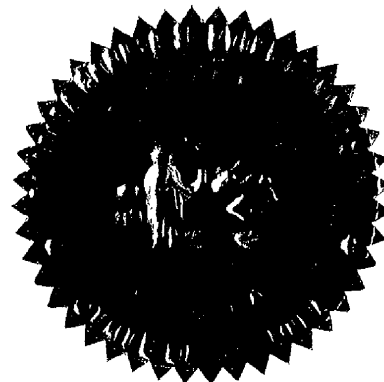


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030084-EI

In the Matter of

PETITION FOR DETERMINATION OF
NEED FOR COLLIER-ORANGE RIVER
230 kV TRANSMISSION LINE IN
COLLIER, HENDRY, AND LEE COUNTIES
BY FLORIDA POWER & LIGHT COMPANY.



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PROCEEDINGS: PREHEARING CONFERENCE

BEFORE: COMMISSIONER BRAULIO L. BAEZ
HEARING OFFICER

DATE: Monday, March 31, 2003

TIME: Commenced at 1:30 p.m.
Concluded at 2:32 p.m.

PLACE: Room 148
Betty Easley Conference Center
4075 Esplanade Way
Tallahassee, Florida 32399-

REPORTED BY: JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732

1 APPEARANCES:

2 KENNETH A. HOFFMAN, ESQUIRE, Rutledge, Ecenia,
3 Underwood, Purnell and Hoffman, P.A., P. O. Box 511,
4 Tallahassee, Florida and R. WADE LITCHFIELD, ESQUIRE, 700
5 Universe Boulevard, Juno Beach, Florida 33408-0420, appearing
6 on behalf of Florida Power and Light Company.

7 SCHEFFEL WRIGHT, ESQUIRE and JOHN LaVIA, III,
8 ESQUIRE, Landers Law Firm, P. O. Box 271, Tallahassee, Florida
9 32302, appearing on behalf of Barron Collier Companies.

10 LARRY D. HARRIS, ESQUIRE, FPSC General Counsel's Office,
11 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
12 appearing on behalf of the Commission Staff.

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P R O C E E D I N G S

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2 COMMISSIONER BAEZ: Okay. We are on the record. We
3 will call the prehearing to order.

4 Counsel, will you read the notice.

5 MR. HARRIS: Pursuant to notice published February
6 21st, 2003, this time and place has been noticed for a
7 prehearing in the case of Docket Number 030084-EI, Petition for
8 Determination of Need for Collier-Orange River 230 kV
9 Transmission Line in Collier, Hendry, and Lee Counties by
10 Florida Power and Light Company.

11 COMMISSIONER BAEZ: And let's take appearances.

12 MR. HOFFMAN: Good afternoon, Commissioner. My name
13 is Kenneth A. Hoffman. I would also like to enter an
14 appearance for R. Wade Litchfield, and we are both appearing on
15 behalf of Florida Power and Light Company.

16 MR. WRIGHT: Robert Scheffel Wright, Landers and
17 Parsons, 310 West College Avenue, Tallahassee, appearing on
18 behalf of Barron Collier Companies, an intervenor in this
19 proceeding. I would also like to enter an appearance for my
20 partner, John T. Lavia, III. Thank you.

21 COMMISSIONER BAEZ: I'm sorry, can you say that one
22 again?

23 MR. WRIGHT: I would also like to enter an appearance
24 for my law partner, John T. Lavia, III, as shown on the draft
25 prehearing order. Thanks.

1 COMMISSIONER BAEZ: I'm sorry. Thank you.

2 MR. HARRIS: Lawrence Harris on behalf of Staff.

3 COMMISSIONER BAEZ: Thank you. Wasn't there another
4 attorney?

5 MR. HARRIS: Mr. Keating is also appearing.

6 COMMISSIONER BAEZ: Oh, she moved off to -- she went
7 back to the gallery, I'm sorry. All right.

8 Do we have any preliminary matters?

9 MR. HARRIS: None that I am aware of, Commissioner.

10 COMMISSIONER BAEZ: Okay. Mr. Harris, I'm holding a
11 couple of documents here. Would you recommend taking them up
12 first or going through the prehearing --

13 MR. HARRIS: I believe if we went through the
14 prehearing order section-by-section we could probably address
15 those in due course.

16 COMMISSIONER BAEZ: Okay, great. All right. We are
17 going to move through this one pretty fast, and we will go by
18 sections. Sections I through VI, do any of the parties have
19 any changes or any corrections that need to be made? Staff,
20 you can include yourself on this one, too. Hearing none.

21 All right. Section VII, order of witnesses. Mr.
22 Hoffman, do you have any changes that you need to make?

23 MR. HOFFMAN: Commissioner, the only change that I
24 would make is that I would add a rebuttal witness, C. Martin
25 Mennes, who filed direct did file rebuttal testimony this

1 morning.

2 COMMISSIONER BAEZ: Okay. And I'm trying to let it
3 reflect that Mr. Mennes is also a rebuttal witness. And I
4 guess that raises a question for me. Is there any preference
5 as to whether we can take his testimony up first should that be
6 necessary, take his testimony altogether.

7 MR. HOFFMAN: Commissioner, that is a good
8 suggestion. I think at this point our preference would be to
9 put them on separately. But we will be in discussions with
10 staff and Mr. Wright, and maybe we can reach a stipulation
11 later on that.

12 COMMISSIONER BAEZ: All right.

13 MR. WRIGHT: Mr. Chairman, Commissioner Baez, we
14 won't object. FPL can put on their rebuttal witness whenever
15 they want to as far as we are concerned.

16 COMMISSIONER BAEZ: We can take that up -- I mean, I
17 don't see any problem with that as far as I'm concerned.

18 MR. WRIGHT: Okay.

19 COMMISSIONER BAEZ: Mr. Wright, do you have any
20 corrections on the order of witnesses? I see you only have one
21 witness, but if there are any corrections that need to be made.

22 MR. WRIGHT: No, sir, no corrections.

23 COMMISSIONER BAEZ: Okay, great. Section VIII, basic
24 positions. Mr. Hoffman?

25 MR. HOFFMAN: No changes.

1 COMMISSIONER BAEZ: Mr. Wright?

2 MR. WRIGHT: No changes, Commissioner Baez.

3 COMMISSIONER BAEZ: Section IX, we are going to go
4 issue-by-issue. Issue 1, any changes?

5 MR. HOFFMAN: No changes.

6 MR. WRIGHT: No changes.

7 COMMISSIONER BAEZ: Issue 2. Issue 3. Just stop me
8 when I'm getting warm. Issue 4, 5.

9 MR. WRIGHT: Mr. Chairman?

10 COMMISSIONER BAEZ: Yes, sir.

11 MR. WRIGHT: I'm going to make everybody's life easy.
12 In view of FPL's position as articulated in Mr. Hoffman's
13 letter to me and Staff's position on Barron Collier's proposed
14 Issues 4 and 5, we withdraw those issues.

15 COMMISSIONER BAEZ: Show them withdrawn. Section X,
16 the exhibit list. Mr. Hoffman, any changes?

17 MR. HOFFMAN: No, sir.

18 MR. WRIGHT: Commissioner Baez, we don't have any
19 changes at this time. We have worked out an arrangement for
20 Florida Power and Light to produce the documents responsive to
21 our production request on Friday. Realistically it will be
22 Monday before we can identify any of those that we intend to
23 use as exhibits.

24 COMMISSIONER BAEZ: That will be fine, we can shift
25 on the fly on those. No proposed stipulations. Now we have

1 pending motions, Mr. Harris?

2 MR. HARRIS: We do have several pending motions,
3 Commissioner. I believe the first that we have was Barron
4 Collier's motion to compel, or in the alternative for a
5 continuance of the hearing, and it was served Friday, March
6 28th.

7 COMMISSIONER BAEZ: Refresh my memory here. This is
8 the deposition --

9 MR. HARRIS: This is the deposition of Mr. Mennes.
10 He is apparently unavailable this week for deposition.

11 COMMISSIONER BAEZ: Okay. And I'm seeing here April
12 7th that he can be -- Mr. Hoffman, Mr. Mennes can be available
13 April 7th?

14 MR. HOFFMAN: Commissioner Baez, I would like to have
15 the opportunity before we get into Mr. Mennes' availability to
16 respond very briefly to the motion.

17 COMMISSIONER BAEZ: Okay.

18 MR. HOFFMAN: This motion was served on my office
19 shortly after 5:00 o'clock on Friday. As Mr. Wright states in
20 his motion, he filed to intervene on behalf of his client on
21 March 19th, and he did call me to let me know that he had,
22 indeed, filed the petition and that he wished to schedule
23 depositions. I would add that at that time he never stated
24 that he wished to take the depositions of FPL employees as
25 appears to be evidenced by his notice of taking corporate

1 deposition, which he also served at my office shortly after
2 5:00 on Friday.

3 But in any case, during that conversation we both
4 understood that I was not under any obligation to begin finding
5 deposition dates for witnesses who had filed testimony in the
6 case until such time as he was granted intervention. That was
7 on a Wednesday afternoon.

8 The next day I did call down to FPL, and there are a
9 number of people working on this case, and I let them know that
10 we would need to begin talking with our people to find out when
11 they would be available. I spoke with Mr. Wright two times
12 after that initial conversation, and at neither time did we
13 discuss the issue of deposition dates.

14 The next week -- now I'm on Monday, March 24th. I
15 was in Miami for three days. Your order granting intervention
16 was issued on Tuesday, and I again inquired about the
17 availability of our witnesses who had prefiled testimony.

18 When I returned to my office on Thursday, I spoke
19 with Mr. Wright and told him that Mr. Ordax and Mr. Shoneck
20 were available on Wednesday, Thursday, and Friday of this week.
21 I also told him that Mr. Mennes had a preplanned vacation out
22 of the state. He then said, well, then I want to depose him on
23 Monday after the discovery deadline, and I told him that we
24 were going to object to that, which sort of puts us where we
25 are today.

1 I guess our position on this is that it is Barron
2 Collier that has come in, certainly not late, not technically
3 late, but what I would call the 11th hour. And I think that
4 you would agree that it is certainly prejudicial to FPL to
5 require us to now respond to their intervention by having to
6 spend the day before the hearing going to a deposition. This
7 deposition, according to Mr. Wright's motion, is to take place
8 the day before the hearing at my office, and the first I found
9 out about that particular part of it was when it was served,
10 all day.

11 We don't want to offend or abridge anyone's due
12 process rights, and we want to work with Mr. Wright
13 notwithstanding some of the statements that are made in his
14 motion, so I would say this. I think that staff expects to
15 schedule Mr. Shoneck for deposition. And Mr. Mennes addresses
16 essentially one issue in this case, the separate right-of-way.
17 That is also addressed by Mr. Shoneck. Mr. Mennes is the
18 co-sponsor of just one exhibit in this case, he sponsors it
19 with Mr. Shoneck.

20 So I think that what we can work out, Commissioner,
21 is certainly Mr. Shoneck will be available for deposition this
22 week, staff will be taking his deposition. I expect that Mr.
23 Wright will also have questions for Mr. Shoneck, and I would
24 encourage him to the extent he can cover whatever it is he may
25 have for Mr. Mennes perhaps with Mr. Shoneck. But to the

1 extent that he cannot be satisfied that he has gotten all the
2 answers that he thinks he needs to prepare for this hearing,
3 Mr. Mennes is returning from California on Sunday, he is
4 traveling here on Monday, we would make him available on
5 Monday, the day before the hearing. But we would wish and
6 would hope that the prehearing officer would put some
7 parameters on this and limit the deposition to two hours.

8 COMMISSIONER BAEZ: Mr. Wright.

9 MR. WRIGHT: I think that everything Mr. Hoffman just
10 said sounds okay to us. I don't think -- I don't think our
11 deposition of Mr. Mennes under any circumstances would have
12 lasted all day. I put that in the motion to cover myself,
13 frankly, to cover my client's interests. To the extent that
14 Mr. Shoneck can answer for the company all the questions that
15 we would otherwise ask Mr. Mennes, we will be -- obviously we
16 will be satisfied.

17 And, similarly, there is no motion to compel in the
18 corporate representative deposition, but reasonably assuming,
19 and Mr. Hoffman and I will try to work this out, that Mr.
20 Shoneck can respond to the subject matter raised therein, that
21 will be fine, too. As we stated in the notice of corporate
22 representative deposition, that we are not trying to make work
23 or we are not trying to depose anyone unnecessarily. If Mr.
24 Shoneck can answer for the company on all the questions we
25 have, that will be completely okay with us.

1 COMMISSIONER BAEZ: Mr. Hoffman, I am inclined to
2 grant -- to go along with your suggestion to have some
3 parameters on Mr. Mennes's availability. And I think, Mr.
4 Wright, I heard you say that it shouldn't take all day, and I
5 don't think giving the --

6 MR. WRIGHT: No.

7 COMMISSIONER BAEZ: -- giving the overlapping nature,
8 I think two hours is pretty reasonable to have him available
9 for depo.

10 MR. WRIGHT: That will be fine, Commissioner.

11 COMMISSIONER BAEZ: Okay. Mr. Harris, mechanically
12 how do we need to do this? I mean, do we have to show the
13 motion to compel granted or --

14 MR. HARRIS: It sounds like it could be withdrawn if
15 they are agreeing to make him available.

16 MR. WRIGHT: We will withdraw it. We will issue a
17 notice of deposition for something like 2:00 p.m. on Monday,
18 the 7th. Is that --

19 MR. HOFFMAN: We will work it out. 1:30.

20 MR. WRIGHT: Mr. Hoffman and I will work out an
21 appropriate time. We will withdraw the motion to compel, and
22 we will schedule the deposition with the understanding, as Mr.
23 Hoffman and I have just discussed, that if Mr. Shoneck is able
24 to answer all of our questions, we will cancel the deposition,
25 period.

1 COMMISSIONER BAEZ: Great, thank you. Cooperation,
2 it's a wonderful thing.

3 All right. Now, I'm showing another document here,
4 Mr. Harris. Florida Power and Light's objections to some
5 interrogatories and requests for production. Is this the only
6 other thing that we have got?

7 MR. HARRIS: Yes, Commissioner.

8 COMMISSIONER BAEZ: Okay. How do you recommend that
9 we proceed?

10 MR. HARRIS: Commissioner, I believe that we could
11 address those. I think there is only a small number of them,
12 and perhaps we could just go through the objections as they are
13 and you could perhaps either take some argument or rule on them
14 as they appear in the document.

15 COMMISSIONER BAEZ: Well, how about that, Mr. Hoffman
16 and Mr. Wright; were you ready to argue this, or do you feel
17 the need? I mean, I am pretty comfortable with what I have
18 read concerning the objections and --

19 MR. HOFFMAN: I would say, Commissioner Baez, I might
20 want to defer to Mr. Wright on this. I am comfortable to just
21 have you rule. I don't anticipate we are going to run into a
22 problem. I think that to the extent we got some issues with
23 confidentiality documents -- excuse me, with confidential
24 documents, we have already provided Mr. Wright and he has
25 executed a confidentiality agreement. So that is not going to

1 be a bump along the way.

2 COMMISSIONER BAEZ: On the issues that are here, Mr.
3 Wright, do you have any comment or --

4 MR. WRIGHT: I think we are good to go as it regards
5 confidential information. I guess if you are going to rule on
6 the objections, I would like to speak for a minute.

7 COMMISSIONER BAEZ: Well, and I will tell you where
8 I'm coming from, Mr. Wright. I think that certainly the
9 objections are not in the form of black and white, no, but
10 there is somehow a suggestion to set parameters and some
11 limitations or conditions such as confidentiality agreements,
12 and so on. So I didn't see anything unreasonable in terms of
13 the objections saying also that the company is somehow -- is
14 agreeing under those conditions to provide you with the
15 information that you require. And I'm just wondering if you
16 have -- taking a look at the objections, at the nature of the
17 objections, if you have any, dare I say it, objections
18 yourself?

19 MR. WRIGHT: Can I have 30 seconds?

20 COMMISSIONER BAEZ: Please. (Pause.)

21 MR. WRIGHT: I think we are okay, at least on the
22 objections to the Interrogatory Production Requests 2, 5, 8,
23 and 30; 31, I will say we do not agree that this document
24 request is vague and ambiguous. If anything, it is quite
25 specific. I mean, it asks for technical information relating

1 to the impedance and susceptance of the sections of the
2 electrical network between Orange River and Collier. I think
3 that is very specific. To the extent that it is confidential
4 as Mr. Hoffman correctly articulated, we have executed a
5 confidentiality agreement, so I don't think we have any issue
6 with the confidentiality. And 32 is a confidentiality
7 objection, and we have executed, so I really think --

8 COMMISSIONER BAEZ: So your only issue is 31.

9 MR. WRIGHT: I think the only issue remaining in play
10 is FPL's assertion that our Request Number 31 relating to
11 certain electrical characteristics of the electrical network
12 between Orange River and Collier is vague and ambiguous. I am
13 told by our transmission expert that this is a very specific
14 question and is not vague at all.

15 COMMISSIONER BAEZ: Mr. Hoffman.

16 MR. HOFFMAN: I think that we had some trouble
17 figuring out what they wanted. We are not sure what they mean
18 by susceptance. We tried looking at it in the dictionary, and
19 that didn't help. But to the extent we can ascertain what it
20 is they are asking for, then we intend to provide it.

21 COMMISSIONER BAEZ: Great. Mr. Wright, you're going
22 to let Mr. Hoffman know what you mean by --

23 MR. WRIGHT: Yes. I will get my expert to call his
24 expert, assuming that is satisfactory with Mr. Hoffman.

25 MR. HOFFMAN: That's fine.

1 COMMISSIONER BAEZ: To the extent then we don't have
2 to register that as an objection outside the confidentiality
3 terms, is that fair?

4 MR. HOFFMAN: Right. That was directed to the
5 confidential nature of the documents.

6 COMMISSIONER BAEZ: Mr. Harris, how do we need to
7 reflect this? So based on those conversations, I'm willing to
8 let that move on, based on those conditions.

9 MR. HARRIS: It sounds to me that the ruling is you
10 are not making any ruling on this motion based on the agreement
11 between the parties, is that correct?

12 COMMISSIONER BAEZ: Right. Okay. What else do we
13 have? Is that everything? Do the parties have anything else
14 that they need before --

15 MR. HOFFMAN: Commissioner Baez, I think that we
16 haven't covered one of the more significant issues, which is
17 this notice of taking corporate deposition that was served on
18 Friday afternoon, and I think that we need to address that.

19 COMMISSIONER BAEZ: Now, I'm trying to see -- do I
20 have a document for that? Mr. Harris, is that this one,
21 notice?

22 MR. HARRIS: I'm sorry, which document? What are we
23 talking about?

24 MR. HOFFMAN: The notice -- Mr. Wright's notice of
25 taking corporate deposition.

1 COMMISSIONER BAEZ: Okay. Well, Mr. Hoffman, what
2 have you got to say?

3 MR. HOFFMAN: Commissioner, I guess in light of the
4 fact that, again, this was served on Friday afternoon, today is
5 Monday, what I would like to present to you is effectively an
6 oral request for a protective order. So let me talk a little
7 bit about this notice and our position in connection with it.

8 We object to this notice and we would like you to
9 issue a protective order. This is, in our judgment, an attempt
10 by Barron Collier to essentially use a procedural rule to
11 combine a series of depositions on a number of irrelevant
12 topics into one deposition.

13 The effect of what Barron Collier seeks to do is to
14 schedule depositions of individuals at FPL who have not filed
15 testimony in this case who have knowledge of the specific
16 routing issues as set forth in Mr. Wright's attached list of
17 subjects that is attached to the notice. These series of
18 subjects are irrelevant. They are not included in our
19 testimony, they are not included in our petition, and, most
20 importantly, they are not within the Commission's statutory
21 jurisdiction.

22 The specific route that may ultimately be approved
23 for this line will be decided in a hearing at the Division of
24 Administrative Hearings before an Administrative Law Judge and
25 ultimately approved by the Governor and Cabinet as the Siting

1 Board. Real briefly, what the procedural rule that has been
2 employed here basically says is that a party, in this case
3 Barron Collier, may name a corporation, here FPL, as the
4 deponent and designate with reasonable particularity the
5 matters on which they seek to ask questions. The corporation
6 then designates one or more officers, directors, or managing
7 agents who testify on each of the subject matters.

8 Here Barron Collier has attached a list of twelve
9 subjects. One has three subparts. Nine of these subjects
10 address routing issues. And, again, we have not proposed a
11 specific route. All we have asked the Commission in this case
12 is to approve the need for a new line and a separate
13 right-of-way, not a specific route. The Commission doesn't
14 have the jurisdiction to consider or establish a route.

15 Now, in the notice of deposition, Barron Collier
16 states that it would be satisfied if Mr. Shoneck and Mr. Mennes
17 appear and answer questions on all of these topics. Again,
18 they are not going to be able to do that. That is outside the
19 scope of their testimony. These nine routing topics involve
20 questions that would properly be directed to other individuals
21 at FPL who are part of the site certification process which is
22 precisely the forum where these questions belong and these
23 subjects belong. And Barron Collier -- if a need determination
24 is issued, Commissioner, Barron Collier will have every
25 opportunity to intervene and ask questions about these nine

1 topics at DOAH.

2 Now, as I mentioned, this was served on Friday
3 afternoon. FPL would be completely within its rights,
4 Commissioner, to have waited and filed a motion for protective
5 order and that would have had the effect of postponing this
6 deposition until there was a ruling on that motion for
7 protective order. But we don't want anyone's appropriate due
8 process rights to be abridged, and that is why we are raising
9 this notice of taking deposition to you today.

10 If you think about it, what is the real purpose to be
11 served in asking questions about the many alternative
12 right-of-way paths that were considered and rejected by FPL.
13 If Barron Collier is trying to show that the existing
14 right-of-way is cheaper, he is right, we agree. There isn't
15 any need for any questions.

16 If his questions are designed to show that there is a
17 cheaper alternative than the range for the cost of this
18 project, if it is put on a separate right-of-way that is laid
19 out in our petition, that is fine. But as we stated in our
20 petition and in our testimony, the ultimate route, the specific
21 route and the costs associated with that route remain to be
22 seen, cannot be decided by this Commission but will be decided
23 by the Governor and the Cabinet sitting as the Siting Board.

24 And if his questions are designed to show that there
25 is a route that for some reason FPL did not pursue that he

1 likes better and that will be more expensive, again, the same
2 answer. That route will not be decided by this Commission, it
3 will be decided under the Transmission Line Siting Act by the
4 Siting Board.

5 FPL only needs to establish in this case,
6 Commissioner Baez, that the separate right-of-way is the most
7 cost-effective proposal that will meet the goals of
8 cost-effectiveness, of reliability, of feasibility, of service
9 restoration, that is all it needs to show. Whatever turns out
10 to be the lowest cost route under the Transmission Line Siting
11 Act proceedings that will commence at DOAH is not relevant
12 here.

13 So how do we deal with this? We think that, and we
14 would suggest, Commissioner Baez, that what you need to do is
15 you need to take a look at these 12 subjects. And it is our
16 position, respectfully, that the first nine are not relevant
17 and should not be viewed to be permissible subjects of
18 discovery. They are not within the issues that have already
19 been framed for this proceeding.

20 I would also add, Commissioner, that on subject
21 matters 10 and 11, and those do not deal with routes, those
22 deal with terrorist and sabotage issues, how FPL evaluates
23 issues relating to potential accidents and catastrophic risks,
24 as to both transmission lines and power plants. Well, first of
25 all, just very quickly, this case is not about power plants,

1 this case is about a transmission line, so that is clearly off
2 limits.

3 But I would say to you that FPL has some very
4 significant concerns with a deposition where there is
5 deposition testimony given as to what FPL specifically does to
6 prevent terrorism and sabotage either in the project service
7 area or throughout its network. We have some very significant
8 concerns.

9 So, Commissioner, what we would suggest when it comes
10 to these two is to limit it to transmission and put a fence
11 around this, put some parameters on it. We understand that we
12 have filed a confidential attachment to our petition which
13 deals with service restoration, and we think it is appropriate
14 if there are questions directed to that, that we answer them.
15 But we think that that ought to be the limit.

16 COMMISSIONER BAEZ: Mr. Wright.

17 MR. WRIGHT: Based on what Mr. Hoffman said, I think
18 we would be willing to inquire as to the separate right-of-way
19 as opposed to a specific route on the first nine issues. I
20 don't think that with respect to 10 and 11, I don't think power
21 plants are off limits at all, because they are a part of the
22 bulk supply network and that the terrorist, sabotage,
23 catastrophic event principle that FPL purports to have adopted
24 in this case is equally applicable to power plants as well as
25 to the transmission lines as components of the bulk power

1 supply network.

2 We are not asking what FPL does. We are asking how
3 FPL evaluates the impacts, the cost-effectiveness, the
4 reliability impacts, et cetera, et cetera. We are not asking
5 what anti-terrorist or anti-sabotage or other measures they
6 take. We are asking how they evaluate those things in
7 determining whether to collocate power plants on existing power
8 plant sites, collocate transmission lines in existing
9 transmission line corridors, or locate them elsewhere.

10 As regards the confidentiality issues, we have no
11 problem. We signed an agreement and we would expect to abide
12 by the agreement with regard to any deposition questions that
13 we might ask. Finally, to the extent that Mr. Shoneck can
14 speak to the separate right-of-way issue in lieu of specific
15 routing, and to either Mr. Shoneck or Mr. Mennes can speak to
16 the issues relating to FPL's evaluation of catastrophic events,
17 including the possibility of terrorist and sabotage type
18 events, we would be entirely satisfied if either Mr. Shoneck or
19 Mr. Mennes or both could respond to those lines of inquiry.

20 COMMISSIONER BAEZ: Mr. Hoffman, and let's take the
21 first nine first, and we can work our way down. Mr. Wright
22 seems to have changed the direction or the focus. Would you
23 agree or not agree with that assessment? And, again, maybe
24 it's that I need it a little bit better clarified. But to the
25 extent that the questions and the subject matter revolves

1 around the choice for a separate or the reasoning behind a
2 separate right-of-way and not specifically routing, does that
3 bring it -- in your mind does that bring it better into the
4 realm of what is relevant?

5 MR. HOFFMAN: I think with that limitation that that
6 is an appropriate line of questioning.

7 COMMISSIONER BAEZ: As to the next two, Items 10 and
8 11, now, the company has -- and I will be frank with you, I
9 have a little bit of trouble with perhaps exposing this type of
10 information to the public domain for reasons that should be
11 obvious to everyone at this point. But my questions, I guess,
12 were, Mr. Hoffman, are there confidentiality arrangements that
13 can properly address that? I will address the inclusion of the
14 power plants because I'm not sure that that is where we want to
15 be going on this. In my mind I think we need to tie it as
16 neatly as possible. And I think that including power plants,
17 all of a sudden we are going to be getting into another, a much
18 broader area that I'm not sure is appropriate.

19 MR. WRIGHT: Could I address that at the appropriate
20 time?

21 COMMISSIONER BAEZ: Yes. But, Mr. Hoffman, are there
22 confidentiality arrangements either existing or to be existing,
23 if you will, that can address your concerns, and is that really
24 what we are talking about?

25 MR. HOFFMAN: Commissioner, from what I have been

1 told by FPL about this issue, frankly I don't know if there
2 are. The standard answer to your question is, yes, we can
3 segregate that out in a deposition and seal it. But I think
4 from what I have been told by the folks who are in charge of
5 security at FPL, they are very uncomfortable discussing the way
6 in which FPL addresses what we do to prevent sabotage or
7 terrorist acts to our facilities.

8 COMMISSIONER BAEZ: And, again, what I'm hearing Mr.
9 Wright say is that what the focus of interest here is is
10 perhaps in the evaluation process so that you don't have to
11 actually go beyond or behind the plan. I mean, Mr. Wright, I
12 don't want to put words in your mouth, but it seems that that
13 is what you are suggesting to me. Go ahead.

14 MR. WRIGHT: May I?

15 COMMISSIONER BAEZ: Yes.

16 MR. WRIGHT: I'm not asking -- I don't intend to
17 inquire what they do in terms of specific security measures in
18 terms of guards, protective facilities, or things like that. I
19 would like to inquire as to how they evaluate those things and
20 other catastrophic events, hurricanes, tornadoes, and so on
21 that they have asserted here are a significant part of the
22 justification for the separate right-of-way, in their planning
23 and decisions as to use a separate right-of-way. Could I go
24 ahead and address power plants?

25 COMMISSIONER BAEZ: Hang on, I don't want to get off

1 point here. I'll frag it for sure. It's better if you risk
2 fragging it. Now, again, it seems that maybe we need a little
3 bit of refining. It's seems that the subject matter, Mr.
4 Hoffman, I guess putting myself in Mr. Harris' shoes, for
5 instance, I would be interested in knowing at least, you know,
6 something that arguably could touch upon -- at the very least
7 touch upon that sensitive subject. So I can see where the
8 relevance and I can see why it might be important.

9 I also appreciate -- and, again, I share your
10 concerns over letting specifics, specific details that can
11 compromise your security out to thin air. That certainly
12 should be nobody's intention here, and I guess what we need to
13 do here is try and refine the subject matter to more clearly
14 identify exactly what kind of information is. Now, are you
15 hearing something in Mr. Wright's clarification that gives you
16 some comfort and it is something that we can all get our hands
17 around or you are still not there?

18 MR. HOFFMAN: The problem that I've got,
19 Commissioner, is I don't know enough about the specifics of
20 where a question like how does FPL evaluate or factor in
21 potential terrorist attacks. I'm not sure exactly where that
22 can lead in terms of a legitimate answer and whether I would be
23 comfortable saying to you right now that we are comfortable
24 addressing that in a deposition with or without
25 confidentiality.

1 I mean, our basic position in this case is that
2 following the 9/11 events and the attack on the country, that
3 terrorist attacks and sabotage have become of increasing
4 significance in our planning process across the industry,
5 before the FERC, and before this Commission. And it has become
6 a bigger factor. You can lay it on top of -- when you are
7 dealing with the specific issue in this case, which is trying
8 to provide some diversity of paths beyond the common corridor,
9 you can lay it on top of the tornado and the airplane crash now
10 of being more significant in terms of current events today.
11 That is our basic position. Whether that requires then, on a
12 sensitive subject such as this, further inquiry as to how we
13 evaluate it and what that could lead to, I am uncomfortable to
14 be quite honest saying today that I am okay with that.

15 COMMISSIONER BAEZ: Well, let me ask you this, and
16 this is just for my edification at least for now. It sounds
17 like a -- anyway. For instance, in the fuel dockets when --
18 and all the regulated utilities will come in and say we need
19 this much extra because of heightened security risks and so on,
20 I mean, there is obviously some discussion and some
21 consideration and evaluation that comes up that goes into
22 producing that type of request. And certainly that, I would
23 imagine, is normally available as backup so that, for instance,
24 the staff can analyze.

25 Now, how is that kind of information that you provide

1 and that kind of backup as to your evaluation of the situation
2 which you provide to staff confidentially I am assuming differ
3 from the concerns and the dangers that you are seeing here? I
4 guess I'm having a little bit of trouble. And, again, I think,
5 you know, there are a few smart people here at least, and I'm
6 hoping that we can find a way to brush up against it and not
7 step over the line. But I guess if you could contrast the two
8 situations for me maybe I can understand it a little better.
9 How is, for instance, information on the fuel dockets dealing
10 with that?

11 MR. HOFFMAN: Commissioner, without knowing all the
12 specifics of the evidence in that docket -- and I'm happy that
13 Mr. Feaster is walking up behind me. My understanding is that
14 basically what was at issue there was a request by the company
15 to recover certain costs associated with security, generally
16 speaking. The concern that I have here is potential deposition
17 testimony, and for that matter hearing testimony, where we are
18 now asked questions that would require us to answer how we go
19 about planning to prevent terrorist attacks. How those types
20 of plans are factored into the transmission planning process.
21 I guess I just don't -- I'm not sure why we need to go there so
22 that Mr. Wright will be able to exercise his full hearing
23 rights, because we are talking about extremely sensitive
24 information.

25 COMMISSIONER BAEZ: Mr. Wright. I'm sorry, can you

1 just hold on a second, Mr. Wright.

2 Mr. Feaster, did you have something else to add, or
3 you just stepped up just in case?

4 MR. FEASTER: Commissioner, first I apologize for not
5 wearing a tie. I did not anticipate addressing the Commission
6 today.

7 COMMISSIONER BAEZ: I envy you.

8 MR. FEASTER: I think the comment, if I were going to
9 make one, I guess now I am, would be there is a wide gulf in my
10 view -- and I'm not a security expert, but I have talked with
11 our security people on any number of occasions. There is a
12 wide gulf between, I think, specific security measures, which
13 is the implementation, and the decision path that brought one
14 to implement those measures.

15 I think in fuel we have implemented certain measures,
16 we have demonstrated the cost, and we have demonstrated the
17 reasonableness. But I think the decision path, which is what
18 concerns me here and what Mr. Hoffman just spoke to, the
19 decision path that led to certain measures is a vastly
20 different subject and would give an insight into security that
21 is far different, protective order notwithstanding, from
22 understanding what the individual measures to address a
23 potential risk would be.

24 COMMISSIONER BAEZ: Thank you, Mr. Feaster.

25 Mr. Wright.

1 MR. WRIGHT: Thank you, Commissioner. Well, we have
2 got a problem, and here it is. FPL has plead the terrorist
3 sabotage concern as a significant reason for wanting the
4 separate right-of-way. This is hearsay, but this is a
5 prehearing conference. As best I can tell, the statements that
6 FPL's representatives are making to my folks down in Collier
7 County indicate that it is the primary reason. And for us not
8 to be allowed to inquire about how those decisions are factored
9 into FPL's planning decisions, how they evaluate the
10 probability of a tornado, for example, or a hurricane, or a
11 terrorist attack, or any other potential catastrophic event,
12 plane crash or whatever, in attempting to justify a separate
13 right-of-way, it seems essential to us to be able to evaluate
14 their claim that they need a separate right-of-way.

15 It is really -- in their pleadings it is part of what
16 they say. They also say they need it for future expansion
17 capability and they say they need to acquire alternative routes
18 while land is still available, or still practicably available.
19 But the real linchpin, as they are portraying it down in
20 Collier County, appears to be the terrorist sabotage issue.

21 Accordingly, I feel certainly obliged in my client's
22 interest to inquire on the subject, and frankly I feel
23 entitled. You know, again, we are not asking what kind of --
24 well, as I say, I don't have any intention of asking what type
25 of protective measures they use. Rather, I want to ask what

1 they consider in evaluating a separate right-of-way versus
2 collocation. And, you know, they are still even considering
3 collocation of significant parts of this line as it stands. So
4 that's where we are.

5 MR. HARRIS: Commissioner, I have a suggestion
6 perhaps. I didn't know -- it seems to me just thinking about
7 this that what we have as I see it is a pleading where Florida
8 Power and Light has the burden of proof to show something, and
9 one of the elements they want to show is that security is the
10 need for this new right-of-way. It seems to me that Florida
11 Power and Light's experts can get up and say in our expert
12 opinion we need this for these reasons. And the Commission
13 then can find this persuasive or not. The intervenor -- Barron
14 Collier's expert can get up and say we don't find these reasons
15 persuasive. I am an expert, and I don't think it's needed and
16 this is my reason why. And the Commission as the finder of
17 fact can judge the credibility of those experts and make a
18 determination.

19 The second thing I would say is I don't know that
20 this decision can be or should be made today by you. What I'm
21 hearing here is a lot of uncertainty by the parties as to what
22 they are going to ask. And it seems that perhaps the way to do
23 this might be to start the deposition and take it and have the
24 questions asked and at that point an objection could or could
25 not be made. And depending on your schedule for Friday, it

1 might be that we could segregate all of those questions and get
2 you on the phone or come over for a hearing and you could rule
3 on the specific questions and whether they are admissible or
4 not at that point. But it sounds like we are spending a lot of
5 time today talking about issues that we don't really know. We
6 don't know what questions the intervenor plans to ask, we don't
7 know how FPL is going to respond to those specific questions,
8 and it seems like we're not really getting anywhere other than
9 giving you a lot of ifs and maybes and buts.

10 COMMISSIONER BAEZ: Well, and I guess that is really
11 my concern, Mr. Hoffman. The reason for my questions is, you
12 know, I'm having a hard time finding where a question is a
13 no-no. I have the same concerns you do, understand, but I can
14 also imagine questions that don't touch on and don't expose
15 vulnerabilities like Mr. Feaster has suggested. That is
16 obviously the danger, and that's why I think we all need to
17 tread lightly. But, you know, I guess I can't help asking
18 myself, but for the unfortunate incidents that sort of have
19 spurred this on, you know, there are other disastrous
20 situations. We have hurricanes, we have tornadoes and so on.
21 And I keep asking myself, well, would we be having the same
22 reluctance to discuss those types of issues or things relative
23 to those types of issues than we would otherwise.

24 So I think I am inclined to take Mr. Harris'
25 suggestion to heart in that, you know, at any moment -- and I

1 will make myself available for as long as necessary. Let's see
2 how -- let's see how it goes. I believe that Mr. Wright
3 doesn't have any intention of going where he shouldn't. I
4 think we have had enough discussion to know that he shouldn't,
5 and perhaps if we can tread -- maybe the line that we are
6 looking for will find itself as the time goes along. And I'm
7 not -- you know, I'm not sure that we should be addressing it
8 wholesale based on, you know, without knowing what the facts of
9 your prejudice are at this point.

10 MR. HOFFMAN: Commissioner, let me just say that I am
11 satisfied to approach it that way. Secondly, that there are
12 some portions of our petition and our testimony that are
13 redacted, and we certainly would view those to be a fair
14 subject for questions and perhaps questions concerning --

15 COMMISSIONER BAEZ: I was concerned about the same
16 thing.

17 MR. HOFFMAN: -- and it will get us where we need to
18 go, and hopefully it will. I will be talking with Mr. Wright
19 in an attempt to try to see if we can segregate that part of
20 the deposition out, early, late, or whatever it turns out to be
21 so in the event we run into a problem, you know, it won't sort
22 of spring in from a group of other questions that had nothing
23 to do with this sensitive issue.

24 And the other thing that I would say, Commissioner,
25 is that we still would request a ruling from you today that the

1 subject matter of his questions on Items 10 and 11 not extend
2 out to power plants.

3 COMMISSIONER BAEZ: And that was going to be the
4 final discussion. And I know that I have held you -- I have
5 kept you from responding on those, so you can go ahead now
6 and --

7 MR. WRIGHT: Yes. If I could, I would just like to
8 say I support Mr. Harris' suggestion.

9 COMMISSIONER BAEZ: That's good.

10 MR. WRIGHT: You know, as he correctly points out,
11 FPL's witnesses will be giving their expert opinion.
12 Procedurally, I think I am completely entitled to inquire as to
13 what the basis of that opinion is, and that is what these
14 questions would go to. I will be very mindful of this line and
15 try not to cross it. If I get to a point that Mr. Hoffman
16 thinks I have crossed it, he will say don't answer that
17 question and we will see if we can't work it out there, and if
18 we can't we will come see you. I think that's fine.

19 Here is the point on power plants. The gist of FPL's
20 concern about having a separate right-of-way in this instance
21 seems to be that the concentration of transmission lines in a
22 common place, a common corridor in the case of transmission
23 lines, exposes them to additional vulnerability with regard to
24 natural disasters and acts of terrorism and sabotage. Frankly,
25 FPL is engaged in a -- has been engaged in and is engaged in,

1 as reflected in their ten-year site plans, a construction and
2 expansion program that will bring extraordinarily great -- that
3 has already brought extraordinarily great concentration of
4 their power plants at a very few sites and which will be
5 increasing as they add additional capacity to those sites.

6 This seems to me to be inconsistent. And whether on
7 the record or not, in their recent need determinations they did
8 not -- which were after 9/11 -- they did not seem to think that
9 that was much of a problem with respect to locating 1,100 new
10 megawatts at Manatee and 789 new megawatts at Martin with more
11 planned to come at Martin. It seems to me that the fundamental
12 principal of exposure to whatever natural disaster, be it
13 tornado, hurricane, lightning strike, plane crash, et cetera,
14 et cetera, applies equally to a collocation of transmission
15 lines in a corridor as it does apply to power plants located at
16 specific power plant sites.

17 I think it is way beyond the threshold that is
18 required of discovery questions, which is that they either be
19 designed to directly elicit information that would be
20 admissible at hearing or designed to lead to the discovery of
21 information that would be admissible at hearing. I think the
22 information would be directly admissible at hearing in response
23 to these questions, so I think you ought to let us ask about
24 power plants.

25 MR. HOFFMAN: Commissioner, may I briefly respond to

1 that?

2 COMMISSIONER BAEZ: Yes, Mr. Hoffman.

3 MR. HOFFMAN: Very brief. In our petition and in our
4 testimony you will find that one of the alternatives that we
5 considered and rejected was a potential power plant, so that
6 subject in and of itself is not off limits, but that is not
7 what we are talking about here. Item 10 is how do we evaluate
8 terrorist and sabotage issues when it comes to power plants.
9 And I just don't think when it comes to a sensitive issue like
10 that, that that is necessary.

11 If what Mr. Wright is talking about is don't you
12 really think putting a power plant there is a better idea, I
13 think that that is fair game in light of what we said in our
14 petition. But to then take it to, you know, how we plan for
15 power plants and factor in terrorist, potential terrorist and
16 sabotage risks, I think takes it a step beyond.

17 COMMISSIONER BAEZ: Mr. Wright, I have to tell you if
18 my concerns are enough on the transmission line issues, they
19 are doubly so on power plant issues. I mean, that is where we
20 really get into a sticky situation.

21 MR. WRIGHT: Again --

22 COMMISSIONER BAEZ: You were nodding your head or
23 shaking your head about something before, what were you going
24 to say?

25 MR. WRIGHT: Oh. We would not take the position that

1 putting two CTs at the Collier substation is the preferred
2 alternative. We want to inquire about power plants because the
3 principle of collocating power plants seems to me to be
4 virtually identical to the principle of collocating or not
5 collocating transmission lines. And, again, we don't intend to
6 inquire about security practices or things like that. I would
7 like to inquire about how they evaluate those things in
8 planning.

9 COMMISSIONER BAEZ: And maybe we are getting to a --
10 maybe it's a distinction without a difference. But I think you
11 can get your answers within the parameters of a transmission
12 line, and I'm really loathe to include power plants as part of
13 the universe that we are going to discuss. So I'm going to
14 have that change made to the notice -- to your exhibit. It
15 will have that limitation worked in and have power plants
16 deleted. I really think you can get the information or the
17 view that you are seeking for with a much more limited scope.

18 Question. There were no objections on Number 12. I
19 didn't hear you --

20 MR. HOFFMAN: Commissioner Baez, I think that Mr.
21 Shoneck will be able to respond to reasonable questions
22 directed to how the load forecasts were used.

23 COMMISSIONER BAEZ: Okay.

24 MR. HOFFMAN: If I could briefly go back just so we
25 don't run into a bump at this deposition, on Items 1 through 9

1 it is my understanding that your ruling is that Mr. Wright can
2 inquire about a separate right-of-way, but not about specific
3 routes. Is that correct?

4 COMMISSIONER BAEZ: Generally, yes. That he can
5 inquire generally. I think that is the commitment that he has
6 represented here.

7 MR. WRIGHT: Yes, sir.

8 COMMISSIONER BAEZ: Is there anything else? Have we
9 got this part cleared up? Mr. Harris, do you have any
10 questions? Is there anything that you --

11 MR. HARRIS: I'm just trying to think of how to
12 phrase this. It's a notice of taking deposition with Mr.
13 Hoffman making an oral motion for protective order. So would I
14 show a ruling as you are granting in part, denying in part the
15 motion for a protective order?

16 COMMISSIONER BAEZ: Yes, and you can set forth the
17 conditions and the parameters that we set out here.

18 MR. HARRIS: And that is that for Questions 1 through
19 9 what we just discussed, for 10 and 11 that generation will
20 not be considered part of those questions, but the transmission
21 will be.

22 COMMISSIONER BAEZ: Correct.

23 MR. HARRIS: And then 12 is basically withdrawn; you
24 are not ruling on Question 12?

25 COMMISSIONER BAEZ: Correct.

1 MR. HOFFMAN: Commissioner, I have got, I think, two
2 more items.

3 COMMISSIONER BAEZ: Okay.

4 MR. HOFFMAN: One is I would suggest that it may be
5 helpful for the Commission to hear opening statements in this
6 case, so I'm going to suggest opening statements limited to ten
7 minutes.

8 COMMISSIONER BAEZ: I think we had contemplated that
9 in the order, hadn't we?

10 MR. HOFFMAN: Okay.

11 COMMISSIONER BAEZ: All right.

12 MR. HOFFMAN: And, secondly --

13 COMMISSIONER BAEZ: Do you have any objection, Mr.
14 Wright?

15 MR. WRIGHT: No, sir. Ten minutes will be just fine.

16 MR. HOFFMAN: We had filed a request for confidential
17 classification, and under the procedural order we are required
18 to advise of the procedures that we contemplate in the event
19 our confidential documents are going to be used at the final
20 hearing. And I just wanted to put you on notice and the
21 parties on notice that our confidential information consists of
22 portions of our filing. So we will be asking to admit those
23 confidential documents into the record. We intend to appear at
24 the hearing with confidential binders of the confidential
25 information and make it available for the Commissioners,

1 Commission Staff. Mr. Wright already has a copy.

2 COMMISSIONER BAEZ: Thank you for the notice. And
3 will make sure they are red. You know how the Chairman likes
4 her binders.

5 MR. HOFFMAN: Red is good.

6 COMMISSIONER BAEZ: Do you have anything else, Mr.
7 Wright? Anything else?

8 MR. WRIGHT: No, sir.

9 COMMISSIONER BAEZ: Staff? I'm sorry.

10 MR. HARRIS: And I don't know if I should bring this
11 up. There has been some discussion between myself and Mr.
12 Hoffman and maybe Mr. Wright about Mr. Ordax, his testimony.
13 And it had been my understanding that -- I don't know if Mr.
14 Wright has been consulted on this, but staff didn't have any
15 questions for Mr. Ordax and we were wondering if we could
16 stipulate his testimony in.

17 COMMISSIONER BAEZ: Let's give Mr. Wright some time
18 to think about that. I wouldn't expect you to have an answer.

19 MR. WRIGHT: This is the first I have heard of it,
20 Commissioner. I have communicated to Mr. Hoffman last week
21 that we do not feel the need to depose Mr. Ordax, I would just
22 like to check and see whether we might have anything for him on
23 cross. I will do that.

24 COMMISSIONER BAEZ: Put that on your to-do list and
25 that is something that we can settle off-line.

1 MR. HOFFMAN: Commissioner, while we are talking
2 about stipulations or potential stipulations, I believe that we
3 could stipulate Mr. Armand's testimony into the record if that
4 is something that staff could do, as well.

5 COMMISSIONER BAEZ: Mr. Harris?

6 MR. HARRIS: I'm sorry, Commissioner, I missed that.
7 I apologize.

8 COMMISSIONER BAEZ: Mr. Armand, the Barron Collier --

9 MR. HARRIS: We would agree to that, yes.

10 COMMISSIONER BAEZ: Okay. I'm assuming --

11 MR. HARRIS: That would be subject to the -- and,
12 again, Commissioner, I don't know that any of the -- none of
13 the other Commissioners have asked any questions of us or
14 indicated an interest.

15 COMMISSIONER BAEZ: Let's hold off on the
16 stipulations, because I know that staff hasn't been able to
17 make the rounds to make sure that any of the other
18 Commissioners take issue, so I'm kind of hesitant to take that
19 up. But it is nice to go on the record as offering it. That
20 will give you a better idea of what you have got to walk in
21 with.

22 MR. HARRIS: And what I will do is I will attempt to
23 contact the Commissioners' aides and find out -- with a
24 position on that stipulation. And maybe let Mr. Wright and Mr.
25 Hoffman know in advance so that Mr. Ordax may or may not have

1 to travel up here.

2 COMMISSIONER BAEZ: Excellent. And let's do that as
3 soon as we can. Is there anything else? All right. Seeing
4 nothing else, thank you all for --

5 MR. HOFFMAN: One more item, Commissioner.

6 COMMISSIONER BAEZ: You had to do it, didn't you?

7 MR. WRIGHT: Let the record reflect it wasn't me.

8 COMMISSIONER BAEZ: Go ahead, Mr. Hoffman.

9 MR. HOFFMAN: This process is a detailed
10 certification process. We are on fairly tight time line. We
11 think that it would be appropriate in this case for the
12 Commission to issue a bench decision, and we wanted to at least
13 provide notice of that and offer that up if the Commission
14 believes it is appropriate.

15 COMMISSIONER BAEZ: Mr. Hoffman, I appreciate your
16 request, and I think that that sort of falls into the same bin
17 as the stipulations do. So, you know, thanks for thinking of
18 us, but --

19 MR. HOFFMAN: My pleasure.

20 COMMISSIONER BAEZ: -- we're going to have to get
21 back to you on that. I suspect we will have a better idea
22 leading into the hearing.

23 Mr. Harris, are we all done?

24 MR. HARRIS: I think that is all we have.

25 COMMISSIONER BAEZ: Great. Thank you all.

1 MR. WRIGHT: Commissioner.

2 COMMISSIONER BAEZ: Yes.

3 MR. WRIGHT: Pending further developments over the
4 next week, we are not ready to waive our opportunity to make
5 post-hearing filings.

6 COMMISSIONER BAEZ: And that's why I think this has
7 to percolate a little more.

8 MR. WRIGHT: We do intend to talk about our
9 differences off the record, sooner rather than later, but at
10 this point --

11 COMMISSIONER BAEZ: We haven't decided anything here.

12 MR. WRIGHT: -- we cannot waive our specific right to
13 make post-hearing filings.

14 COMMISSIONER BAEZ: Perfectly fair. Thank you all.
15 We are adjourned.

16 (The prehearing concluded at 2:32.)

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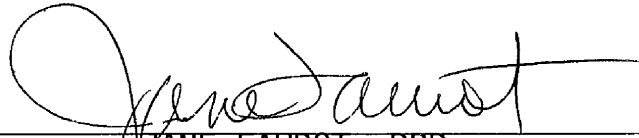
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Office of Hearing Reporter Services, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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

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

DATED THIS 1st day of April, 2003.



JANE FAUROT, RPR
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