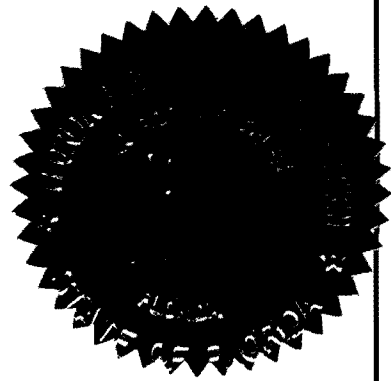


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 031033-EI

In the Matter of

REVIEW OF TAMPA ELECTRIC
COMPANY'S 2004-2008 WATERBORNE
TRANSPORTATION CONTRACT WITH
TECO TRANSPORT AND ASSOCIATED
BENCHMARK.



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VOLUME 4

Pages 492 through 568

14	PROCEEDINGS:	HEARING
15	BEFORE:	CHAIRMAN BRAULIO L. BAEZ
16		COMMISSIONER J. TERRY DEASON
17		COMMISSIONER LILA A. JABER
		COMMISSIONER RUDOLPH "RUDY" BRADLEY
		COMMISSIONER CHARLES M. DAVIDSON
18	DATE:	Friday, May 28, 2004
19	TIME:	Commenced at 9:00 a.m.
20	PLACE:	Betty Easley Conference Center
21		Room 148
22		4075 Esplanade Way
		Tallahassee, Florida
23	REPORTED BY:	LINDA BOLES, RPR
24		Official FPSC Reporter
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25	APPEARANCES:	(As heretofore noted.)

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I N D E X

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NAME:

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P R O C E E D I N G S

(Transcript follows in sequence from Volume 3.)

CHAIRMAN BAEZ: We'll go back on the record and reconvene this hearing. Good morning everyone. We have a couple, a couple of housekeeping items. Mr. Keating, you had some amendments that need to be made

MR. KEATING: That's correct. I discussed this briefly with the parties yesterday. There were two exhibits in addition to those that were set forth in I believe what was identified as Exhibit 3 yesterday, the confidential stipulated exhibit, that pack of exhibits. There are two exhibits or documents that, with the stipulation of the parties, I would like to add to that.

One is a document that shows the current TECO Transport-Tampa Electric contract and the prior TECO Transport-Tampa Electric contract, and the second document simply shows the assumptions used in Mr. Dibner's ocean barge model and his inland river barge model. And I believe that the indication I got from the parties yesterday was that there would be no objection.

CHAIRMAN BAEZ: And is that, is that still the case, parties? There's no objection to amending confidential Exhibit 3?

MR. VANDIVER: No objection.

CHAIRMAN BAEZ: All right. So then let the record

1 reflect that confidential Exhibit 3 will also be amended to
2 include the confidential agreements, current and prior, between
3 TECO and TECO Electric and Tampa Electric and TECO Transport.

4 MR. KEATING: Yes.

5 CHAIRMAN BAEZ: Who can keep track of these names,
6 eh? And, secondly, also the assumptions used by Witness Dibner
7 as part of the ocean barge model.

8 MR. KEATING: Right. And those assumptions were
9 provided as part of a document request by staff. We will take
10 those out of that document request and provide those to the
11 parties.

12 CHAIRMAN BAEZ: Without, without objection, show
13 confidential Exhibit 3 amended as such.

14 Next, we've had -- we've had some informal
15 discussions, I understand, among the parties as to how to
16 address the remainder of this hearing. Obviously yesterday was
17 a little bit of a slog. I don't expect that to be the case
18 because I know that everybody has pretty much agreed, at least
19 in principle, to put forth their best effort to get this
20 hearing done by the end of today. I'll tell you at the outset,
21 I don't intend on going any later than 6:00 today. So, as they
22 say in the business, govern yourselves accordingly.

23 The possibility obviously exists that we may not be
24 finished, and right now my office is trying to identify some,
25 some windfall time we may have in the next, in the next few

1 days to see if we can accommodate a conclusion to this hearing.
2 I will repeat, that is not my Plan A on this and it shouldn't
3 be yours either.

4 I, I hope that, as I said before, we can limit our,
5 our questions to those that really make the point and anything
6 else necessary, but if you can kind of self-regulate, to coin a
7 phrase, and, you know, make your questions count, I know that
8 everyone, including yourselves, will appreciate it.

9 So with that, if there's nothing else that we need to
10 address, Mr. Twomey or Mr. Wright or any of the other
11 intervenor parties. Ms. Kaufman?

12 MS. KAUFMAN: Chairman Baez, I just wanted to
13 request, I've already discussed this with Tampa Electric, that
14 I believe the FIPUG/OPC witnesses will follow Ms. Wehle.

15 CHAIRMAN BAEZ: Yes.

16 MS. KAUFMAN: Mr. Majoros needs to get back to
17 Washington, D.C., tonight, so we'd ask that he would go before
18 Mr. Wells in the witness order.

19 CHAIRMAN BAEZ: Is there any objection to changing
20 out the OPC/FIPUG Witness Majoros to go ahead of Witness Wells?

21 MR. BEASLEY: That's fine.

22 CHAIRMAN BAEZ: No objection? Okay. We'll amend,
23 we'll amend the witness order. That will put Mr. Majoros up
24 after Ms. Wehle is done.

25 With that, I think, Mr. Perry, you were left on deck;

1 right?

2 MR. PERRY: That's correct.

3 CHAIRMAN BAEZ: You can go ahead with your
4 cross-examination.

5 Ms. Wehle, good morning. You're still under oath. I
6 know you know that.

7 THE WITNESS: Yes. Good morning.

8 CHAIRMAN BAEZ: Good morning. Go ahead, Mr. Perry.

9 CROSS EXAMINATION

10 BY MR. PERRY:

11 Q Good morning, Ms. Wehle. My name is Tim Perry. I'm
12 with the Florida Industrial Power Users Group.

13 A Good morning.

14 Q Ms. Wehle, are you the only TECO employee to testify
15 in this case on behalf of Tampa Electric?

16 A Yes.

17 Q Did you review and approve the positions that Tampa
18 Electric has taken in their prehearing statement that appears
19 in the prehearing order?

20 A Yes.

21 Q Did anyone else?

22 A It was reviewed by our regulatory folks, our
23 attorneys.

24 Q Do you have a copy of the prehearing order?

25 A No, I do not.

1 Q Let me ask you to direct your attention to Page 8,
2 please.

3 A Okay.

4 Q And on that page appears a portion of Tampa Electric
5 Company's basic position. And I'd ask you to look at the, at
6 the first sentence under the heading The Intervenors.

7 A Okay.

8 Q And can you read that first sentence, please?

9 A "It is important for the Commission to understand the
10 commercial interests being represented by the intervenors in
11 this proceeding."

12 Q Tampa Electric doesn't include FIPUG under the --
13 within the commercial interests, does it?

14 A Ask your question again. I'm sorry.

15 Q You don't think that Tampa Electric is -- I mean,
16 Tampa Electric doesn't believe that FIPUG is promoting some
17 type of commercial interest such as this first sentence appears
18 to state.

19 A No, I don't think so.

20 Q And, in fact, you know that FIPUG represents
21 customers of Tampa Electric.

22 A That's correct.

23 Q And the same would be true for Office of Public
24 Counsel; isn't that correct?

25 A That's correct.

1 Q Would you agree that it is TECO's -- that it is this
2 Commission's responsibility to permit TECO as a regulated
3 utility to pass through to customers only prudent and
4 reasonable costs?

5 A I believe that's their mission, yes.

6 Q Also under the heading The Intervenors, Tampa
7 Electric discusses that some intervenors have proposed, or in
8 their opinion have proposed contract abrogation. Is that your
9 understanding?

10 A What do you mean by "contract abrogation"?

11 Q In other words, their, their -- Tampa Electric
12 believes that certain intervenors could possibly ask, be asking
13 for Tampa Electric to not fulfill the obligations of its
14 contract with TECO Transport.

15 A That could be one possibility.

16 Q And TECO is not suggesting that FIPUG is advocating
17 that position, is it?

18 A No.

19 Q Isn't FIPUG Witness Majoros suggesting that TECO only
20 be permitted to recover prudent and reasonable costs?

21 A I haven't read all of Mr. Majoros' testimony, so I'm
22 not -- I don't know that I could answer that completely.

23 Q Okay. I'm just going to show you Mr. Majoros'
24 testimony. You've reviewed his testimony, haven't you?

25 A I don't remember all of it, and that's why I feel

1 like I can't answer your question. I'm not sure if he's
2 advocated any other positions.

3 Q Can you look at Page 2, Lines 4 through 6, which is
4 the page that we've handed to you.

5 A Okay.

6 Q Doesn't his position appear there?

7 A It, it appears as far as his conclusions and
8 recommendations, yes.

9 CHAIRMAN BAEZ: Mr. Perry, can you give that
10 reference again, please?

11 MR. PERRY: Yeah. It's Page 2, Lines 4 through 6.

12 BY MR. PERRY:

13 Q And you would agree based on that statement that he's
14 not advocating contract abrogation; correct?

15 A Correct. He's advocating a review for the
16 reasonableness of the contract.

17 Q Okay. And if the Commission were to accept
18 Mr. Majoros' recommendation, it would be up to TECO to decide
19 how to handle the TECO Transport contract obligations it
20 entered into before it sought the Commission's approval?

21 A I would have to, I would have to understand all the
22 parameters of obviously what the Commission's decision would be
23 and how it would affect the contract. I think that that is one
24 possibility.

25 Q Potentially --

1 A Potentially it could be one outcome.

2 Q Potentially Tampa Electric could be responsible
3 for -- if, if full cost recovery isn't allowed, potentially
4 Tampa Electric could be responsible for the difference;
5 correct?

6 A That, that is certainly one outcome.

7 Q Ms. Wehle, is it your understanding that if the rates
8 negotiated by TECO are not fair, just and reasonable to TECO's
9 ratepayers, that the Commission is obligated to fix them?

10 A I believe that they will not allow us to pass through
11 certain costs, if that's what you mean by "fix them."

12 Q So is that a yes?

13 A So there would have -- there would be disallowance of
14 cost that would not be considered prudent.

15 Q Is that a yes?

16 A I don't know what you mean by "fix them," Mr. Perry.
17 That's -- that would be their fix, I believe.

18 Q Okay. In your opinion is a right of first refusal a
19 valuable contract right?

20 A It can be.

21 Q Do you think the right of first refusal gave TECO
22 Transport an advantage over other competitors in the
23 marketplace?

24 A I think the right of first refusal -- I'm, I'm trying
25 to answer yes or no. I have that on my little sticky note here

1 to try and do that to the best of my ability.

2 I think that the right of first refusal gave TECO
3 Transport the ability to continue to invest significant capital
4 to provide us with an efficient fleet, and what it did for the
5 ratepayers was continue to provide that efficient service into
6 the future at no greater cost than what we would have been
7 getting from anyone else in the marketplace. So really, again,
8 it's -- the way to look at a right of first refusal, it's
9 really a win-win for both parties.

10 Q But you would agree it allows the -- it allows -- it
11 allowed TECO Transport to basically meet or beat the best bid
12 after all the bids had been submitted; correct?

13 A Yeah. That's what it does. Yes.

14 Q And in that sense, since it doesn't have to compete
15 against the other bidders in the RFP process, wouldn't you
16 agree that that does give them an advantage in that they don't
17 have to submit a bid?

18 A While they're not required to bid, it doesn't
19 preclude them from bidding, first of all.

20 And then, secondly, the way I look at it is we're in
21 no worse off position than had someone, Company B had done the
22 business. I'm not sure it gives them an advantage or not.
23 They could choose not to accept it if the rate was too low or
24 they wanted to do other business. It really is a means to,
25 again, as I kind of mentioned yesterday with Mr. Vandiver, it's

1 a means to incent them to continue to provide the lowest cost
2 efficient service to our customers. It's a negotiated item in
3 a contract.

4 Q And they negotiated to have that item in that
5 contract.

6 A Yes.

7 Q And why do you think that they negotiated to have
8 that item? Isn't it because it gives them an advantage over
9 other bidders?

10 A It doesn't -- they would have to know exactly what
11 everyone would bid each time the contract is up. It gives them
12 a last look. I'm not -- it may not give them an advantage
13 every time.

14 Q Would you agree that if TECO Transport had more
15 lucrative business offers, that it would have taken them rather
16 than exercise the right of first refusal clause?

17 A I can't say what TECO -- TECO Transport's decision
18 making would have been. I think that's very speculative that
19 that may have been one of the outcomes.

20 Q In your experience has a provider with a right of
21 first refusal clause ever beaten rather than met the price
22 that's given to them?

23 A I think I answered this in my deposition. I, I
24 didn't recall a time in my experience where that had actually
25 occurred.

1 Q Doesn't the right of first refusal clause disincent
2 TECO Transport to negotiate a lower price?

3 A Not if we were to, again, negotiate for some other
4 term. I mean, again, in a negotiation there's a give and take
5 on both sides. And what you have to realize is that for giving
6 up something or getting something, you're going to have to give
7 something else up on the other side.

8 Q Did you negotiate for a lower price this time around?

9 A No, we did not. That was not what was contractually
10 required.

11 Q Ms. Wehle, is it your testimony that TECO issued the
12 RFP as a good faith effort to obtain relevant and timely market
13 data?

14 A Yes.

15 Q Okay. Okay. I have a document for you to look at.

16 MR. PERRY: Mr. Chairman, can I have this document
17 marked as an exhibit, please?

18 CHAIRMAN BAEZ: Show the document titled Waterborne
19 Transportation Process 2003 marked as Exhibit 78.

20 (Exhibit 78 marked for identification.)

21 BY MR. PERRY:

22 Q Ms. Wehle, have you seen this document before?

23 A I don't recall seeing this before, no.

24 Q Do you know who prepared this document?

25 A I don't know who prepared this document.

1 Q Is it an internal Tampa Electric document?

2 A It certainly looks like that. It's on Tampa Electric
3 letterhead.

4 Q Doesn't the document appear to be a time line of the
5 waterborne transportation procurement process?

6 A Yes.

7 Q Can you read the entry next to June 17, please?

8 A "Received telephone call from Jorge Chimezo
9 (phonetic) informing me that staff was prepared to issue a
10 recommendation by noon on June 19th if the company was not
11 prepared to issue an RFP for transportation services beginning
12 in 2004. Denise called Bill M. to inform him of the senior
13 leadership's upcoming meeting to decide on the RFP."

14 Q Can you read the next entry as well, please?

15 A "June 18th. Informed that Tampa Electric had decided
16 to issue an RFP for waterborne transportation services
17 beginning in 2004." I notified Jorge and Denise -- "I notified
18 Jorge and Denise notified Bill M. of the company's decision.
19 We both asked that the recommendation be pulled."

20 Q And can you read the next entry, please?

21 A Sure. "June 19th. Again Denise and I updated
22 Commissioner Baez's office and staff of the company's decision,
23 and committed to keep them updated as the process progressed.
24 No recommendation was issued."

25 Q Ms. Wehle, is it your opinion that TECO didn't have

1 to issue an RFP in this case?

2 A Yes.

3 Q Would you agree that having undertaken the obligation
4 to do so that you're required to issue the best RFP possible?

5 A Yes.

6 Q Isn't it true that staff had a number of concerns
7 with the RFP?

8 A Yes.

9 Q Didn't staff hold a meeting with TECO to discuss
10 those concerns?

11 A I believe they did on July 1st.

12 Q Isn't it true that TECO declined to make any of
13 staff's suggested changes other than to correct a typographical
14 error?

15 A We declined and we explained why we declined. Yes,
16 that's true. We felt that those, those changes that they had
17 requested would not have yielded any more information from the
18 marketplace, nor would it have done anything but to confuse the
19 process. And I believe we had contacted staff on an
20 issue-by-issue basis and, and told them just that.

21 Q And you sent them a letter that appears in your
22 testimony; is that correct? Not you personally, but Tampa
23 Electric sent it.

24 A The letter appears in my testimony. It was drafted
25 by Ms. Brown.

1 Q Can you turn to that document now, please? It's
2 document number two in your rebuttal.

3 A Okay.

4 Q And, again, this letter was drafted by Deirdre A.
5 Brown. And what's Ms. Brown's position?

6 A She's the vice president of regulatory affairs for
7 TECO Energy.

8 Q And do you report to her?

9 A No.

10 Q Okay. Did you assist in the creation of this letter?

11 A I don't recall that I did.

12 Q In Ms. Brown's letter, which is attached as an
13 exhibit to your testimony, it states, "Tampa Electric is
14 confident that its RFP will generate a significant interest."
15 Would you characterize the two bids received in light of the 26
16 packages that were sent out a significant interest?

17 A I'm not -- it may be significant with what people had
18 under contract already in the marketplace. I can't say for
19 sure whether that was significant to their ability to provide
20 transportation services or not.

21 Q In the last sentence of the letter it states, "The
22 company believes that as the process is concluded, the staff
23 and the Commission will be satisfied that the company's RFP
24 was, in fact, informative and productive."

25 Would you agree that -- would you characterize the

1 two bids received as productive?

2 A I believe one was a bona fide bid which we actually
3 used, and the other was utilized in a manner to understand the
4 marketplace for the river transportation business.

5 Q And that bid was rejected; correct?

6 A It was from a bankrupt company. Yes, it was
7 rejected. However, it did still continue to provide insight
8 into the river business, and Mr. Dibner used it in his report.

9 Q Isn't it true that despite only receiving two
10 responses to the RFP, you didn't contact any of the potential
11 bidders to ask why they did not bid?

12 A I'm not sure what that would have served to -- I
13 mean, yes, I did not contact them. I'm not sure what purpose
14 that would have served since the bid was closed. I don't know
15 what I would have done with that information.

16 Q And I believe it's been testified to before, but
17 isn't it true that you didn't send CSX an RFP even though they
18 had previously expressed interest in providing transportation
19 services for TECO?

20 A We did not initially send them an RFP. However, when
21 they contacted us, we did send them one still within the open
22 bid process period.

23 Q Didn't you score their bid as nonconforming because
24 you required waterborne proposals only?

25 A We called it a nonconforming bid because it did not

1 conform to the waterborne requirements; however, that's not to
2 say that we did not fully evaluate it.

3 Q On Page 16 of your direct testimony you discuss
4 TECO's preference for integrated providers. Does the RFP
5 specifically discuss how this preference would be scored?

6 A No, it does not.

7 Q In your opinion, are there any other carriers that
8 can meet this preference for integrated transportation
9 services?

10 A I think we covered that yesterday, Mr. Perry. What I
11 said was that although there may not be one particular company
12 out there that can actually provide the service, service from
13 end to end, it did not preclude others from joining together to
14 provide a bid together, nor did it preclude, as it stated, that
15 we would actually evaluate segment bids as well.

16 It's not a lie that we prefer an integrated provider.
17 We've, we've shown over the years that that is something that
18 works well for us, given the fact that we are not located in
19 the middle of the coal fields.

20 Q The only one that -- the only company that can and
21 has provided integrated transportation for Tampa Electric is
22 TECO Transport; is that correct?

23 A Yes. Except I guess if you were to look at the
24 railroad, you could say that they would provide an
25 integrated -- provide -- they could provide an integrated

1 service if we were to have rail unloading facilities at Big
2 Bend or Polk.

3 Q Is it TECO's opinion that a segmented transportation
4 would be more expensive than having an integrated
5 transportation system?

6 A Potentially it could be. And what I mean by that is
7 certainly there are more administrative costs associated with
8 it, with dealing with more than one supplier. As well as
9 there's a potential to get into arguments, and I know that
10 Mr. Dibner and Mr. Murrell both point this out in their
11 testimony, of demurrage claims when you're dealing with more
12 than one supplier, who's finger-pointing to each other about,
13 you know, missing deliveries, missing unloadings and the like.
14 And the integrated package for us over the years has proven
15 that we don't get into those kind of arguments.

16 Q Are you familiar with Progress Florida's
17 transportation system, their waterborne transportation system,
18 that is?

19 A I'm as familiar as what's publicly available
20 information. I know that they have a somewhat similar system
21 as we do.

22 Q Is it your understanding that they don't have an
23 integrated system but rather a segmented system?

24 A It's my understanding that they do have a segmented
25 system; however, the way that they've been capturing their

1 costs over the last at least ten years that I know of would
2 more than compensate them for any kind of demurrage claims.
3 They've been able to actually receive their benchmark as their
4 cost recovery, not their actual cost. It's very different than
5 the way Tampa Electric has incurred transportation costs since
6 1988.

7 Q I have another document for you to look at.

8 MR. PERRY: And, Mr. Chairman, I'd also ask that this
9 be given an exhibit number, please.

10 CHAIRMAN BAEZ: Show the document titled Waterborne
11 Transportation Contract Calendar of Events marked as Exhibit
12 79.

13 (Exhibit 79 marked for identification.)

14 BY MR. PERRY:

15 Q Ms. Wehle, have you seen this document before?

16 A I've seen it presented in a different format, I
17 believe. I don't know that I've actually seen this particular
18 document.

19 Q Did you prepare this time line?

20 A No, I didn't prepare this particular document.

21 Q Do you know who did?

22 A No, I do not.

23 Q But it's a Tampa Electric internal document, isn't
24 it?

25 A That's correct.

1 Q Do you agree with Mr. Murrell's opinion in this case
2 that the timing of the RFP process from six months from start
3 to finish was appropriate?

4 A Yes.

5 Q And the six months, I believe, pertains to the period
6 between the end of June to when the contract expired at the end
7 of 2003; is that correct?

8 A That's correct.

9 Q And you would agree that the RFP was issued on
10 June 27th, 2003?

11 A I believe that's the date.

12 Q Subject to check.

13 A Yes.

14 Q Doesn't the time line show an internal goal date of
15 October 6th, 2003, to complete contract negotiations with TECO
16 transport?

17 A I don't know that these were goal dates. It says
18 what the calendar of events of what actually happened was. I'm
19 not -- it doesn't say a goal date. I think this is an actual
20 time line.

21 Q I believe the time line omits one date in particular,
22 the date would be September 25th, and I believe on that date
23 you filed supplemental direct testimony seeking cost recovery
24 for the contract you were then negotiating with TECO Transport?

25 A That's correct.

1 Q Wasn't TECO's goal approval for cost recovery of the
2 contract in the last fuel adjustment hearing not to have the
3 contract signed by the end of 2004?

4 A Was it our goal to not have it signed?

5 Q No. That's -- let me rephrase that.

6 A Okay.

7 Q Wasn't your goal to get the contract signed prior to
8 2004, but also to, to seek cost recovery for that contract?

9 A We had initially wanted to seek recovery for that
10 contract; however, given the timing of when we prepare our fuel
11 adjustment filing, it did not line up exactly with these dates.

12 Q In other words, you had a shorter amount of time to
13 seek cost recovery than you did to get the contract signed
14 before the end of the year?

15 A I guess -- yeah, I guess you could say that that's
16 the way to look at it. In other words, I had to submit my
17 filing or the company had to submit its filing for the fuel
18 adjustment process way before we were -- we even knew what the
19 rates were going to be potentially.

20 Q Wouldn't you agree, therefore, that the entire
21 process is more correctly the three-month period between the
22 end of June and when you sought cost recovery rather than the
23 end of June to the end of December when the contract was to
24 expire?

25 A No, I don't agree with that, because in the cost

1 recovery process I will eventually pass through my actual cost
2 via my trueup.

3 Q What was the, what was the time period between when
4 the RFP was issued and when the contract was actually signed?
5 Wouldn't you agree it was between June 27th and October 6th?

6 A Yes.

7 Q And that's, that's approximately three months;
8 correct?

9 A Yes. Except I had until December 31st to actually
10 sign a new contract. We just did it -- we were efficient and
11 we did it in a shorter time period.

12 Q In your rebuttal on Page 5, Line 22, you characterize
13 the intervenor's efforts to modify or eliminate the benchmark
14 as a retroactive application of a new and yet undefined policy
15 as it relates to the new contract with TECO Transport; correct?

16 A Could you point me to that again, please?

17 Q It's at Page 5, Line 22, in your rebuttal testimony.
18 I believe that's a start point.

19 A That's correct. Basically what I'm trying to say
20 there is that we relied on Order 20298 when we entered into our
21 agreement.

22 Q Wasn't the benchmark issue -- at issue in Docket
23 030001-EI?

24 A Yes, it was. But the, the final determination of
25 what was going to happen with the benchmark has not occurred,

1 and so the only thing that I can rely on is what's actually in
2 the policy as written. I can only do that until it's changed.

3 Q But you --

4 A Just because it's at issue doesn't mean that it's
5 going to be changed.

6 Q But weren't you on notice that the benchmark could
7 change?

8 A It could. But how am I going to make a decision
9 about it? I don't know what the final result of that is going
10 to be. I can only rely on, until it's changed, what it says.

11 Q And the issue is also identified in Docket 020001-EI;
12 isn't that correct?

13 A That's correct. And, again, it hasn't been changed.

14 Q And it's at issue in this docket also, isn't it?

15 A That's correct.

16 Q Ms. Wehle, did TECO meet with representatives of the
17 terminal bidder to negotiate a lower rate than the ones
18 submitted in response to the RFP?

19 A No, we did not.

20 Q Rather, you forwarded the, the bid price to TECO
21 Transport for them to meet or beat; isn't that correct?

22 A That's correct.

23 Q If TECO Transport had rejected the terminal rates,
24 would you have then entered negotiations with the terminal
25 bidder?

1 A They -- the bid covered everything that we asked for.
2 I don't know why we would have rejected it. It covered
3 everything that was in the RFP to the letter.

4 Q I think you misunderstood.

5 A Okay.

6 Q If TECO Transport had rejected the terminal rates --

7 A Oh.

8 Q -- would you have then entered negotiations with the
9 terminal bidder?

10 A Well, I hadn't even -- I haven't thought about that.
11 Entered into negotiations for them to do the service, you mean?

12 Q Correct.

13 A Yes.

14 Q And would price have been one of the negotiating
15 points?

16 A No. They provided a bid that met all our
17 requirements. You mean -- we take it on face value that that's
18 their best offer.

19 Q And in your experience you never negotiate bid
20 prices?

21 A Typically we don't negotiate bid prices unless at the
22 table there's some kind of something that may come up. We will
23 go back and possibly negotiate terms, timing, other things like
24 that. But typically the -- they're going to sharpen their
25 pencil and provide us with the best, best price. That's how we

1 do business. We don't -- if I do that with every single person
2 who provides me a bid, then it's not an open, fair bid process.
3 I'm going to have to go back to every single person that
4 offered me a bid and ask them to sharpen their pencil.

5 Q I'm not asking to --

6 COMMISSIONER JABER: Excuse me. I'm sorry. And the
7 problem with that would be what exactly?

8 THE WITNESS: Well, I think if you become -- if you
9 get a reputation for expecting room in a price, then no one is
10 going to give you their best price up-front, and you're going
11 to have to assume that you're always going to negotiate it
12 down. And not everyone is going to necessarily know that.

13 COMMISSIONER JABER: And the problem with that would
14 be what exactly?

15 THE WITNESS: That everyone wouldn't be on equal
16 footing. You may have someone who may come in and say this is
17 my best offer. But, again, if I get five or ten bids, I would
18 have to go back -- wouldn't I have to go back to every single
19 party and ask them, could you lower it by \$5 or \$2?

20 COMMISSIONER JABER: And the problem with that would
21 be what exactly?

22 THE WITNESS: It would just be a very arduous
23 process, I think.

24 COMMISSIONER JABER: And the problem with that would
25 be what?

1 THE WITNESS: I think that it would be -- it would
2 just belabor the process, Commissioner.

3 COMMISSIONER JABER: And that's the only reason you
4 didn't go back and ask TECO Transport to sharpen their pencils?

5 THE WITNESS: We felt like the model that Mr. Dibner
6 had provided was the best market rate that we could get, and
7 under the right of first refusal they could meet or beat it and
8 they chose to meet it.

9 COMMISSIONER JABER: Mr. Chairman, I'm sorry for the
10 interruption.

11 CHAIRMAN BAEZ: No. That's okay. Commissioner
12 Deason, I think you have a question.

13 COMMISSIONER DEASON: Yeah. Now would be a good time
14 to ask it. As I understood Mr. Perry's question, it had to do
15 with the bid that was provided by the alternative terminal
16 provider.

17 THE WITNESS: That's correct.

18 COMMISSIONER DEASON: And as I understood the
19 testimony yesterday, there was one bid and, in fact, there is
20 only one other entity other than TECO Transport that could even
21 respond to that bid. Is that your understanding?

22 THE WITNESS: Yes.

23 COMMISSIONER DEASON: So you got one bid from one
24 potential provider, and you did not think that it was
25 appropriate to discuss with that provider whether there was

1 some way to improve their bid?

2 THE WITNESS: Before -- if I understand your
3 question, before we offered it to Mr. -- to TECO Transport?

4 COMMISSIONER DEASON: Yes.

5 THE WITNESS: That's correct.

6 COMMISSIONER DEASON: You chose not to do that?

7 THE WITNESS: We chose not to do that.

8 COMMISSIONER DEASON: Okay.

9 CHAIRMAN BAEZ: Go ahead, Mr. Perry.

10 BY MR. PERRY:

11 Q Okay. I've got a document for you to look at.
12 Ms. Wehle, if you'd turn to Page 55 of your rebuttal,
13 please.

14 A Oh.

15 Q Ms. Wehle, on that page you discuss or criticize
16 Mr. Majoros' use of the rate paid by JEA for pet coke
17 transportation; is that correct?

18 A That's correct.

19 Q Have you reviewed Mr. Majoros' exhibit, the one that
20 contains the, the invoices for the JEA rates?

21 A I remember seeing it.

22 Q And you wouldn't -- you would agree that, that this
23 document basically contains invoices that FIPUG obtained from
24 Jacksonville Electric Authority for their pet coke rates or the
25 rates that they paid for pet coke transportation?

1 A That's correct.

2 Q And the provider of that transportation was TECO
3 Transport; is that correct?

4 A That's correct.

5 Q Ms. Wehle, if you would turn to Page 3 of
6 Mr. Majoros' exhibit, please.

7 A Okay.

8 Q Now in your rebuttal testimony you characterize the
9 movement for JEA as a spot transaction whose costs could be
10 higher or lower depending on the circumstances of the deal;
11 correct?

12 A That's correct.

13 Q Let me ask you to look at this first invoice that
14 appears on Page 3 of Mr. Majoros' exhibit. That invoice is
15 dated September 4th, 2002; isn't that correct? I believe that
16 the date is at the top right of the invoice.

17 A I don't think I'm on the right page. Did you say
18 September 4th?

19 Q September 24th.

20 A Oh, yes, I am. Okay.

21 Q And doesn't that invoice show a rate next to freight
22 and insurance of \$9 for transportation?

23 A Is this a -- this is not a confidential --

24 Q It's not confidential.

25 A Okay. Yes, it does.

1 Q And if you'd turn to the next page. And this invoice
2 has a date of 2/28/03; is that correct?

3 A Yes.

4 Q And it also shows a transportation price of \$9; isn't
5 that correct?

6 A Yes.

7 Q And this pet coke is traveling from Texas to
8 Jacksonville; isn't that correct?

9 A Yes.

10 Q Page 5 of the exhibit shows an invoice dated
11 July 29th, 2003, and that also shows a transportation rate
12 of \$9; is that correct?

13 A That's correct.

14 Q The next page is, is another invoice, and this
15 invoice is for a shipment on August 7th, 2003, and that also
16 reflects a transportation rate of \$9 from Mississippi to
17 Jacksonville; isn't that correct?

18 A That's correct.

19 Q Let me kind of cut to the chase here. If you'd turn
20 to the front page, there's a, I believe it's nine dates --
21 eight dates between September 24th, 2002, and October 29th,
22 2003; isn't that correct?

23 A There are eight dates shown on here.

24 Q Yeah. It's eight dates. And those, those dates
25 reflect trips by TECO Transport between either Texas and

1 Mississippi to Jacksonville at a rate of \$9; isn't that
2 correct?

3 A I have -- I'm going back to check each one of these.

4 Q That's fine.

5 A Yes. They were provided by -- those rates were \$9,
6 but they were done through, I think, two different brokers.

7 Q Don't these invoices reflect a movement period of
8 about 13 months at a constant rate of \$9?

9 A Yes.

10 Q Wouldn't you agree that this is less than the amount
11 that TECO Transport, that you have contracted with TECO
12 Transport for pet coke transportation?

13 A It is. Except in my rebuttal testimony I actually
14 show an example of a rate that's higher than our current rate
15 for the same movement. So, again, spot market conditions will
16 warrant different pricing over a different time.

17 Q Okay. I'm going to pass a document around and a page
18 from your rebuttal testimony as well.

19 You would agree that the JEA invoices don't show a
20 varying rate, they show a constant price; isn't that correct?

21 A I'm sorry. Can you repeat your question?

22 Q You would agree that the JEA invoices that we just
23 went through don't reflect a varying price but a constant
24 price; isn't that correct?

25 A Yes, it was a constant price.

1 Q Would you agree, subject to check, that Jacksonville
2 is roughly twice as far as Tampa is from the Gulf Coast?

3 A Yes. I think Mr. Dibner even said that yesterday.

4 Q And in your rebuttal testimony you have a rate that's
5 confidential, and of course we don't want to disclose that
6 rate, but that's also from, from the Gulf Coast to
7 Jacksonville, the same move as the move that's, that was
8 provided for JEA; isn't that correct?

9 A That's right.

10 Q And even though the distance is, is roughly twice as
11 far to Jacksonville than it is to Tampa, that rate is, wouldn't
12 you agree, is less than twice as much as the rate that you're
13 paying to TECO Transport?

14 A I would. And, again, you're comparing spot rates to
15 contract rates.

16 MR. PERRY: That's all I have for you, Ms. Wehle.

17 THE WITNESS: Thank you.

18 CHAIRMAN BAEZ: Thank you, Mr. Perry.

19 Mr. Wright.

20 MR. WRIGHT: Thank you, Mr. Chairman.

21 CROSS EXAMINATION

22 BY MR. WRIGHT:

23 Q Good morning, Ms. Wehle.

24 A Good morning.

25 Q I have some follow-up questions on, on the

1 cross-examination that's already been conducted before I get
2 into mine.

3 How, if at all, does the right of first refusal
4 improve capital investment by a supplier?

5 A It gives them the potential for continued business
6 with their customer. And so with that insight -- and, again,
7 they've, for the most part they've probably made a capital
8 investment up-front, and so they would -- if they continue that
9 business, they would be continuing to potentially make that
10 capital investment into the future.

11 Q If TECO Transport had said no to the, to the offered
12 price for terminaling services, would you have gone back to IMT
13 and attempted to negotiate with them?

14 A That might have been one strategy. We might, we
15 might have. I'd have to -- I'd have to somehow figure out the
16 other components of the other segments of what I would do
17 there.

18 Q If you had gone back to IMT, wouldn't you have
19 attempted to negotiate a lower rate than what they offered?

20 A Their rate was very much in line with what we had
21 seen before under the previous contract that we had with our
22 Davant terminal, and so I'm not sure there would have been much
23 room for movement there. But it could have been a possibility.

24 Q Well, the rate you're paying under the new rates is
25 higher than your old rate for terminaling services, isn't it?

1 A It is. But it's for a fixed five-year period. That
2 rate does not change. So given the fact that the other rate
3 was established five years before that, it's probably more just
4 a, an inflationary figure to actually bring it to 2004 dollars.

5 Q Did the other rate have an escalation factor applied
6 to it for terminaling services?

7 A No, it did not.

8 Q Okay. I'm trying to get a yes or no answer, and if
9 you can't give one, that's fine. But the question that I would
10 like you to answer is if you had gone back to IMT, wouldn't you
11 have attempted to negotiate a lower rate with them?

12 A Again, Mr. Wright, I think we might have.

13 Q You can't say that you would have, is that true?

14 A I'm not sure we would have or not. We would have
15 discussed it at the time before we went back there.

16 Q Do I remember correctly from your deposition that you
17 were never involved in any of the negotiations for the rail
18 transportation contracts to Gannon Station?

19 A That's correct.

20 Q Do you know anything about those negotiations at all?

21 A No, I do not.

22 Q Do you know how long they typically went on?

23 A No, I don't.

24 Q Do you know whether, whether the railroad company
25 always came down from its initial offered price?

1 A No, I do not.

2 Q Is there a relationship between market price and
3 capital investment by a supplier?

4 A Certainly I think as a supplier determines what their
5 market price is going to be, they have to understand capital
6 investment. They take it into consideration.

7 Q Given that Tampa Electric was, as I understand your
8 testimony, not required to bid affiliate business, that is you
9 weren't required to conduct an RFP; correct?

10 A I didn't hear you.

11 Q It is your testimony that you were not required to
12 conduct an RFP at all; correct?

13 A That's correct.

14 Q Okay. Given that you were not required to bid this
15 business, why was the right of first refusal required in TECO
16 Transport in the first place?

17 A It, it was determined that however we established
18 pricing to be the market price on a go-forward basis, they
19 would have the opportunity to possibly not continue to do the
20 business. It wasn't a given that, that, necessarily that they
21 would want to continue to do the business.

22 Q To the extent you know, isn't it true that during the
23 life of the Gannon Plant that transportation share flipped back
24 and forth between rail and barge under various contracts?

25 A Yes, I believe that's true. I don't -- again, I

1 don't know the history of all the rail contracts for Gannon
2 Station.

3 Q Again understanding that you may not know, did the
4 railroad company ever have a right of first refusal for
5 business to Gannon?

6 A I do not know the answer to that.

7 Q With regard to the barge contract at Gannon, did --
8 the barge contract for coal transportation to Gannon, did the
9 closure of Gannon constitute a regulatory force majeure event?

10 A I don't -- I don't recall if it would be considered a
11 force majeure event under the contract or not. I don't recall
12 that whole, the whole section on force majeure, whether that
13 would actually count or not.

14 Q Okay. Do you know whether there was any kind of
15 regulatory force majeure provision in the, in the rail contract
16 for Gannon?

17 A I don't believe so because at the point at which we
18 did not enter into any more long-term agreements with CSX
19 because at that point in 1999 we already knew that we had been
20 under the consent decree requirements and knew that rail
21 capability -- future coal burned at Gannon would be going away.
22 So I think the contract ended and we had a time period for
23 maybe possibly two years under which we actually took spot rail
24 movements from the railroad until we actually removed the track
25 at Gannon Station.

1 Q You do have rail facilities into Big Bend; correct?

2 A We have very limited facilities for limestone
3 unloading. I'm not sure what shape they're in. And we haven't
4 taken rail, limestone by rail for at least my tenure that I
5 know with the company.

6 Q All I'm trying to establish is that there is a
7 railroad track coming into the plant, but not any rail
8 unloading facilities for coal; is that accurate?

9 A Yes. And I don't know the size of the track or
10 whether it could accommodate coal deliveries or not.

11 Q In your testimony, I don't think you need to refer to
12 it, but it's at Page 18 I believe you talk about the blending
13 of coal.

14 A Yes.

15 Q Okay. Do you have any training in materials handling
16 engineering?

17 A No, I do not.

18 Q You don't have any training in engineering at all, do
19 you?

20 A No.

21 Q Do you have any actual hands-on experience in coal
22 blending?

23 A No.

24 Q What do you know about coal blending?

25 A I know what the requirements are to make a particular

1 product for generating stations. And given what those needs
2 are, we actually instruct our, the folks who actually do the
3 blending to make a particular type of product that meets the
4 environmental requirements of our generating facilities. Once
5 that product is made, we sample it, we test it, we ensure that
6 it will meet the environmental requirements before it's
7 actually burned at the power station.

8 Q Okay. Do you know, do you know whether there are two
9 stacker reclaimers at Big Bend Station?

10 A I believe that there is redundancy in the yard, but I
11 don't know exactly their, their nature.

12 Q Do you know whether there are two radial reclaimers

13 --

14 A I do not.

15 Q -- at Big, at the Big Bend coal yard?

16 A I don't.

17 Q Accepting, subject to check, that there are two
18 stacker reclaimers at the Big Bend coal yard, do you know
19 whether they can reclaim coal simultaneously?

20 A I don't know the answer to that.

21 Q Do you know whether the stacker reclaimers and radial
22 reclaimers, subject to your checking, if you want, that they
23 exist and the storage bins at Big Bend can blend coal for Big
24 Bend Units 1 through 4?

25 A I know that the blending bins can blend coal for Big

1 Bend 1 through 4.

2 Q Do you know how many ways the Big Bend coal yard coal
3 handling equipment can reclaim coal from the stockpiles on the
4 ground?

5 A No, I do not.

6 Q This may or may not require a confidential number. I
7 don't think it is. But if it is, I'm sure you'll tell me.

8 How much coal does Tampa Electric -- or how much
9 solid fuel does Tampa Electric expect to blend this year total?

10 MR. BEASLEY: Did you say at Big Bend or --

11 MR. WRIGHT: Total solid fuel does Tampa Electric
12 expect to blend, not at Big Bend or -- or at Big Bend.

13 THE WITNESS: Well, I, I think I can answer that by
14 breaking it down maybe perhaps.

15 BY MR. WRIGHT:

16 Q Okay. Please.

17 A We have to blend all of Polk Power Station's
18 requirements. So that would be up to 700 -- 750,000 tons. It
19 really is going to depend on whether the scrubbers are working
20 or not and whether there are deintegrated days that in those
21 instances we would not blend at all. And then it's going to
22 really depend on the coal deliveries that we have in the yard,
23 whether the remainder will be blended or not to reach our
24 generating station's requirements for sulfur. We do blend pet
25 coke in. And so when we are burning pet coke, you can

1 conceivably say that that's a blended product, which we try to
2 maximize that to our -- most of the time.

3 Q Do you do all your blending for Big Bend Units
4 1 through 4 at Big Bend?

5 A Yes.

6 Q And do you do all your blending for Polk at Davant?

7 A Yes, we do, because Big Bend does not have the
8 capability to blend for Polk. And I believe we actually show
9 how we do that on the middle chart here and why we do it that
10 way.

11 Q Okay. I don't think that the answer to this question
12 is confidential. But, again, if it is, I'm sure you'll tell
13 me.

14 As a percentage, how much pet coke does Polk burn of
15 its total fuel input?

16 A Polk, we attempt to try and keep it as high as
17 possible because it's really our cheapest alternative. We like
18 to be at 60 percent of the fuel mix.

19 Q Okay. Is Tampa Electric either planning to or in the
20 permitting process to increase the amount of pet coke that it
21 burns at Polk?

22 A Yes. We are attempting to try to get it to our next
23 level, which would be 80 percent product, and then, you know,
24 potentially higher from there.

25 Q And potentially higher --

1 A Maybe as much as 100 percent, if we could.

2 Q Thank you.

3 MR. WRIGHT: Mr. Chairman, I'm going to have my
4 partner, Mr. Lavia, pass out a Tampa Electric document, and
5 I'd ask that this be given a number.

6 CHAIRMAN BAEZ: The document titled Big Bend Station
7 Brochure, show it marked as Exhibit 80.

8 MR. WRIGHT: Thank you.

9 (Exhibit 80 marked for identification.)

10 BY MR. WRIGHT:

11 Q Do you recognize this?

12 A I have not actually ever seen this before.

13 Q Does it look like an accurate depiction of what it
14 purports to be?

15 A Yes.

16 Q Okay. I don't think I have any other questions for
17 you about it. I just want it in the record, and I wanted you
18 to vouch for that.

19 A Oh, okay.

20 Q Thank you. Have you studied the history of rail
21 rates in the eastern United States?

22 A No, I have not.

23 Q Other than your familiarity with the benchmark, have
24 you made any study or attempted to make any study of rail rates
25 for coal delivery to Florida?

1 A No, not other than what I know from the benchmark.

2 Q So you don't know whether rail rates have declined
3 over the past 20 years in the eastern U.S., do you?

4 A No, I can't say that.

5 Q Didn't CSXT's rates for coal transportation to Gannon
6 decline during the last two years of CSXT's contract with TECO
7 for transportation to Gannon?

8 A They did. And, again, that was the difference
9 between a spot contract and a long-term contract.

10 Q So it's your testimony that rail rates for spot haul
11 business would be lower than long-term rates?

12 A I'm not saying that. I'm just saying that was my
13 experience. That's what we encountered.

14 Q Well, if you don't, if you don't know that as a
15 principle, how can you say that it was because it was a spot
16 contract that the rates were lower?

17 A Mr. Wright, I just pointed out that, that the
18 difference between the two was the length of time under
19 agreement.

20 Q Well, forgive me, but I think in answer to my
21 previous question you said that's because they were spot
22 contracts.

23 A Okay.

24 Q Isn't it true that a, that a transporter, either a
25 barge company or a railroad company, will generally give a

1 lower rate for long-term?

2 A Possibly.

3 Q In your career at Tampa Electric did you ever
4 seriously solicit, solicit a competitive bid from CSX
5 Transportation or any other railroad company?

6 A No. I, again, I have not participated in railroad
7 bids before.

8 Q Do you know whether anyone else did?

9 A Those on, that were on the staff in the fuels
10 department at the time did.

11 Q For Gannon?

12 A For Gannon, and as well as we were buying western
13 coal and we worked with the BN Railroad out west.

14 Q Okay. And that was -- that involved a rail-to-barge
15 movement?

16 A Yes.

17 Q Okay. Don't you consider it to be your job to be
18 aware of what might be the most cost-effective transportation
19 modes to deliver coal to TECO's power plants?

20 A Yes. We try and read what's publicly available, but
21 I don't know all the parameters of, and the confidential nature
22 of different dealings. And that's, that's the world that we
23 live in.

24 Q Wouldn't knowing what the rail rates into Florida are
25 be part of that?

1 A We, we do get that from the benchmark every year. We
2 understand what those rates are.

3 Q Well, isn't it true that, that what you know is the
4 publicly available information that you get?

5 A When we request the benchmark data, we ask them to
6 provide publicly available data and what they've been invoiced
7 by the railroad.

8 Q Don't at least some of the respondents clearly state
9 in their responses that the rates that they quote to you don't
10 include volume discounts?

11 A That's correct. And those typically are the ones
12 that are not included in the benchmark calculation because
13 those -- the benchmark calculation requires us to look at the
14 two lowest of the four that we pull, and those, those don't --
15 those get thrown out basically.

16 Q Did you ever consider commissioning a consulting firm
17 to conduct a study that would provide you aggregated
18 information regarding actual rail delivery costs into Florida?

19 A No. We, we haven't considered that.

20 Q And you never tried to negotiate with CSX
21 Transportation for delivery to Big Bend, did you?

22 A No, we did not negotiate with them.

23 MR. WRIGHT: Excuse me one minute.

24 Mr. Chairman, I'm asking my law partner to pass out a
25 confidential document, which is, it's my understanding is the

1 last main contract and the two contract extensions by which CSX
2 provided coal transportation to Gannon.

3 BY MR. WRIGHT:

4 Q Ms. Wehle, do these look like what I represented them
5 to be?

6 A Yes.

7 Q Thank you.

8 CHAIRMAN BAEZ: Mr. Wright, do you need this exhibit
9 marked?

10 MR. WRIGHT: Yes, please. Thank you.

11 CHAIRMAN BAEZ: Show it marked as Exhibit,
12 confidential Exhibit 81.

13 MR. WRIGHT: Thank you.

14 CHAIRMAN BAEZ: And the title is the --

15 MR. WRIGHT: The title I have on it is TECO CSXT
16 contracts for Gannon Station, but we can just call it Gannon
17 Rail Contracts, if you like.

18 CHAIRMAN BAEZ: CSX Gannon Rail Contracts.

19 MR. WRIGHT: Yes, sir.

20 (Exhibit 81 marked for identification.)

21 BY MR. WRIGHT:

22 Q Ms. Wehle, I just want to ask you a couple of
23 questions about the rates shown in the, the last two amendments
24 that are the last, I think, four, six or eight pages of this
25 package.

1 A Okay.

2 CHAIRMAN BAEZ: Mr. Wright, can you repeat that
3 reference, please?

4 MR. WRIGHT: Yes, sir. If you turn to -- if you flip
5 to the very back and come back actually on the very back page,
6 there is some prices. And on the -- one, two, three -- on the
7 fifth page from the back, counting the back page as page one,
8 there are also some prices.

9 BY MR. WRIGHT:

10 Q Ms. Wehle, you don't consider the district origins to
11 be confidential information, do you?

12 A I don't think so.

13 Q Okay. Thanks. I'm going to hand you what will come
14 into evidence later in Mr. White's exhibit, a copy of his
15 direct testimony and exhibit with two pages marked, one which
16 shows the prices offered by CSX in October of 2002 and another
17 which shows the prices offered by CSX in 2003 in response to
18 your RFP.

19 A Okay.

20 Q And my question for you -- have you had a chance to
21 look at those?

22 A Yes.

23 Q Okay. My question for you is simply isn't it true
24 that the rates charged by CSX for delivery from Big Sandy to
25 Gannon during the last two contract extensions there were

1 roughly comparable, actually slightly greater than the rates
2 offered from Big Sandy in, in the October 2002 and October --
3 and July 2003 offers?

4 A The Big Sandy rate that I'm looking at before is on
5 Page 37 of the contract, of the prior contract, is that what
6 I'm looking at?

7 Q No. The last two -- the two extensions that were
8 applicable in 2000 and 2001.

9 A It's roughly about the same price.

10 Q Thank you. We're done with that section on the
11 Gannon contracts, just so you'll know.

12 A Okay.

13 Q Will you agree that CSXT provides at least some
14 significant competition to the ocean shipping segment for Tampa
15 Electric's coal transportation to Big Bend?

16 A Yes.

17 Q My question for you is how can you make the
18 competitive discipline really work if you don't have rail
19 capability at Big Bend?

20 A Well, I believe Mr. Dibner already addressed that.
21 His model looked at market rates and actually used very
22 conservative approaches and determined that it really -- the
23 model rate that he had established is really a below market
24 rate that we offered to TECO Transport.

25 Q Well, I understand that his testimony is that it's a

1 below market rate for end-to-end river, end-to-end maritime
2 shipments, but you really didn't answer my question.

3 A Okay.

4 Q If you don't have the rail capability at Big Bend,
5 how can you use the one to discipline the other on a
6 competitive basis?

7 A Well, again, the practical matter is that we don't
8 have it. And we have to look at it in its totality of
9 constructing it, and what the costs would be in the near term
10 that -- and whether the benefits would actually truly be there
11 in the future or not.

12 We do have the capability of potentially bringing
13 rail coal into other facilities in Tampa, which we
14 demonstrated, I believe, in 2002. And so there are other
15 facilities in Tampa that -- where we could actually take rail
16 just so far and then actually provide another means to get it
17 to our Big Bend Station.

18 Q And, in fact, CSXT actually proposed such a, such a
19 bridge as part of its bids to you, didn't it? They proposed
20 using another facility in the Tampa area and delivering as a
21 bridge by truck from that facility while the rail facilities
22 would be installed pursuant to their bids; correct?

23 A That's correct.

24 Q Isn't it true that, that the real competition has to
25 take place on a total haul basis?

1 A From --

2 Q From mine to plant.

3 A Yes.

4 Q Okay. You didn't take the CSXT rates to TECO
5 Transport and ask them to match those, did you?

6 A No, we did not, because we felt as though those were,
7 were not the most competitive rates that we had before us.

8 Q Did you ever talk to anybody at Progress about how,
9 without going into numbers and details, about how they use --
10 how, if at all, they use barge and rail to discipline the other
11 in their negotiations?

12 A No, I have not.

13 Q Have you ever talked to anybody at any other utility
14 with bi-modal fuel delivery capability about that issue?

15 A No, I have not.

16 Q I'd like to ask you some questions about inventory
17 costs.

18 I know you testified in your deposition, I think it
19 was your deposition, that extra inventory costs shouldn't be
20 considered in this docket. Is that accurate?

21 A That the inventory costs that --

22 MR. BEASLEY: I'm just asking if there's a reference
23 to where she said that in her testimony.

24 CHAIRMAN BAEZ: While you're looking for that
25 reference, this is probably a good breaking point. We'll take

1 a ten-minute break.

2 MR. WRIGHT: Thank you, Mr. Chairman.

3 (Recess taken.)

4 CHAIRMAN BAEZ: We'll go back on the record. Mr.
5 Wright, did you figure out a record, a page number or reference
6 for Mr. Beasley?

7 MR. WRIGHT: I did. Yes, I did.

8 BY MR. WRIGHT:

9 Q I'll just ask the question without trying to burden
10 us with shuffling paper.

11 Is it your position that inventory costs should not
12 be considered as part of this docket?

13 A I don't know what inventory costs you're --

14 Q Inventory costs for coal supply for Tampa Electric's
15 coal inventory.

16 A Again, I don't, I don't -- the cost of, of purchasing
17 the commodity and transporting is included in the inventory
18 cost. So --

19 Q The cost -- what I'm trying to get at is the cost of
20 carrying the amount of inventory that Tampa Electric carries.

21 A The ratepayers, and I believe we talked about this in
22 my deposition, only pay for the particular coals that are
23 burned. They are not burdened with any inventory carrying
24 costs. It's up to the shareholder to, to pay for that.

25 Q Isn't it true that in Tampa Electric's base rates

1 there is embedded a carrying cost for inventory working capital
2 associated with coal supply for 98 days of inventory?

3 A I don't, I don't know the answer to that.

4 Q Won't you agree that it's Tampa Electric's total coal
5 costs that determines that piece of the rates that Tampa
6 Electric's customers pay?

7 A Yes. I mean, they do bear the total coal cost.

8 Q Will you agree that if Tampa Electric were able to
9 reduce its inventories, those reduced costs, the reduced
10 carrying costs associated with that reduction should be passed
11 along to Tampa Electric Company's ratepayers?

12 A Again, I don't know how those carrying costs are
13 embedded in base rates, so I don't -- I can't answer that.

14 Q As a general proposition, will you agree that if
15 Tampa Electric were to be able to save a significant amount of
16 money by reducing its inventory carrying costs associated with
17 its coal supply, that those savings, those cost reductions
18 should be passed on to Tampa Electric's ratepayers?

19 A The, the company incurs the burden of carrying that
20 inventory. We pay for it upfront and the ratepayer does not
21 bear that burden until it's burned.

22 Q If the company were able to reduce its costs
23 associated with carrying inventory by reducing the amount of
24 inventory it carries, will you agree that any such savings
25 should be passed on to Tampa Electric's customers?

1 MR. BEASLEY: Mr. Wright, are you referring to base
2 rate savings or fuel adjustment cost recovery pass through?

3 MR. WRIGHT: Well, either one. That's a generic
4 question.

5 THE WITNESS: Again, I don't understand how the
6 carrying cost is embedded in the base rates, Mr. Wright. I
7 don't know that I'm the right person to answer that question.

8 MR. BEASLEY: Chairman Baez, I think she's indicated
9 that this is a fuel adjustment related issue as far as this
10 proceeding is concerned and doesn't involve a base rate
11 examination. This is only impacted by what goes through the
12 fuel clause.

13 CHAIRMAN BAEZ: I'll save you the trouble,
14 Mr. Beasley. Her, her response is this is somehow outside, so
15 if you can find another line of questioning.

16 MR. WRIGHT: Okay. Okay.

17 BY MR. WRIGHT:

18 Q I do want to ask you a couple of more questions about
19 the Gannon rate. Isn't it true that the Gannon rate in 2000
20 and 2001, i.e. the rate for rail transportation to Gannon, was
21 several dollars per ton less than the benchmark during that
22 period?

23 A The benchmark is -- I haven't done that analysis, and
24 the benchmark that I receive is on a cents-per-ton-mile basis.
25 I'd have to go back and calculate what the true dollar per ton

1 rate would be. So in short, I don't know the answer to that
2 question, Mr. Wright.

3 MR. WRIGHT: Mr. Chairman, I think the benchmark is
4 publicly available, and I think that Tampa Electric has, has
5 stated the benchmark in dollars per ton. I would either like
6 to ask the witness to furnish a late-filed exhibit that shows
7 what the benchmark was from 2000 through today or be given
8 leave to do the same based on my own efforts.

9 CHAIRMAN BAEZ: First let's delve into your, first
10 let's delve into your categorization of a benchmark, and I just
11 need some confirmation that that kind of thing is publicly
12 available.

13 MR. KEATING: Right. I believe the benchmark itself
14 is publicly available and should be readily ascertainable by
15 anybody from our fuel docket orders for that period.

16 MR. BEASLEY: Chairman Baez, I think what Mr. Wright
17 has asked for may be reflected in confidential exhibit document
18 Number 7 to Ms. Wehle's rebuttal testimony, if I'm not
19 mistaken, if you would like to get a clarification.

20 CHAIRMAN BAEZ: Mr. Wright, I want to get you a
21 response, whatever the vehicle is for getting that information.
22 And if Mr. Beasley's suggestion is correct, maybe you can
23 confirm that that might answer your question. If not, then we
24 can find a way to address how to get the information.

25 BY MR. WRIGHT:

1 Q Okay. I'm going to hand the witness a copy -- do you
2 have your rebuttal testimony? You've got it?

3 A Yes, I do.

4 CHAIRMAN BAEZ: Can we -- are you okay with -- did
5 you find the information that you needed?

6 MR. WRIGHT: Yes, sir, I did, so forget my request
7 for an exhibit. And I'd give my thanks to Mr. Beasley.

8 CHAIRMAN BAEZ: I'm sure Mr. Beasley is glad to help,
9 too.

10 MR. BEASLEY: I can hand it to you. It's document
11 Number 7 in Ms. Wehle's rebuttal testimony exhibit.

12 CHAIRMAN BAEZ: Thank you.

13 MR. WRIGHT: Thank you.

14 BY MR. WRIGHT:

15 Q Now the coal benchmark part of that table is not
16 confidential, is it, Ms. Wehle?

17 A I think it is, Mr. Wright. I'm not -- the whole, the
18 whole document is redacted, so I don't --

19 Q Well, then we'll let that part go. But you can read
20 that graph, and that does show the coal benchmark on a dollars
21 percentage (phonetic) basis, does it not, for transportation?

22 A Yes, it does.

23 Q And will you agree that the rate paid by Tampa
24 Electric to CSXT for transportation to Gannon during 2000 and
25 2001 during the last two contract extensions was several

1 dollars per ton less than the coal benchmark that's listed in
2 your exhibit?

3 A Yes.

4 Q Thank you. Isn't it true that the rate that Tampa
5 Electric is paying to Gannon, paying to CSX for deliveries to
6 Gannon during that period was also less than the barge rate?

7 A Yes, I believe it was. And, again, we demonstrated
8 that when opportunities arise to use alternate transportation
9 that are cost-effective, we will actually use them.

10 Q Do you know whether you maximized rail deliveries of
11 coal to Gannon during 2000 and 2001?

12 A I, I don't know the answer to that.

13 Q Okay. I've got another question for you about the
14 benchmark. Isn't it true that the benchmark contains a private
15 car allowance?

16 A Yes, it does.

17 Q Can you tell me what that number is?

18 A I, I don't have that readily available.

19 Q Does, does the figure of \$2.40 or \$2.50 per ton sound
20 about right?

21 A I think it's in that neighborhood.

22 Q Okay. Isn't it true that CSXT's bids to Tampa
23 Electric Company in October of '02 and July of '03 were based
24 on carrier cars; that is, they did not include a private car
25 charge?

1 A That's correct.

2 Q Thank you. Now y'all didn't originally send the,
3 initially send the RFP to CSX, did you?

4 A No, we did not.

5 Q And why was that?

6 A We -- it was a waterborne transportation bid, and I,
7 we did not feel that -- we didn't realize that CSX had wanted
8 to participate as far as the ability to provide a waterborne
9 transportation bid. And when they requested to participate, we
10 provided them a bid and they responded timely.

11 Q Will you agree with me that there is no nexus between
12 Tampa, sorry, TECO Transport's profits and the rates that it's
13 able to charge in the market?

14 A I don't, I don't understand your question.

15 Q Well, in your rebuttal testimony, I believe, at Page
16 4 you testify essentially that it's outrageous that TECO
17 Transport may be -- to suggest that TECO Transport may be
18 overcharging Tampa Electric because, as I read your testimony,
19 the amount that various intervenors are suggesting Tampa
20 Electric is being overcharged exceeds TECO Transport's profits
21 or net income.

22 A That's correct. And the way I look at it is absent
23 those overcharges, they would be operating at a net, a
24 significant net loss.

25 Q Well, isn't it true that companies in the United

1 States lose money every day in every quarter in every year?

2 A They do, but they don't stay in business for the
3 length of time that TECO Transport has stayed in business.

4 Q Well, isn't it true that those companies actually
5 just pay market rates and that their profitability is
6 determined by what they're able to charge in the market as
7 compared to what their costs are?

8 A That those companies -- I don't understand your
9 question. That they --

10 Q Well, isn't it true that when companies lose money,
11 it's because the prices they're able to command in the market
12 are less than their costs?

13 A That's certainly a possibility.

14 Q So isn't it true that in a market -- when a market
15 really works, whether an entity is profitable doesn't, doesn't
16 bear any relationship to -- I'm sorry -- is driven by its
17 revenues and costs such that it may make a lot of money or not
18 much or none?

19 A Again, you're right. It depends on the marketplace
20 at the time.

21 Q Do you know whether the net income would reflect a
22 cash loss for TECO Transport?

23 A I, I don't know.

24 Q Haven't you reviewed TECO Transport's publicly
25 available financial statements?

1 A I, I think I said in my last deposition I'd not
2 looked at their particular financial statements.

3 Q Would you agree that cash flow -- that net cash would
4 be measured by net income plus depreciation plus capital
5 expenditures, before capital expenditures?

6 A I don't know.

7 MR. WRIGHT: Mr. Chairman, I'm asking my partner to
8 pass out two nonconfidential interrogatory answers furnished by
9 Tampa Electric. I'd ask for a number for these.

10 CHAIRMAN BAEZ: Let me get them, Mr. Wright.

11 And I'm showing TECO's answers to staff's
12 interrogatories number 93 and 94; is that correct?

13 MR. WRIGHT: Yes, sir.

14 CHAIRMAN BAEZ: Show them marked as composite Exhibit
15 82.

16 MR. WRIGHT: Thank you.

17 (Exhibit Number 82 marked for identification.)

18 BY MR. WRIGHT:

19 Q To try to get to the point, isn't it your basic
20 testimony that your staff was just too busy to evaluate the
21 CSXT bid proposal that was submitted in October of 2002?

22 A No, that's not my testimony. We actually told CSX,
23 given the nature of the bid -- and if I can look at it for just
24 a moment.

25 Q Sure.

1 A The bid that was offered in October of 2002 was a
2 six-year proposal with the starting date beginning January 1,
3 2003, with minimum tonnage requirements and liquidated damages
4 had we not actually taken any, any of that minimum annual
5 volume requirements, again liquidated damages, dead-freight
6 being roughly about the same type of terminology. What we told
7 CSX at that time was this bid was not going to work for us
8 because we already had an agreement that went through the end
9 of 2003, and we would be subjected to dead-freight penalties
10 given that. We told them right upfront. So, I mean, on its
11 evaluated -- we did evaluate it and we told them that. They
12 did not come back with any other proposal until July 2003 as
13 part of our RFP.

14 Q Isn't it true that they asked for numerous meetings
15 with Tampa Electric -- asked on numerous occasions for meetings
16 with Tampa Electric following up on the October 23rd proposal?

17 A They did, and we had phone conversations with them.
18 And then we finally did meet with them in March of, I believe
19 it was March of 2003.

20 Q Did you ever ask CSX to give you a proposal that
21 began January 1st, 2004?

22 A They -- no, we did not, except for that they
23 responded to our transportation request, and so they did
24 provide us one.

25 Q Did you personally look at the prices proposed in the

1 October 23rd proposal submitted by CSXT?

2 A I recall looking at them.

3 Q Did you do any evaluation of them?

4 A Again, we would have been subjected to dead-freight
5 penalties before the contract even started. So it wasn't -- it
6 was not a viable alternative for us.

7 Q Did you --

8 A Especially knowing the fact that we did not have rail
9 and loading capability at Big Bend. This was presented about
10 60, 70 days before the end of the year at which we would then
11 commence the contract beginning January 1, 2003.

12 Q But you didn't ask them to give you another offer to
13 kick in January 1st, 2004, did you?

14 A No. But they weren't precluded from doing that
15 either.

16 Q You didn't even suggest to them that that's what you
17 needed to see, did you?

18 A Well, what we told them was, look, guys, this is not
19 going to work for us. If they wanted to provide us with
20 another offer, they, they certainly could have done that.

21 Q Didn't you recognize that the rates proposed in there
22 were very favorable rates?

23 A Yes.

24 MR. WRIGHT: Mr. Chairman, I apologize for the large
25 volume of paper, but that's the nature of this practice.

1 Mr. Chairman, I'm asking Mr. Lavia to hand out two
2 confidential exhibits, one of which is deposition Exhibit
3 Number 6 to Ms. Wehle's deposition, and the second is a TECO
4 Fuels Department prices document that was furnished in response
5 to the citizens' production request.

6 CHAIRMAN BAEZ: We'll show Wehle deposition Exhibit
7 Number 6 as confidential Exhibit 83 for the record, and show
8 TECO Fuels Department Prices Third Quarter 2003 as confidential
9 Exhibit 84.

10 (Exhibit Numbers 83 and 84 marked for
11 identification.)

12 BY MR. WRIGHT:

13 Q Okay. Ms. Wehle, do you recognize these documents?

14 A Yes.

15 Q And each of them is as I've represented it to be, is
16 it not?

17 A I'm sorry. I didn't hear your question.

18 Q Each of them is what I've represented them to be.

19 A Yes.

20 Q Okay. As I understand deposition Exhibit Number 6,
21 it's a, somewhat of an update to an exhibit that you furnished
22 in your rebuttal testimony. Well, actually was it your direct
23 testimony? I think maybe it was.

24 A It was my direct testimony. This is -- yes.

25 Q Okay. And the other, the other document shows

1 certain long-term contract information for various coal
2 supplies that Tampa Electric receives; correct?

3 A That's correct.

4 Q Okay. I'd like to ask you to look at -- I think we
5 can agree that river docks are not confidential?

6 A I think we can.

7 Q Okay. That just makes it a lot easier.

8 A I know.

9 Q I'd like to ask you to look at the line that's about
10 two-thirds of the way down on deposition Exhibit 6, which is
11 now Exhibit 83, that says upper Mississippi and then Cora.

12 A Yes.

13 Q Isn't it true that the coal that loads at Cora is the
14 Zeigler coal?

15 A Yes.

16 Q Now the prices that you've reflected in the TT bids,
17 which are the TECO Transport components --

18 A Yes.

19 Q Okay. Reflect the charges for the river terminal and
20 ocean segments respectively; correct?

21 A Yes.

22 Q And then there's a total shown.

23 A Yes.

24 Q And then that's compared to a rail bidder rate, to
25 which you add some charges which we'll talk about later;

1 correct?

2 A That's correct.

3 Q Okay. The costs shown in your TT river terminal
4 ocean in total don't reflect any costs to get the coal to the
5 river, do they?

6 A No, they do not.

7 Q Isn't it true that looking at the large, the large
8 square on Exhibit 84, isn't it true that to the price of coal,
9 for the Zeigler coal you add a rail rate of the amount shown
10 there as of this point in time?

11 A Yes.

12 Q And you also add a car cost?

13 A Yes.

14 Q And that's a rail car cost; correct?

15 A That's correct.

16 Q Okay. And you also add a number there that's shown
17 as the Cora cost?

18 A Yes.

19 Q And that numbers applies up to 750,000 tons; correct?

20 A That's correct.

21 Q And then there's some discounted numbers for the
22 terminal -- that's a charge for terminaling services at Cora?

23 A Yes.

24 Q And those, those numbers there at the bottom that are
25 in bold show the discounted rates if TECO buys first more than

1 750,000 tons and then more than a 1,050,000 tons?

2 A That's correct under this agreement.

3 Q Right.

4 A Right.

5 Q And I note that it says barge rate -- well, I can't
6 say that.

7 Isn't it true that the barge rate for that coal is
8 shown sort of toward the bottom right on the next page of
9 Exhibit 84, Bates 818 where it says, "TECO barge line old bin
10 coal current price"?

11 A Yes.

12 Q Okay.

13 A Can I talk a little bit about this contract, because
14 I think it may help to shed some light on, on all the costs
15 associated with this and why I did not include them.

16 Q Well, since I'm sure your attorney would give you the
17 opportunity on redirect, why don't you go ahead now?

18 CHAIRMAN BAEZ: Well, I was going to say, Ms. Wehle,
19 that question is not exactly before you right now. But, but
20 you -- with your answers you can explain your answers, I guess.

21 MR. WRIGHT: In the interest of efficiency, I think
22 she should go ahead and do it now.

23 CHAIRMAN BAEZ: All right. If you're willing to
24 concede that, go ahead.

25 THE WITNESS: Sure. The contract pricing that is

1 noted on the, the white piece of paper in the large box, all of
2 those additional components are part of a long-term agreement
3 that we have maintained with Zeigler Coal Company for over,
4 it's been over 20 years now.

5 All of those arrangements would be -- had we -- if we
6 do not use the Cora facility as required by that contract, all
7 of those costs would be on a take-or-pay basis. So whether or
8 not I switch to rail or continue to use barge, I'm going to be
9 paying for those. That was part of the, of the agreement. So
10 I'm going to incur those costs one way or the other.

11 BY MR. WRIGHT:

12 Q Isn't it true that that contract expires at the end
13 of this year?

14 A It is. This analysis is for 2004 though, of which,
15 again -- and we can go through this. I analyzed it with the
16 most relevant data that I had at the point in time, the known
17 TECO Transport pricing and the CSX pricing that I had before me
18 in order to do an apples to apples comparison here. So I had
19 to consider that these costs would be paid one way or the
20 other. That's why they're not shown here.

21 Q Isn't it true that CSX's offer submitted to Tampa
22 Electric included a two-line haul that included the rail piece
23 from Cora or from the mine, I guess, to Memphis that would have
24 obviated the rail part in that?

25 A Again, we are obligated to pay the railroad those

1 rates. I'm sure they would look for the balance of that.
2 They're depending on that.

3 Q You didn't understand that, you didn't understand
4 that CSX was going to -- that CSX's rate included that?

5 A Yes. But if there's any overage that was not covered
6 by CSX, the railroad would be expecting to be made whole for
7 that. I don't know how much you would be reimbursing the Union
8 Pacific for that move. I don't know how much you would be
9 reimbursing them, so I couldn't make that estimation. But I do
10 know that they would receive those, the rail rate and the car
11 cost under our move. So, again, that's a take-or-pay situation
12 that would really further complicate this.

13 Q Can you tell me what coal loads at the Cook River
14 dock? I just don't know if it's confidential. That's my --

15 A No. That is our Galatia contract.

16 Q Okay. How does that get to the dock?

17 A Via the IC Railroad.

18 Q Okay. And your analysis didn't include any charge in
19 there for, any cost item in there to get from the mine to the
20 dock, did it?

21 A No, it didn't, because I don't know what that rate
22 is. That's embedded in the price of the coal.

23 And let me say one, one further component here that's
24 not here to sort of balance that out. In 2004 one thing that
25 we did know was that we don't have rail unloading facilities.

1 And based on Ms. Guletsky's estimation of how long it would
2 take to actually put those rail unloading facilities in, I knew
3 that I was going to be incurring some kind of trucking charge,
4 let's say, potentially on the tail end in Tampa, which would be
5 added to the total rail bid on the right-hand side.

6 That, in my estimation, is a wash compared to any
7 kind of transportation costs that would be needed to add on the
8 front end of the TECO Transport bid and numbers. So I'm going
9 to have a trucking or some kind of transportation cost to get
10 it to the river. You'd add that to the TECO Transport total
11 rate. But I'm also going to have trucking costs in Tampa that
12 I'm going to have to add to the rail rate. And I don't know
13 what they are on the upriver piece because that price is
14 actually embedded in the price of the coal because we buy it
15 FOB barge, we just buy it in a barge, and that's, that pricing
16 includes that. So I just left it off here because it would, in
17 my estimation, probably be close to a wash.

18 Q But doesn't that coal load rail?

19 A The Galatia coal?

20 Q Yes.

21 A Yes.

22 Q Okay.

23 A But, again, it's still a transportation component,
24 whether it's trucking or rail or whatever, that is embedded in
25 the price of the coal upfront.

1 Q Didn't CSXT offer you a rail bid that would have
2 covered that from the mine?

3 A Yes, they did, except I don't have rail unloading
4 facilities at Big Bend. I'm going to have to incur additional
5 trucking costs.

6 Q Are you talking about trucking costs from where?

7 A A Yelvington facility or some other facility
8 potentially in Tampa.

9 Q I thought you already agreed that CSX's bid included
10 an offer to provide that trucking charge --

11 A Additional, an additional charge for that.

12 Q To Big Bend?

13 A Yes.

14 Q As a bridge?

15 A I -- no, I don't, I don't know that that's true. The
16 original offer was a certain dollar per ton. I think that
17 that's in addition to, and actually I think the 2003 bid was
18 silent on that.

19 Q Okay. Let's talk about one more line on your
20 deposition Exhibit 6, the one for Powhatan, which is two lines
21 below Cora.

22 A Okay.

23 Q That coal is what's known as a Pitt 8 or Pittsburgh
24 Seam 8 coal, is it not?

25 A That's correct.

1 Q Okay. And isn't it true that there are at least a
2 few sources of Pitt 8 coal that would burn at both of TECO's
3 power plants that are accessible by CSXT direct rail in the
4 same region?

5 A Yes, that's correct. And we would determine whether
6 that coal would be cost-effective for us based on the pricing
7 at the time because we analyze our, our coal purchases on a
8 total delivered pricing basis.

9 Q Isn't it true that the CSXT direct rates that would
10 deliver Pitt 8 coal from other sources than Powhatan are
11 significantly less than the, than what you're showing as --
12 well, you're not even showing a rail rate.

13 What's that -- what's the number there that's shown
14 in the initial recovered, RECOV cost in that line? Not the
15 value, but what does that show?

16 A In the Column J?

17 Q Yes. Thank you.

18 A Okay. That, again -- and let me explain, maybe go
19 back a little bit further the genesis of this particular
20 spreadsheet, and that might actually shed some light on why it
21 was developed this way.

22 The section on the left-hand side where it states
23 original Columns A through J was something that was prepared by
24 Witness McNulty in the '03 docket as part of his testimony. So
25 that initial recovery cost is Mr. McNulty's information there.

1 In order to do a true apples to apples comparison of
2 the TECO Transport bid and the rail bid that was before us,
3 that was set before us, we actually had to, if you look over on
4 the right-hand side of the page, include additional surcharges
5 that would inure to Tampa Electric, those being a fuel
6 surcharge, a potential synfuel adder, a possible demurrage rate
7 for excessive, excess unloading time based on the rail facility
8 design. And then if we were to actually include any costs to
9 Polk Station, that would be those costs over and above our
10 initial trucking contract that we have. So the H total column
11 there is actually the true January 1, 2004, rail numbers that
12 you then can actually do a comparison to the TECO Transport
13 total.

14 Q Okay. You got a little bit of ahead of me, and we're
15 going to talk about those charges in just a minute.

16 A Okay.

17 Q Isn't it true that the rate shown in Column G for
18 Powhatan does not include the cost to get the coal to the
19 river? I understand that you don't know what that is.

20 A Uh-huh.

21 Q It doesn't include it, does it?

22 A No, it does not. And it would not include the costs
23 of getting the coal to Big Bend Station from a rail facility
24 somewhere in Tampa.

25 Q Okay. Let's talk about demurrage charges. We don't

1 have to talk about how you calculated them. There's a number
2 shown there.

3 A Right.

4 Q Have you read CSXT's answers to Tampa Electric's
5 interrogatories?

6 A I don't believe I've read them all.

7 Q Okay. Will you agree that CSXT has stated in
8 interrogatory answers, most recently in an interrogatory answer
9 to the staff that was not confidential that we --

10 MR. BEASLEY: Objection. Are you -- what are you
11 referring to? I don't know what he's referring to, Mr.
12 Chairman. And the witness, I don't think, indicates that she
13 can't corroborate this, at least not until Mr. Wright testifies
14 about it. We'd be happy for her to answer a question if it's
15 properly predicated and --

16 CHAIRMAN BAEZ: Let's start over, Mr. Wright.

17 MR. WRIGHT: Yeah. Let's start over.

18 BY MR. WRIGHT:

19 Q Do you know whether CSXT expected to collect any
20 demurrage charges from revenues had -- revenues from Tampa
21 Electric had Tampa Electric accepted CSXT's proposals?

22 A It, it actually stated in the bid that we would be
23 charged demurrage. So I assume that they would be expecting to
24 be reimbursed for that.

25 MR. WRIGHT: Okay. Mr. Chairman, I don't, I don't

1 have it with me, but I would like leave to file CSXT's answer
2 to staff's interrogatory addressing exactly this component
3 which was furnished on an unconfidential basis on Wednesday of
4 this week.

5 MR. BEASLEY: I'd like to object to that.

6 CHAIRMAN BAEZ: You have an objection? On what
7 grounds?

8 MR. BEASLEY: On the grounds that he hasn't -- he
9 doesn't have it here. The witness didn't prepare it. This is
10 something being added to their testimony.

11 CHAIRMAN BAEZ: Back up. You have --

12 MR. WRIGHT: We furnished an interrogatory answer --
13 well, this is in the nature of a proffer. We furnished an
14 interrogatory answer to the staff on Wednesday of this week.
15 They filed their discovery kind of late in the process and we
16 were a couple of days late in getting it answered. We filed
17 our answers to their interrogatories in which we addressed
18 exactly the question of how much demurrage revenue we expected
19 to receive.

20 MR. BEASLEY: Mr. Chairman, this is highly irregular,
21 asking to have something --

22 CHAIRMAN BAEZ: Let's not hyperbolize. Hang on.
23 This whole thing is highly irregular.

24 So what's, what's, what's your objection to them
25 offering -- and what I'm hearing is that they're proffering a

1 document that's already in existence and a document that was a
2 response, is that --

3 MR. WRIGHT: It's a response to staff's
4 interrogatories. I don't remember the number.

5 MR. BEASLEY: It's not, it's not part of the prefiled
6 testimony or exhibits of any witness is my understanding. It's
7 not part of the record. What we're doing essentially is
8 reopening CSXT's record to add something to ask our witness
9 about, who I don't think has seen what he's talking about.

10 MR. WRIGHT: Mr. Chairman, I was trying to --

11 CHAIRMAN BAEZ: Is there -- do you have -- have you
12 got a witness that's going to be able to support this?

13 MR. WRIGHT: Absolutely. The problem is Mr. Beasley
14 will raise the same objection that he's raising now. I thought
15 that Ms. Wehle would have read our answer to Tampa Electric's
16 interrogatories which were furnished quite some time ago, which
17 would bear exactly the same answer that we're talking about
18 here that we gave to the staff. Now we actually gave an
19 additional sentence of explanation in our response to the
20 staff's interrogatory. I mean, it's directly probative of
21 this. And if you want, you know, we can -- it's going to be a
22 bit before I finish with Ms. Wehle. I can get our
23 interrogatory answer and show it to her.

24 CHAIRMAN BAEZ: Can you, can you -- continue,
25 continue with your questioning. I'm going to reserve ruling on

1 this because I have reached a point on which I need to get
2 educated. So I'll reserve ruling on the objection. And you
3 can go ahead and ask your remaining questions.

4 MR. WRIGHT: Thank you.

5 BY MR. WRIGHT:

6 Q Unfortunately we're going to have to come back to the
7 demurrage issue. But you didn't have -- let's talk about the
8 Polk adder. You didn't have to take the Polk option, did you?

9 A No, sir, I did not. But in order to evaluate this
10 appropriately, I had to look at this compared to the TECO
11 Transport rates which were developed based on a movement of,
12 of, of up to the maximum tonnage, 5.5 million tons. So, again,
13 to do the appropriate apples to apples comparison, I had to
14 include that potential cost.

15 Q Well, your TECO Transport rates don't include, don't
16 include the truck-in rate from Big Bend to Polk, do they?

17 A No. But had I actually chosen to -- if we had
18 actually gone to using the 5.5, I would have had to have
19 shuttled the rail over there, the actual coal over there. And
20 if I had done that, I would have incurred what I show in Column
21 H of 4 (phonetic).

22 Q Was that the rail shuttle rate?

23 A It was -- I wish I could, I wish I could say the
24 numbers because I know what the number is. It is the number
25 that is described in note three. That's the short haul rail

1 rate that is described in note three. And then I show what my
2 current trucking rate is at the time, and that would be the
3 difference that I would have to pay.

4 (Transcript continues in sequence with Volume 5.)

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1 STATE OF FLORIDA)
2 COUNTY OF LEON)

CERTIFICATE OF REPORTER


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I, LINDA BOLES, RPR, Official Commission Reporter, 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' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 1ST DAY OF JUNE, 2004.


LINDA BOLES, RPR
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