin 8 and one or more outside proposals, (c) plans that included Manatee 3 and one or more outside proposals, and (d) plans that included both Martin 8 and Manatee 3, but separated the units by one year and made up the resulting shortfall in 2005 with an outside proposal. All four types of plans and the All FPL Plan competed against one another in the EGEAS evaluation.

The EGEAS modeling identified the best comprehensive expansion plans. At that point FPL took every option that was within $100 million of the top-ranked plan and factored in certain costs that were not considered by EGEAS: *i.e.*, transmission integration cost and equity penalty calculations. It became clear that the combination of Martin 8 and Manatee 3 was at least $83

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[7] EGEAS has a direct limitation on the number of proposals that can be looked at simultaneously. Additionally, the number of proposals reviewed has a dramatic effect on the models runtime. FPL determined that the practical limitation on the number of option slots in any one model run was 20. Tr. 309-10 (Sim).

million more cost-effective than the next-best expansion plan.[8] Moreover, it was far more cost-effective (by $497 million) than the best all outside plan. As discussed below, this conclusion was confirmed by Sedway Consulting, whose independent evaluation concluded that the All FPL Plan was at least $135 million more cost-effective than the next best plan that did not include both FPL units and $423 million less costly than the best all outside plan. Tr. 796 (Taylor); Ex. 24, AST-2.

(ii) FPL did not have a predetermined preference for its self-build options.

In his direct testimony, Mr. Silva testified that FPL was not predisposed to self build rather than buy power. Tr. 145-46 He testified that in the past FPL has (a) issued a capacity solicitation before the Bid Rule required it, and purchased an ownership interest in Scherer 4 as a result, (b) contracted with an independent power producer (IPP), Cypress Energy Partners, and acted as its co-applicant for a determination of need, and (c) recently made significant short-term purchases from IPPs for the period 2002-2007. *Id.* In his rebuttal testimony, Dr. Sim testified that he never received or gave instructions that the RFP or the evaluation be structured to give FPL an advantage. Tr. 1355. Mr. Taylor, the independent evaluator, also testified that the Supplemental RFP and evaluation process were fair and that he was never instructed to bias the analysis in any fashion. Tr. 1313.

Despite this unequivocal testimony from the three witnesses who were primarily responsible for the Supplemental RFP or its evaluation, Mr. Finnerty made the baseless assertion that he believed "FPL reached a conclusion that it would self-build its 'needed' capacity before the Initial RFP was ever released." Tr. 1028. This conclusion was based on little more than Mr. Finnerty's assessment of "FPL's view of its own interests." Tr. 1029. In cross examination, it was clearly established that Mr.

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[8] Calculation of the residual value of the self-built units, which confers significant economic benefits to customers, was not included in this total. Tr. 203 (Silva). Mr. Taylor quantified this benefit at $76 million CPVRR for both units. Ex. 24, AST 2 at 17. Similarly, the foregone revenue requirements of bringing these units online seven months before the expiration of FPL's revenue

Finnerty had no personal knowledge, experience or expertise that would qualify him to testify as to FPL's mental state or FPL's view of its interests. Tr. 1059-1060. Thus, the only "evidence" he could offer to support his wild speculation are four documents attached to his testimony, Exhibits DFE-2 through DFE-5. As was pointed out in cross examination and rebuttal, none of these documents proves any FPL predisposition:

- Exhibit DFE-2 was a letter that Mr. Finnerty neither drafted nor received. Ex. 32, DFE-2. It was written by a disgruntled former FPL employee who had not worked for FPL for nearly a decade, and never held any managerial or policy making position. Tr. 1352-55 (Sim). CPV performed no due diligence regarding this letter or its author before attaching it to testimony and mischaracterizing the author as an "FPL insider." Tr. 1072-73 (Finnerty). The letter is rampant uncorroborated hearsay, and it should be disregarded in its entirety.

- Exhibit DFE-3 contains no mention of FPL's self-build options, much less any mention of an FPL predisposition to select such an option. Ex. 32, DFE-3; Tr. 1063 (Finnerty). Dr. Sim further explained how Mr. Finnerty misconstrued this exhibit. Tr. 1357-58.

- Exhibit DFE-4 actually refutes Mr. Finnerty's proposition that FPL was predisposed to choose its self build options before it issued its Initial RFP. Tr. 1360-61 (Sim). This document was written by Sam Waters several months after the Initial RFP was issued. Ex. 32, DFE-4; Tr. 1370. Mr. Waters was responsible for the Initial RFP, and in this document he is asking his management whether they want to build or buy or both. *Id.* If FPL supposedly made up its mind several months earlier that it was predisposed to self build, why was Mr. Waters asking for guidance from his management as to their preference? Rather than supporting Mr. Finnerty's predisposition observation, this document refutes it.[9] Tr. 1370-71.

- Finally, Exhibit DFE-5 was offered by Mr. Finnerty to support his argument that FPL was predisposed to select self build options. This is the only document he identified that actually predated the Initial RFP. However, it is clear from cross examination and

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sharing agreement was not recognized. Therefore the $83 million figure is far lower than the true cost differential between the options.

[9] It is noteworthy that CPV took Mr. Waters' deposition and scheduled Mr. Waters as an adverse witness to testify at the hearing, presumably on the premise that Mr. Waters would support CPV's predisposition theory. However, CPV's counsel elected not to call Mr. Waters and then opposed receiving Mr. Waters' deposition in the record. This conduct speaks volumes about CPV's position. CPV obviously was much happier relying upon conjecture and rhetoric than facts.

rebuttal testimony that Mr. Finnerty very selectively quoted parts of the document ignoring statements that clearly show FPL's only motivation was to "determine the least cost combination of proposals" and to "determine the best overall combination of proposals." Ex. 32, DFE-5; Tr. 1064-69, 1361-67. Moreover, this document was a draft that was never used in the evaluation (Tr. 1362-63), but that did not stop Mr. Finnerty from attempting to use and to mischaracterize it (Tr. 1362-67).

The credible evidence is unequivocal. FPL has no predisposition to buy or build. Its only predisposition is to select the alternative that is best for its customers. Ex. 1. That determination cannot be made without a rigorous analysis. The results of that analysis, which have been independently confirmed, are that the All FPL Plan is the best, lowest cost alternative available to meet FPL's customers needs in 2005 and 2006.

(iii) The various modeling issues raised by the interveners are de minimis considerations that would have added little to the evaluation, at the pointless expense of considerable time and resources.

PACE's witness Mr. Slater raised a number of issues regarding the minutiae of modeling: *i.e.*, modeling startup costs and the number of starts for each unit, modeling seasonal variation and modeling different heat rates for operation at less than full capacity. He also raised issues regarding FPL's allocation between fixed and variable O&M costs as it relates to the modeling. Mr. Slater could not claim, however, that these modeling issues were significant, in the sense that they would change the result. Indeed, the record evidence shows quite the contrary.

On the issue of modeling startup costs, Mr. Taylor and Dr. Sim clarified that this is too small of a cost issue to have affected the results. Tr. 1273-76 (Taylor), 1377-80 (Sim). A uniform assumption of six starts per year was applied to all proposals. As Mr. Taylor and Dr. Sim explained, those outside proposals with variable costs higher than the All FPL Plan would in all likelihood have been dispatched less and therefore started more often than the All FPL Plan. In other words, such proposals would have been *disadvantaged* by moving away from a uniform assumption regarding the number of starts. Conversely, the uniform assumption, if anything, disadvantaged the All FPL Plan

relative to the vast majority of the bids. Even then, however, the total costs associated with a few more starts could not be enough to have affected the results. Tr. 1271-72 (Taylor); 1777-78 (Sim).

Similarly, with respect to seasonal variation, there was no claim that this factor could meaningfully differentiate between combined cycle units. All Mr. Slater indicated was that the units would vary in operation between summer and winter. Tr. 1185. However, there is no record evidence that units in central or southern Florida would differ *relative to one another* with respect to seasonal impacts. In other words, the seasonal variation would have affected *all* units more or less equally, adding no value to the effort to differentiate among them. Tr. 1377-80 (Sim), 1273-76 (Taylor).

The same holds true for Mr. Slater's last-minute claim that the modeling should have "segmented" different operating capacities.[10] As Mr. Taylor pointed out at the hearing, such modeling is inappropriate when optimizing expansion options over the long term. Tr. 1296-97 (Taylor). This is particularly true for large utility systems such as FPL's, which have a large number and mix of generating units coming on line. *Id.* And again, there is nothing to indicate that this would be an issue that would differentiate meaningfully among combined cycle units.

Moreover, any additional precision gained by the added complexity suggested by Mr. Slater would be offset by the lowered likelihood of the necessary detailed assumptions holding true over a long period, and would be ungainly given the large number of options to be considered in the Supplemental RFP. Tr. 1269-72, 1296-97, 1332-34 . As explained by Mr. Taylor, the type of detailed production cost modeling advocated by Mr. Slater is typically used for making utility decisions with a short planning horizon, such as in budgeting or rate case work with a time horizon of 12 to 24 months. Tr. 1296-97. The use of a more detailed production cost model, rather than an

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[10] This was an issue raised for the first time in redirect examination by Mr. Slater. It had previously been mentioned in a deposition conducted the day before the final hearing convened, but is nowhere to be found in Mr. Slater's prefiled testimony.

optimization model like EGEAS, gives a "false precision. . . It is not a more correct answer, it actually may be more precisely wrong." Tr. 1328 (Taylor). An optimization evaluation of numerous supply alternatives is very different. There a number of capacity options have to be grouped and optimized into expansion plans that are compared over a planning horizon of 25 years. Tr. 1332-34 (Taylor). This is precisely the purpose for which an optimization model such as EGEAS is designed. [11] Tr.1332-34 (Taylor).

(iv) The uniform filler unit assumptions employed by FPL were fair to all bidders and in fact benefited outside proposals at the expense of the All FPL Plan.

In its evaluation, FPL employed a common "filler" unit to round out the evaluations over the 25-year planning horizon. Tr. 311-12 (Sim), 787-89 (Taylor). In this manner all expansion plans were compared against a common backdrop, with the same assumption as to the characteristics of new units that would come on line in the future. *Id.* This filler unit was based on new greenfield site with the very favorable performance characteristics of Manatee 3. Tr. 392-95 (Sim).

The use of a uniform filler assumption placed all expansion plans on an even playing field and was completely appropriate. Tr. 487-88, 1382-84 (Sim), 788-89 (Taylor). Mr. Slater argues that FPL should have assumed an even lower-cost brownfield filler. However, FPL would have only so

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[11] Both an optimization model and a detailed production cost model analyze production costs. The primary difference is that the latter includes certain additional details but is not in any way designed to optimize among various choices. This level of additional detail makes sense for near-term planning efforts, when greater detail is key and the assumptions that go along with that greater detail are reasonably accurate for the period of evaluation. Tr. 1329-34 (Taylor). However, over the long-term the additional items considered will add little if anything to the analysis. Many of the items added in the name of precision will affect similar units in much the same way. Tr. 1269-72 (Taylor). Thus, while things like start up costs and seasonal variation are relevant to determine total system costs over the short term, a greater level of precision in these items does little to differentiate between options over the long-term. *Id.* This is particularly true when the capacity options at issue all used the same fuel, employed the same generating technology, and were located in areas with few climactic differences among them. Tr. 1269-72, 1329-34.

many brownfield sites available, and therefore assuming that all future expansion needs can be met with existing sites is unrealistic. Tr. 1383-84 (Sim).

More fundamentally, there is no indication that changing the assumption would have affected the result. Indeed, Mr. Slater admitted to having conducted no alternative evaluation or sensitivity analyses to determine the impact of the changed filler assumption. Tr. 1212-13. However, Mr. Taylor did conduct the very alternative analysis that Mr. Slater suggests. Tr. 1384-86 (Sim), 1278 (Taylor). Mr. Taylor found that there was little impact from the change in filler unit. Tr. 1278 (Taylor), 1384-86 (Sim). Again this is an issue that affects all units similarly, so the relative impact used in differentiating among expansion options is not significant. Tr. 1278 (Taylor).

(v) FPL properly modeled variable O&M costs.

In their evaluations, both FPL and Sedway consulting modeled variable O&M costs exactly as they were provided by the bidders and by FPL's PGD business unit. Tr. 1379-80 (Sim), 1274 (Taylor). Despite FPL's use of this consistent approach to modeling variable O&M costs, Mr. Slater argued that FPL had modeled its variable O&M costs in a fashion that somehow favored the FPL units. Both Mr. Taylor and Dr. Sim thoroughly rebutted that assertion. Mr. Taylor's pointed out that: (1) variable O&M was modeled for FPL and RFP proposals exactly the same way - as they were proposed, and (2) the cost structure for recouping variable O&M is up to the power provider, and FPL clearly published in its Supplemental RFP its variable O&M costs, and bidders were free to adopt whatever pricing structure they chose. Tr. 1274. Dr. Sim went on to note that: (1) FPL modeled variable O&M costs as they were provided; (2) there is no single correct way to divide O&M costs into fixed and variable categories -- what is important is that total O&M is properly captured, and FPL's total O&M costs were included in the analysis; and (3) there was a wide range

of O&M costs bid, furthering evidencing that there is no one correct way to allocate O&M. Tr. 484-85, 1379-80; Ex 3.

It would have been totally inappropriate if FPL had adjusted either a bidder's or PGD's variable O&M data. Certainly, FPL would have been severely criticized by the bidders for such conduct. Yet, Mr. Slater suggests just that: in his view FPL should have adjusted its information and used something different than what was published in the Supplemental RFP. Such a double standard cannot be defended. Bidders were fully apprised of how FPL split its O&M between variable and fixed, and several bidders chose to spilt their O&M costs similarly to FPL. The only fair way to model variable O&M was as it was supplied and as it was published in the Supplemental RFP.

C. In conducting its analysis FPL properly considered the equity penalty costs associated with outside proposals.

(i) The equity penalty adjustment reflects a real cost that must be considered for a meaningful economic evaluation.

To assess properly the costs of expansion plans containing purchase power contracts, it is necessary to include the cost of additional equity required to rebalance FPL's capital structure to account for the imputed-debt impact of such contracts. Tr. 1390 (Sim), 1240 (Taylor), 1231 (Avera). To do otherwise would ignore the undisputed impact of purchased power on a utility's balance sheet (Tr. 1231-32, 1250), resulting in an skewed comparison of the relative costs of the self-build and purchased power options by failing to hold the utility's capital structure neutral (Tr. 1245, 1249-50), and would be tantamount to a purchased power subsidy. (Tr. 1238).

Application of the equity penalty adjustment was one of the most contentious issues at the hearing. Importantly, however, not one witness could deny the central facts underpinning the adjustment: that rating agencies treat purchase power obligations as off-balance sheet debt and that

this debt equivalent is included in the financial ratios used to determine credit quality.[12] Tr. 1201-02 (Slater), 1140 (Maurey). It is also undeniable that unless some offsetting action is taken, a utility's financial position will erode as a result of the imputed-debt effects from a purchase power contract. Tr. 593-606 (Avera), 1201-02 (Slater). In fact, Mr. Maurey's deposition made clear that there is no controversy regarding these underlying points:

> Q: You would agree, would you not, that the incremental debt imputed by rating agencies for purchased-power obligations increases financial risk to the utility, all other things being equal?
>
> A: Yes.
>
> Q: And would you agree that rebalancing one's capital structure to its targeted equity ratio is a conventional and financially accepted means of returning the company to its prior financial position?
>
> A: Yes.

Ex. 41 at 48. It is equally well accepted that rebalancing a utility's capital structure to include additional equity so as to offset these effects imposes direct costs on the utility.[13] *Id.* at 28. An equity penalty adjustment is thus necessary to properly compare self build and purchased power options.[14]

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[12] Additionally, no party contested FPL's calculation methodology or the underlying assumptions to the calculation. Indeed, Mr. Maurey had no quarrel with the calculation and testified that the underlying assumptions were reasonable. Tr. 1117 (Maurey), 1232 (Avera).

[13] Faced with this financial reality, FPL quantified the costs that will be incurred. It employed Standard & Poor's accepted methodology for imputing debt to a utility's balance sheet from purchase power obligations. (This same methodology was accepted by the Commission in the Hines 2 determination of need, Docket No. 00-1064). FPL then took this imputed debt amount and determined how much additional equity the company would need to maintain its pre-existing adjusted debt to equity ratio.

[14] While the equity penalty adjustment should be an integral part of any evaluation process where both purchased power and self-built or turnkey options are considered, in this case it would not affect the final result, as there is no combination plan available that is more cost-effective than the All FPL Plan, even before considering the equity penalty adjustment. Tr. 394 (Sim), 153 (Silva).

In assessing the cost of purchased power, the utility must compute the cost of maintaining its target adjusted capital structure by adding equity to offset the debt imputed from purchased power obligations. Tr. 595-94 (Avera). The cost of this additional equity (less the cost of the retired debt) must be added to the costs of purchased power proposals to fully assess the total cost of these options and facilitate a meaningful comparison between options on a total cost basis. Tr. 605-06 (Avera), 847-49 (Dewhurst). In this way, the impact of purchased power on the utility's capital structure is held neutral relative to the capital structure assumed in assessing the costs of the self-build options.

(ii) FPL's use of an equity penalty adjustment is consistent with prior Commission decisions on the subject.

FPL's use of an equity penalty adjustment is consistent with prior Commission pronouncements. Indeed, Rule 25-22.081(7), Florida Administrative Code, specifically requires utilities to address the cost impact of purchases on their capital structure. The equity penalty adjustment is simply the measure of that impact. In past decisions, the Commission has recognized this fact and acknowledged the propriety of an adjustment to offset such capital structure impacts:

- The Commission recognized the underlying concepts 11 years ago in Docket No. 910759-EI, where it concluded that "[c]redit rating agencies recognize that, without compensating factors, increased reliance on purchased power obligations may lower coverage ratios." *See* Order No. 25805. The Commission went on to correctly note that the primary way to offset this is for the utility to increase its equity.[15] *Id.*

- More recently in Docket 990249-EG, which involved FPL's Standard Offer Contract, this Commission found it "appropriate to include an equity adjustment when

[15] Mr. Maurey's fundamental misapprehension of the reason for applying an equity penalty in this case led him to misapply Order 25805. Tr. 1094-96 (Maurey). In that case, Florida Power Corporation ("FPC") argued that it should not entertain bids at all because additional purchased power would result in a downgrade of its credit ratings. Ex. 41 at 67-68. Contrary to Mr. Maurey's perception, this is not the reason the Company included the equity penalty adjustment. Tr. 1239 (Avera). In Order No 25805, the Commission recognized the principles underlying the equity penalty but was unable to conclude that FPC's debt rating would be downgraded as a result of taking on additional purchased power. FPL has not argued in this case that an equity penalty is appropriate because entering into a purchased power contract would lead to a downgrade. The cost to customers arises regardless of whether there is a downgrade.

determining FPL's proposed standard offer contract payments." [16] Order No. 99-1713-TRF-EG, at 7.

- Finally just last year in the determination of need proceeding for Florida Power Corporation's Hines 2 Plant, the Commission again recognized that "imputed debt is an actual consideration by bond rating agencies," and accordingly recognized the use of an equity penalty adjustment in the evaluation of power supply options. [17] *See* Order No. PSC-01-0029-FOF-EI.

These and other decisions reflect the Commission's past recognition of the economic and financial realities underlying the equity penalty adjustment and its concurrence with that adjustment. Indeed, the key consideration -- the impact to the utility's financial structure -- is expressly contemplated as a consideration in determinations of need by Rule 25-22.081(7), Fla. Admin. Code. The Commission should not now be tempted by the invitation to ignore its rules and past decisions, not to mention the financial reality underlying the equity penalty adjustment.

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[16] Mr. Maurey attempts to distinguish the application of an equity penalty adjustment in that docket by arguing that the adjustment was appropriately applied by FPL in its standard offer contract to "reduce the price FPL paid for power" rather than "increasing the cost of non-FPL proposals." Tr. 1099. Mr. Maurey further states that this was the right thing to do given that the Company had just entered into the 1999 stipulation that capped its equity ratio on an adjusted basis at 55.83%. Ex. 41 at 76. These attempts at distinction are unavailing. The Commission recently approved a new stipulation that extends forward from the 1999 stipulation this same adjusted equity ratio. Moreover, as Mr. Maurey has conceded, if the equity penalty adjustment were applied potential suppliers would have to be more cost competitive in their bids, thus lowering the price for power that FPL would pay to such bidders. Ex. 41 at 75.

[17] Mr. Maurey attempts to distinguish this decision on the premise that the equity penalty adjustment, while recognized, did not make a difference in the economics of the evaluation. Yet his reasoning fails to explain why the Commission found it necessary to make findings regarding the propriety of the equity penalty adjustment -- in particular that "FPC's consideration of imputed debt in this need determination is appropriate." Order No. PSC 01-0029-FOF-EI. Further, by Mr. Maurey's logic, the Commission similarly should recognize the equity penalty adjustment in this case given that it would not affect the final result, as there is no combination plan available that is more cost-effective than the All FPL Plan, even before considering the equity penalty adjustment. Tr. 394 (Sim), 153 (Silva).

(iii) The various arguments raised by Staff and the interveners in support of the assertion that these costs should be ignored are unavailing.

Staff and the interveners suggest that the Commission should throw financial reality to the winds and turn a blind eye to the undisputed impacts of purchased power to a utility's financial structure. Tellingly, however, none of the arguments raised disputes the fact that capital markets impute debt equivalent to utilities with purchased power agreements -- they merely urged the Commission, for various reasons, to ignore this reality in this instance.

Indeed, both witnesses that opposed the equity penalty conceded the truth of the underlying rationale -- that rating agencies will impute debt to the utility from the fixed payment obligations of a purchased power agreement when calculating its adjusted capital structure. Tr. 1139 (Maurey), 1202 (Slater). And Staff witness Mr. Maurey agreed that there are circumstances when, in his view, the Commission should recognize an equity penalty. Ex. 41 at 38. Nevertheless, the Commission was told it should ignore these effects because (1) there are other risks that affect FPL's bond ratings which were not taken into account in the RFP evaluation, (2) the amount of FPL's existing purchased power obligations are scheduled to diminish, (3) FPL has "headroom" to absorb the additional financial risk associated with purchased power without an immediate downgrade due to its high equity ratio; and (4) there are certain unquantified "benefits" of purchased power. Each of these arguments misses the mark.

First, while Mr. Maurey is certainly correct that FPL's bond ratings take many factors in account, only one such factor would be affected by choosing a purchase power option: the amount of off-balance sheet liability imputed as debt. Tr. 1237-40 (Avera). As Mr. Maurey conceded in cross, such factors exist irrespective of whether FPL builds or buys. Tr. 1146. There can be no dispute that if FPL adds additional purchased power agreements as a result of this solicitation, investors and bond

rating agencies will impute more debt, which in turn will require FPL to add more equity resulting in higher costs for its customers. Tr. 1139-40 (Maurey), 1202 (Slater).

As Mr. Maurey noted, FPL maintains an actual equity level of 63 percent in order to attain an adjusted equity of 55 percent after the $1.2 billion of imputed debt is taken into account. Tr. 1092, 1127(Maurey). The difference between FPL's actual and adjusted equity ratio is the result of the large off-balance sheet liability. Tr. 593-94 (Avera). FPL's actual equity ratio thus reflects the effect of imputed debt and is evidence of the real cost of purchased power obligations recognized in the equity penalty adjustment. If FPL were to add additional off-balance sheet liability by entering into new purchase power agreements, the actual equity would have to increase so as to adjust back to the 55 percent adjusted equity level recognized in the recent rate case settlement. Tr. 608-10 (Avera). The spread between actual equity and adjusted equity would therefore become higher still, all else being equal. Mr. Maurey's observations about FPL's high equity ratio, rather than providing a reason to ignore this adjustment actually illustrate why it must be considered.

Similarly, the prospective reduction of off-balance sheet liability from the expiration of existing contracts illustrates why the equity penalty was proper. If no new contracts are added, the expiration of old contracts will reduce the $1.2 billion of off-balance sheet debt. All else being equal, FPL would be able to achieve a 55 percent adjusted equity with a lower actual equity. If the expiring contracts are replaced with new purchase power agreements, the $1.2 billion will not fall as it otherwise would result in FPL's customers being denied the benefits of lower debt imputation. Tr. 594 (Avera).

In the same sense, whether or not FPL has financial "headroom" in terms of its bond rating to absorb the incremental financial risk of purchased power also miss the point entirely. Whether any particular addition of purchased power results in a downgrade or not would be difficult to isolate.

And, in any event, that issue is irrelevant to the quantitative comparison of the capital structure impacts of the self-build option versus purchased power. It was undisputed in this proceeding that there are such impacts.

Finally, as to the "other risks," it is simply not true that they have been ignored in the analysis. Indeed, the basic economic analysis, including the cost of equity, assumes many, if not most, of the risks described. To the extent, however, that such risks differ materially depending on the form of the proposal, FPL made a fair decision to treat those non-quantifiable risks as non-price factors in the evaluation. Such risks in fact cut both ways. For example, there is a substantial risk that an inexperienced developer would fail to meet its commitments or would base its projections on erroneous estimates. Tr. 1369-71 (Sim), 1283-84 (Taylor). This was properly considered as a non-price factor, as are the numerous similar issues raised by the interveners. Unlike many of the financial risks associated with building or buying power, the impact of purchased power on the utility's capital structure (i.e., he equity penalty adjustment) is not reflected in the basic economic analysis. In addition, it is a well recognized and readily quantifiable *cost*. For these reasons, the adjustment must be taken into account for a fair comparison of the relative impact on the utility's capital structure of a build versus buy decision.

The central issue is that each purchased power agreement has an associated financial impact that must be considered for a fair evaluation. To ignore such costs could result in something other than the lowest cost alternative being chosen. And requiring FPL to offset the costs of a purchase power obligation by failing to renew other obligations, grants the bidder in the present RFP an unfair subsidy relative to other power sellers. All other things being equal, if the equity penalty adjustment is ignored, a bid could be won at a price higher than otherwise would be necessary, thus resulting in increased costs to customers and a higher return to the merchant generator. Ex. 41 at 35.

D. FPL's determination that the portfolio of Martin 8 and Manatee 3 is the most cost-effective option is confirmed by the determinations of an independent evaluator.

Sedway Consulting was retained to perform an independent economic evaluation of FPL's power supply options. Tr. 302-50 (Sim), 100 (Silva), 820-21 (Taylor). Throughout this process Sedway was fully independent of FPL. Tr. 798m 820-21 (Taylor). Sedway undertook its own determination of which combination of options would be the most cost-effective alternative, completely apart from FPL's evaluation.[18] Sedway's evaluator, Mr. Taylor, has extensive experience in utility solicitations and has worked for utilities, regulatory Commissions and IPP bidders in that regard. Ex. 24, AST-1.

Mr. Taylor employed Sedway consulting's proprietary Response Surface Model (RSM) to review the various proposals and develop its own set of expansion plans.[19] Tr. 779. Because it is a spreadsheet-based model, the RSM provides a level of transparency that is beneficial to interveners. Tr. 780-81, 798 (Taylor). All parties that requested it and signed nondisclosure agreements were in fact given a copy of the model and were free to duplicate Mr. Taylor's result; yet none even attempted to do so.

Mr. Taylor worked from cost information given to him by FPL in "blind," coded form so that the names of the bidders would not be known.[20] He employed an approach similar to that used by

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[18] Mr. Taylor also advised FPL on various matters relating to its (FPL's) evaluation. However, the evaluation undertaken by Mr. Taylor involved no input from FPL beyond providing the information requested by Mr. Taylor. Mr. Taylor confirmed in his testimony that he was given free reign to conduct his evaluation as he saw fit. Tr. 821, 1313.

[19] The RSM uses cost information from EGEAS as a basis to estimate FPL's production costs. This was done prior to the opening of bids as a pre-evaluation calibration. Tr. 779-81 (Taylor). While production costs are based on sample runs from EGEAS, other relevant costs such as capacity, fixed O&M and dispatch rates do not depend on the EGEAS calibration. Tr. 814 (Taylor).

[20] After completing his evaluation, Mr. Taylor reviewed the bid information and verified the accuracy of the information give to him by FPL. Tr. 811 (Taylor).

FPL, but included additional relevant costs, such as residual value.[21] Tr. 792-93 (Taylor). Based on the evaluation, Mr. Taylor determined that the All FPL Plan was $135 million more cost-effective than the best alternative that did not include both FPL units. Tr. 794-95; Ex. 24, AST-2 at 16.

This independent evaluation confirms that the proposed units are the best choice for FPL's customers and conclusively rebuts the interveners' baseless predisposition arguments. Mr. Taylor summarized this point as follows: "Therefore, I conclude that the FPL RFP was a fair and sufficient document. It is typical of what I have seen elsewhere in the industry, and that the FPL evaluation process was indeed unbiased, balanced and rigorous. It was corroborated by my independent evaluation and it appropriately accounted for all quantifiable costs." Tr. 1295-96 (Taylor).

IV. MARTIN 8 AND MANATEE 3 WILL PROVIDE RELIABLE AND COST-EFFECTIVE ELECTRICITY THAT IS NEEDED BY FPL'S CUSTOMERS IN 2005 AND 2006.

A. Martin 8 and Manatee 3 will provide low-cost, reliable power to FPL's customers in time to meet FPL's 2005 summer peak.

Martin 8 and Manatee 3 are proposed to be combined cycle units based on General Electric's "F" Class advanced combustion turbines, in a 4 x 1 configuration. Tr. 940 (Yeager). Combined cycle units are highly fuel efficient, with efficiency improvements of approximately 30 percent in comparison to conventional steam-electric generating units. *Id.* The 4 x 1 configuration allows for greater operational flexibility in matching unit output to system operating characteristics over time than is possible with single-train combined cycle plants. *Id.* FPL has extensive experience in building combined cycle plants, with its first combined cycle units going into service in 1976. FPL presently owns and operates over 4,700 MW of combined cycle units. *Id.* FPL anticipates no environmental permitting problems with either Martin 8 or Manatee 3. Tr. 965 (Yeager). By using

[21] Because FPL's analysis did not consider residual value, it was Mr. Taylor's opinion that FPL

clean fuels and "best available control technology," the air emissions from those units will be minimized. Tr. 949, 955-56 (Yeager). The water-use requirements for both units can be met out of the existing water allocation at their respective sites. Tr. 950, 956-57 (Yeager). And finally, the location of both units at existing sites will maximize the beneficial use of the sites while minimizing the land-use impacts of the units. Tr. 944-45, 953-54 (Yeager).

If the Commission grants FPL's need-determination requests for Martin 8 and Manatee 3 on the current schedule, FPL reasonably projects that those units will be in service in time for FPL's summer 2005 peak. The construction schedules for the units are based upon FPL's experience in constructing Martin 3 and 4 and the current progress in construction of the repowering projects at the Ft. Myers and Sanford plants. Tr. 951 (Yeager). FPL received the "Power Plant of the Year" award from Power magazine in recognition of its construction expertise at the Martin Units 3 and 4 construction project. Tr. 963-64 (Yeager). FPL has consistently completed all of its combined cycle construction projects in time to meet customer needs. Tr. 941 (Yeager).

Finally, FPL's cost estimates for Martin 8 and Manatee 3 are reasonable and achievable. FPL estimates that Martin 8 will cost $439 million and Manatee 3 will cost $551 million to construct. Ex. 29, WLY-9.[22] Again, FPL's long experience in constructing combined cycle plants gives it confidence that it can meet or beat these cost estimates. Tr. 960, 964 (Yeager).

Moreover, FPL's confidence in its construction cost estimates is bolstered by the firm information that FPL presently has about what the major elements of the construction process will cost. A large portion of the construction cost estimates are for the major equipment that comprises a combined cycle plant: the combustion turbines, the heat recovery steam generators (HRSGs) and the

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understated the cost advantages of the All FPL Plan by $34 to $76 million. Tr. 793.

[22] Both cost estimates include transmission interconnection costs and AFUDC but exclude transmission integration costs.

steam turbine. Tr. 971-72 (Yeager). FPL has firm pricing for the combustion turbines and steam turbines under existing FPL Group contracts, and has received firm bids from multiple potential suppliers of the HRSGs that are lower than the prices FPL had assumed in its estimates. Tr. 972, 976-77 (Yeager). FPL also is in the final stages of negotiations with engineering and construction contractors. Tr. 978 (Yeager).

B. The performance estimates for Martin 8 and Manatee 3 are reasonable and are based on FPL's extensive experience in building and operating similar plants.

FPL has estimated that the base average net operating heat rate for both Martin 8 and Manatee 3 will be 6,850 Btu/kWh, that the base average forced outage rate (EFOR) will be 1%, that the average scheduled maintenance outages will total one week per year (this equates to a 2% planned outage factor (POF)), and that the resulting base average equivalent availability factor (EAF) will be 97%. Ex. 29, WLY-6 and WLY-13. These estimates are reasonable, drawing upon FPL's experience as a world class constructor and operator of power plants, which includes experience with combined cycle plants that spans more than 25 years. Tr. 1258 (Yeager).

Contrary to the testimony of PACE's witness Mr. Slater, FPL's estimated heat rate is not based on "new and clean" conditions, but rather is the expected average between overhauls. Tr. 1258 (Yeager). This estimate reflects realistic projections of unit performance based upon FPL's extensive experience in operating combined cycle facilities. Tr. 1253 (Yeager). As further support for the reasonableness of this estimate, it is worth noting that CPV's bid in response to FPL's supplemental RFP reflected a heat rate of 6,838 Btu/kWh. Tr. 1055 (Finnerty). This is slightly *better* than FPL's estimated heat rate. And this is in spite of the fact that, whereas FPL has extensive experience in the design, operation and maintenance of combined cycle plants and was intimately

involved in the evolution of the very combustion turbines that will be used in Martin 8 and Manatee 3, CPV has never even owned or operated a power plant. Tr. 1053 (Finnerty), 1254 (Yeager).

FPL's estimated EFOR of 1% is extremely reasonable in light of FPL's recent experience. In spite of the "growing pains" that are inevitable with a new technology,[23] Martin Units 3 and 4 have averaged an EFOR of 1.7% over the entire period from January 1, 1996 to August 31, 2002. Tr. 1255 (Yeager). And for 2000 and 2001 -- a period representative of "mature" operation of the same type of combustion turbines that will be used in Martin 8 and Manatee 3 -- the average EFOR for Martin Units 3 and 4 was only .14%. Tr. 1256 (Yeager).

FPL's estimate of 1 week/year for scheduled maintenance outages (2% POF) at Martin 8 and Manatee 3 is likewise reasonable. Again looking to Martin Units 3 and 4 for relevant, comparable experience, FPL has averaged 9.1 days/year over the time period from January 1, 1996 to August 31, 2002. *Id.* But over those years, FPL has developed maintenance improvements that have substantially reduced the amount of required maintenance outage time. Just two such improvements -- combustion turbine water wash enhancements and combustor outage process improvements -- will reduce the annual average scheduled maintenance time by 3 days/year. *Id.* Subtracting 3 days/year from the average of 9.1 days/year yields 6.1 days/year, which is less than FPL's estimated scheduled maintenance outage duration for Martin 8 and Manatee 3 (*i.e.*, 7 days/year) without even considering the other improvements FPL has made. *Id.*

Finally, the 97% equivalent availability estimate is simply the result of subtracting FPL's 1% EFOR and 2% POF estimates from 100%. Because the EFOR and POF estimates are reasonable for the reasons just discussed, the 97% EAF estimate is necessarily reasonable as well. Tr. 1010 (Yeager).

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[23] Martin Units 3 and 4 utilized the first four GE 7FA combustion turbines ever to enter commercial

C. FPL's Cost Estimates are every bit as firm as those in RFP proposals.

Considerable cross examination of FPL's witnesses and a limited part of Mr. Finnerty's testimony was devoted to the failed attempt to prove (a) RFP proposals are more binding than FPL's cost estimates, (b) that there is a risk of cost overruns that bidders assume but FPL does not, and (c) FPL should be bound to its cost estimates. Tr. 1046-47. However, the evidence showed that (a) RFP proposals include pricing that is not firm or "binding" until a contract is signed, (b) there is little risk of FPL cost overruns and the Commission protects customers from imprudently incurred costs, and (c) addressing cost recovery in a need determination case is premature. FPL's cost estimates are reasonable and are based on its extraordinary prior performance. Improper attempts to address cost recovery in this case are premature and inconsistent with Chapter 366, Florida Statutes.

Mr. Silva explained during cross examination that the supplemental RFP proposals were not binding even if no exceptions were taken because there are trade-offs in negotiations. Tr. 203-04 (Silva). Of course, this was demonstrated by El Paso's changes to its proposal during negotiations. Tr. 108-12 (Silva). Dr. Sim explained in his rebuttal testimony that many of the RFP bids were not binding but rather were "indicative" or "subject to management approval." Tr. 1389, 1423 (Sim). Adjustments can and do occur in negotiations; until a contract is signed there is no commitment; and even after a contract is signed commitments can change. Tr. 1371-72, 1423 (Sim).

Given the reasonableness of FPL's cost estimates and cost estimating techniques (Tr. 958, 964-65, 970; Ex. 29, WYL-9), FPL's firm estimates for major equipment components (Tr. 972, 975, 976-77), and FPL's experience of bringing in Martin 3 & 4 well below their estimated cost (Tr. 991-92), there is very little risk of cost overruns for Martin 8 and Manatee 3. However, if there are cost overruns, the Commission's has authority under Chapter 366 is to protect customers from

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operation. Tr. 1255 (Yeager).

imprudently incurred costs. See Section 366.06(1), Florida Statutes. It would be improper to presume, as interveners suggest by claiming the risk of cost overruns is assumed by customers (Tr.. 1040, (Finnerty)), that the Commission would not protect FPL's customers from imprudent costs.

And in any case, issues of cost recovery are premature and inappropriate in a need determination case. The Commission recognized this in the most recent Florida Power Corporation need case. See, Order Nos. PSC-00-1933-PCO-EI. ("That is not to say that the Commission should address specific cost recovery issues in this proceeding."); Order No. PSC-01-0029-FOF-EI. Commissioner Deason recognized the same principle in this case at the Prehearing Conference by excluding several issues related to cost recovery. FPL, however, is particularly concerned with the interveners' suggestion that the ultimate amount allowed in rate base should now be fixed regardless of prudence. Such a suggestion would be a complete abandonment of the rate making standard set forth in Section 366.06(1), Florida Statutes.

V. FPL WENT ABOVE AND BEYOND THE REQUIREMENTS OF THE BID RULE

In its direct case FPL explained at length how it conducted its capacity solicitations, economic evaluations and consideration of non-price factors. Tr. 136-39 (Silva), 330-33 (Sim), 797-99 (Taylor); Exs. 2, 3, 4, 12, 20, 21 22, 23, 24, 29. In its comprehensive documentation, FPL showed not only that it complied with the Commission's Bid Rule, Rule 25-22.082, Florida Administrative Code, but also that it went beyond the requirements of the Bid Rule. FPL undertook not one but two capacity solicitations. Tr. 330 (Sim). FPL invited the Commission Staff to monitor its economic evaluation and negotiations. Tr. 108 (Silva). And a third party evaluator was retained to perform an independent, parallel economic evaluation. Tr. 330-31, 350 (Sim), 798 (Taylor).

Despite FPL's demonstrated compliance with the Bid Rule, much of the cross examination focused upon whether FPL fully informed bidders of its evaluation in its Supplemental RFP. In

considering these lines of inquiry, it is important to consider what the Bid Rule does and does not require. The compelling conclusions from the evidence are that (a) FPL exceeded the requirements of the Bid Rule, and (b) most of the cross examination goes beyond what the Bid Rule requires to what the interveners would like the Bid Rule to require.

The Commissions Bid Rule has a number of requirements, but the pertinent part for this discussion is Rule 25-22.082(4)(c) and (d), which provides:

> (4) Each utility's RFP shall include at a minimum:
>
> (c) a description of the price and non-price attributes to be addressed by each alternative generating proposal including but not limited to: (1) technical and financial viability; (2) dispatchability; (3) deliverability (interconnection and transmission); (4) fuel supply; (5) water supply; (6) environmental compliance; (7) performance criteria; and (8) pricing structure; and
>
> (d) a detailed description of the methodology to be used to evaluate alternative generating proposals on the basis of price and non-price attributes.

As required by the Bid Rule, FPL listed in its Supplemental RFP the price and non-price attributes to be addressed by bidders. Ex. 3, App. F. It listed these attributes, set forth forms on which to provide this information and included detailed explanations of the forms. Ex. 3, App. F. It was this 52-page document that Mr. Taylor described as "a fair and sufficient document" and "typical of what I have seen elsewhere in the industry." Tr. 1295 (Taylor).

FPL also included in its Supplemental RFP a detailed description of its evaluation methodology, as required by the Bid Rule. Need Study, Ex. 3, App. F. at F-18 - F-20. FPL set forth the three-step evaluation plan ((1) a "Pass/Fail" Screening, (2) an Economic Evaluation, and (3) a Non-Price Evaluation ("Other Considerations") that Mr. Silva explained in detail in his direct testimony. As the testimony of Mr. Silva shows, FPL's eligibility screening determinations were consistent with the "Pass/Fail Screening described in the Supplemental RFP." Tr. 95-97, 136. As Dr.

Sim testifies, FPL's economic evaluation was performed as detailed in the Supplemental RFP, including the use of an equity penalty. Tr. 332. As Mr. Silva testified, FPL performed a non-price evaluation consistent with the terms of the Supplemental RFP; it reinforced the compelling conclusion of the economic analysis. Tr. 125, 139 (Silva).

VI. MARTIN 8 SHOULD NOT BE DEFERRED

During the hearing an issue arose as to whether FPL should defer the in-service date for Martin 8 from June 2005 to June 2006 because the construction of Manatee 3 would leave FPL only 15 MW below its Commission-approved 20% reserve margin in the summer of 2005. A host of alternatives were suggested and rebutted by FPL's witnesses: a short-term 15 MW purchase outside of the Supplemental RFP, 15 MW of additional DSM, holding FPL to a lesser rounding the forecast reserve margin criterion of 19.92% than the 20% applied to bidders,[24] or considering the 15 MW within the margin of error for forecasts. In each instance FPL's witnesses addressed why such approaches should not have been followed. A related suggestion was that such a deferral would allow time for another, expedited capacity solicitation and evaluation.

There are three fundamental reasons that Martin 8 should not be deferred and there should be no *third* capacity solicitation. First, deferring Martin 8 would remove FPL's flexibility to meet unforecast increases in FPL's customers' demand for electricity, which would also be unfair to

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[24] In its Supplemental RFP, FPL clearly stated that its capacity need for 2005 was 1122 MW and its additional capacity need in 2006 was another 600 MW. This was the capacity needed to meet FPL's 20% Commission approved reserve margin. Consistent with this representation, FPL conducted its economic analysis so that all resource plans analyzed achieved this 20% reserve margin criterion. Any plans that fell just short of the 1122 MW in 2005 or the entire 1722 MW in 2005 and 2006 were not considered in the economic analysis. Accordingly, FPL did not evaluate an alternative of simply deferring Martin Unit 8 a year until requested by the Commission Staff in discovery. If it had chosen to hold itself to a lesser standard, it clearly would have exposed itself to criticism by the bidders that FPL was not treating its self build options the same way it treated Supplemental RFP options. It is highly ironic that FPL's decision to hold itself to the same standard it applied to bidders (a decision meant to be fair to bidders), is now being argued by bidders as a

FPL's customers. Second, deferring Martin 8 from 2005 to 2006 would increase the costs to FPL's customers by at least $18 million CPVRR, which would also be unfair to FPL's customers. And finally given that FPL has already conducted two solicitations, deferring Martin 8 for a year and conducting another expedited capacity solicitation would be wasteful and counterproductive.

A. Deferring Martin 8 Removes Flexibility To Meet Unanticipated Load Growth.

Dr. Green testified that his demand growth forecast was "conservative." meaning that it might turn out to understate FPL's actual demand growth. Tr. 522-23. Even under this conservative load growth forecast, FPL needs an additional 1122 MW in 2005 and 600 MW in 2006 to meet its Commission-approved 20% reserve margin criterion. Tr. 329, 434 (Sim). While FPL is not anticipating needing 774 MW to meet unanticipated load growth in one year (Tr. 220, Silva), having it in place would give FPL flexibility to meet unanticipated growth in 2005 if Dr. Green's forecast is as conservative as he states. If FPL begins construction of Martin 8 and experiences a lower demand than forecast, construction can always be slowed. Unfortunately, the opposite is not true. If FPL defers Martin 8, it cannot accelerate construction to meet unanticipated load growth. Thus, keeping Martin 8 on schedule provides flexibility to meet unanticipated changes in forecast load growth, either up or down.

B. Deferring Martin 8 Would Increase the Cost To FPL's Customers.

The evidence is clear and uncontroverted that deferring Martin 8 from 2005 to 2006 would increase the cost to FPL's customers by at least $18 million, CPVRR. Tr. 446, 476-78 (Sim); Ex. 16. Moreover, this calculated savings does not recognize additional savings that will accrue to FPL's customers from foregone revenue requirements associated with bringing Martin 8 into service while FPL has a revenue sharing agreement in place and cannot seek for seven months a rate increase

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basis to defer Martin 8.

unless its earned return on equity falls below 10% -- this is a savings of some $20 million. Ex. 16; Tr. 241.

C. Deferring Martin 8 To Allow Another Capacity Solicitation Would Be Wasteful And Risky.

It is very clear from the record that FPL cannot meet the in-service date for Martin 8 in the summer of 2005 if this determination of need is not granted. Tr. 984-86 (Yeager). Mr. Yeager testified that the determination of need proceeding was on the critical path for Martin 8. *Id.* There is no time for a rebid. Tr. 984 (Yeager). Moreover, there would not be time for any other entity to build alternative capacity if FPL were to go through a rebid process. Tr. 1014 (Yeager).

Deferring Martin 8 a year to 2006 to permit a rebid would serve no legitimate purpose. Mr. Yeager testified that if Martin 8 were deferred a year, FPL could meet a June 2006 in-service date only if FPL performed "an expedited process." Tr. 1013 An expedited process would not allow for updating assumptions, would not allow FPL to amend the Supplemental RFP and would not allow any more time for evaluations or negotiations. More importantly, the exercise would be pointless, as FPL has already evaluated Martin 8 and Manatee 3 against numerous proposals in two capacity solicitations (80 in the initial RFP and 31 in the Supplemental RFP). Ex. 3. The All FPL Plan is probably the most analyzed capacity addition in the history of Florida, and nothing in the record suggests there is a more cost-effective alternative available. Bidders -- many of which are in serious financial distress -- have had more than an ample opportunity to bid against Martin 8 and Manatee 3. The process and the evaluation have been fair, and FPL's self build options are economically superior. A third solicitation and evaluation, even on an expedited basis, would be exceedingly wasteful. It is time for the Commission to act and act favorably with regard to both Martin 8 and Manatee 3.

CONCLUSION

FPL has demonstrated clearly and convincingly that it has a need for 1722 MW of additional capacity and that building Martin 8 and Manatee 3 will be the most cost-effective way to meet that need. The interveners have offered no constructive alternative, because they have none. Instead they have used every available tactic to obfuscate, misdirect and obstruct the Commission's analysis of FPL's need-determination request. Ultimately, however, those tactics cannot and should not prevail. FPL is entitled to, and FPL's customers will be best served by, the Commission's granting an affirmative determination of need for Martin 8 and Manatee 3 in these dockets.

Respectfully submitted,

R. Wade Litchfield, Esq.
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408-0420
Telephone: 561.691.7101

STEEL HECTOR & DAVIS LLP
215 South Monroe Street
Suite 601
Tallahassee, FL 32301-1804
Telephone: 850.222.2300
Facsimile: 8500.222.8410

By: _____
Charles A. Guyton
John T. Butler, P.A.
William K. Hill, P.A.
Gabriel E. Nieto

Attorneys for Florida Power & Light Company

CERTIFICATE OF SERVICE
Docket Nos. 020262-EI and 020263-EI

I HEREBY CERTIFY that on this 14th day of October 2002, a copy of FPL's Posthearing Statement of Issues and Brief was served by hand delivery (*) or electronically (**) and U.S. Mail to the following:

Martha Carter Brown, Esq.*
Legal Division
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
mbrown@psc.state.fl.us

John W. McWhirter**
McWhirter Reeves, McGlothlin,
Davidson, Decker, Kaufman, & Arnold, P.A.
400 North Tampa Street, Suite 3350
Tampa, Florida 33602
jmcwhirter@mac-law.com

Vicki Gordon Kaufman*
Timothy J. Perry
McWhirter Reeves, McGlothlin,
Davidson, Decker, Kaufman, & Arnold, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
vkaufman@mac-law.com

Jon C. Moyle, Jr., Esq.**
Cathy M. Sellers, Esq.
Moyle Flanigan Katz Raymond &
Sheehan, P.A.
118 North Gadsden Street
Tallahassee, Florida 32301
jmoylejr@moylelaw.com

Michael B. Twomey, Esq.**
P.O. Box 5256
Tallahassee, Florida 32314-5256
miketwomey@talstar.com

Ernie Bach, Executive Director**
Florida Action Coalition Team
P.O. Box 100
Largo, Florida 33779-0100
ernieb@gte.net

Joseph A. McGlothlin, Esq. *
McWhirter, Reeves, McGlothlin, Davidson
Decker, Kaufman & Arnold, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
jmcglothlin@mac-law.com

Michael Green**
1049 Edmiston Place
Longwood, Florida 32779
mgreenconsulting@earthlink.net

By: 
Charles A. Guyton