

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**IN RE: PETITION OF FLORIDA)
POWER & LIGHT COMPANY FOR) DOCKET NO. 900796-EI
INCLUSION OF THE SCHERER UNIT)
NO. 4 PURCHASE IN RATE BASE,)
INCLUDING AN ACQUISITION)
ADJUSTMENT)**

**DIRECT TESTIMONY
OF
CARLTON W. BARTELS**

**SUBMITTED ON BEHALF OF:
FLORIDA OFFICE OF PUBLIC COUNSEL**

NOVEMBER 21, 1990

**TELLUS INSTITUTE
Energy Systems Research Group
89 Broad Street
Boston, Massachusetts 02110**

DOCUMENT NUMBER-DATE

10422 NOV 21 1990

FPSC-RECORDS/REPORTING

1 **QUALIFICATIONS**

2
3 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE
4 RECORD.

5
6 A. My name is Carlton W. Bartels, and my business address is 89 Broad Street,
7 Boston, Massachusetts 02110.

8
9 Q. WHAT IS YOUR EMPLOYMENT?

10
11 A. I am an Associate Scientist with the Energy Systems Research Group (ESRG)
12 of the Tellus Institute.

13
14 Q. COULD YOU PLEASE DESCRIBE THE TELLUS INSTITUTE'S
15 BUSINESS?

16
17 A. Tellus is a non-profit research corporation engaged in energy research, the
18 analysis of utility planning and ratemaking issues, and research into solid waste
19 management and other environmental issues. Tellus was formerly named Energy
20 Systems Research Group, Inc. The new name was adopted January 1, 1990, to reflect
21 the increasing scope of our research on resources and the environment. ESRG is now
22 one of the four operating groups of Tellus. Staff of ESRG/Tellus have had extensive
23 experience testifying before regulatory bodies in over forty states and advising public

1 agencies in the United States and overseas. Tellus witnesses have testified before the
2 Florida Public Service Commission. Tellus has analyzed the plans, costs, rates and
3 financial situation of natural gas, electric, water and telephone utilities.
4

5 Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND PROFESSIONAL
6 EXPERIENCE.
7

8 A. I received a Bachelor's of Engineering Degree (Electrical) from the State
9 University of New York at Stony Brook in 1979. In October of that year, I joined the
10 Power Planning Division of Green Mountain Power Corporation. At Green Mountain
11 Power, I worked on a wide spectrum of power planning issues including the
12 development of power supply budgets, monitoring power supply expenses, analyzing and
13 arranging short- and long-term power purchases and sales, calculating avoided costs and
14 developing power costs for rate cases.
15

16 I left Green Mountain Power in 1981 to become the first Public Service
17 Electric Planning Engineer for the Vermont Department of Public Service (hereafter,
18 the Department). In 1983, I became the Director of Regulated Utility Planning for
19 the Department.
20

21 My work at the Department touched upon virtually every aspect of the electric
22 utility business. The Planning Division, under my supervision, undertook a
23 comprehensive planning exercise which described the theoretical underpinning and

1 goals of regulation as practiced in Vermont, presented a thorough situation analysis of
2 the state electric utility industry's supply and demand balance and business
3 environment, and culminated in the development of an action plan for state agencies
4 and utilities.

5
6 In addition, I participated in the negotiation of firm power purchases, the
7 design and implementation of the system by which Vermont utilities comply with
8 PURPA regarding the purchase of output from small power producers and
9 cogenerators, and participated in the continued evolution of the retail tariff structures,
10 particularly the transition to marginal cost based seasonal rates.

11
12 During my tenure at the Department I earned a Master's of Business
13 Administration (awarded 1985) from the University of Vermont. I left the Department
14 in 1986.

15
16 In 1987, I joined Energy Systems Research Group (ESRG). At ESRG, I have
17 worked on a wide variety of projects involving the assessment of energy and regulatory
18 policy; and the evaluation of electric energy systems including production costs,
19 operations, cost allocation, rate-making, mergers and acquisitions, and resource
20 planning.

21
22 My resume is attached as Attachment A.
23

1 **PURPOSE AND SUMMARY**

2
3 Q. **WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

4
5 A. I have been retained by the Office of the Public Counsel (OPC), on behalf of
6 the citizens of Florida, to review the proposed purchase of Scherer #4 by Florida
7 Power and Light Company (FPL) from Georgia Power Company (GPC) pursuant to
8 the terms of a Letter of Intent dated July 30, 1990 (Attachment A to FPL's petition).
9 In particular, I am testifying on the implications of this purchase for FPL's ratepayers.

10
11 Q. **WHAT ARE THE CONCLUSIONS YOU HAVE DRAWN FROM YOUR**
12 **REVIEW?**

13
14 A. It has been impossible to draw definitive conclusions regarding the prudence of
15 the proposed purchase given the limited time available to investigate this matter.
16 Because the proposed purchase has undergone insufficient regulatory scrutiny, the OPC
17 is compelled to object to any guaranteed rate treatment of the resultant costs of the
18 purchase.

19
20 Q. **THE OPC PARTICIPATED IN THE REVIEW OF FPL'S GENERATION**
21 **PLANS IN DOCKET NOS. 890973-EI AND 890974-EI. DIDN'T THAT REVIEW**
22 **SUFFICIENTLY PREPARE THE OPC FOR TAKING A POSITION REGARDING**
23 **THIS PURCHASE?**

1

2 A. No it did not. Those dockets focused upon FPL's specific plans regarding the
3 Lauderdale Repowering Project (Units 4 & 5) and the Martin Combined Cycle Project
4 (Units 3 & 4). The Scherer #4 purchase was not an option analyzed in those dockets.

5

6 The elements of FPL's plan beyond Lauderdale 4 & 5 and Martin 3 & 4 were
7 treated in a generic fashion in that proceeding. The IGCC units were not examined
8 with sufficient scrutiny that the OPC could take a firm position on their prudence
9 without further investigation. Specifically, FPL assumed that IGCC units would "fill in"
10 the resource plan to meet capacity requirements after the Lauderdale and Martin units
11 began operation.

12

13 It is these hypothetical IGCC units that FPL represents would be avoided by
14 the Scherer #4 purchase and it is the economics of these units that the Scherer #4
15 purchase is justified against. It is interesting to note that the Electric Power Research
16 Institute (EPRI) classifies the IGCC Technology Development Rating as
17 "Demonstration", and its Design and Cost Estimate Rating as "Preliminary" (EPRI
18 Technical Assessment Guide, September 1989). This underscores the uncertainty
19 embedded in this comparison. Therefore, the justification of this purchase based upon
20 its displacement of these IGCC units should only be given limited consideration.

21

22 Furthermore, the OPC's review of FPL's generation expansion plans in those
23 dockets raised considerable doubts regarding the benefits of developing (or purchasing)

1 new capacity versus expanding FPL's demand-side management (DSM) effort, including
2 a fuel switching program. The OPC continues to be concerned by this deficiency and
3 believes it deserves reexamination in this docket in light of the potentially enhanced
4 value of such programs arising from the recently passed Clean Air Act.

5
6 Q. DO YOU BELIEVE THAT THERE IS A SPECIFIC NEED FOR AN
7 EXPEDITED HEARING IN THIS MATTER WHICH OUTWEIGHS THE
8 TRADITIONALLY RECOGNIZED NEED TO FULLY INVESTIGATE A LARGE
9 POWER PURCHASE SUCH AS THAT PROPOSED?

10
11 A. No, I do not. The Letter of Intent (hereafter, the Letter) between GPC and
12 FPL does have a nominal termination date of December 31, 1990. However, the
13 contents and terms of the Letter make definitive provisions for delays in the receipt of
14 the requisite regulatory approvals. Paragraph 15 provides for delays in the receipt of
15 all required approvals as late as June 30, 1990, and federal (i.e., FERC and SEC)
16 approvals beyond that date.

17
18 Specifically, these provisions provide for a temporary sale of 300 MW of UPS
19 power from GPC to FPL. This provision has two important implications. First, that
20 the parties do not intend the December 31, 1990 date to be a firm "drop dead" date.
21 Second, that FPL will receive power during the period this case is being litigated.

1 Q. WHILE THE LETTER OF INTENT MAY IMPLY THAT THE PARTIES
2 ARE LIKELY TO EXTEND THE DECEMBER 31, 1990 TERMINATION DATE
3 OF THE AGREEMENT, IS IT NOT TRUE THAT GPC WOULD NO LONGER
4 BE LEGALLY BOUND TO EXTEND THAT DATE AND THEREFORE FPL
5 COULD POTENTIALLY LOSE THE RIGHTS TO PURCHASE SCHERER #4?

6

7 A. The legal obligations of either party under the Letter is uncertain. The Letter
8 includes several escape provisions which would appear to allow either party to vacate
9 the agreement. In this respect, consummation of the purchase appears to be
10 contingent on it remaining in both parties' best interests rather than on any particular
11 legal obligations.

12

13 The question of the legal implications of the Letter raises serious questions
14 regarding the extent to which it should be relied upon as evidence in the evaluation of
15 this purchase. These concerns are addressed in more detail later in this testimony.

16

17 Q. ASSUMING THERE IS A DELAY IN THIS COMMISSION'S HEARINGS,
18 WHAT IS THE ECONOMIC IMPLICATION OF DELAYING THE PURCHASE?

19

20 A. The answer to this question depends upon whether or not the delay in the
21 issuance of this Commission's order is, in fact, the cause for a delay in the
22 consummation of the purchase. It should be remembered that the purchase can not be
23 consummated without the approvals of the Federal Energy Regulatory Commission

1 (FERC) and the Securities Exchange Commission (SEC), as well as the state
2 commission of Florida, and perhaps, of Georgia. If the Florida Commission expedites
3 its hearing process but any of the other commissions do not, then the haste will have
4 been to no avail -- consummation of the purchase, if it occurs at all, will wait until the
5 last approval is issued.

6
7 If Florida expedited its review but at least one other agency did not, the only
8 potential economic implication of rushing the hearings is a negative one. Basically, the
9 economic implications would result from deficiencies in the record of an expedited
10 hearing, and thereby reflected in the order, which might be avoided by a more
11 thorough exploration of the purchase.

12
13 On the other hand, if a more thorough hearing before this Commission were to
14 result in a delay, the economic impact would equal the difference in power costs for
15 those few months the decision was pending. If an expedited decision would have
16 supported FPL's purchase, the difference in power costs would be created by the
17 purchase of 300 MW under the temporary UPS agreement versus the 150 MW
18 purchase of Scherer #4. If the decision would not have supported FPL's purchase, the
19 difference in power costs would depend on FPL's alternative power purchasing strategy.
20 FPL has not supplied any estimates of whether such a delay would increase or decrease
21 short-term costs. The cost implications are difficult to predict because the size of the
22 UPS and unit purchase differ, as well as their pricing, (300 MW of UPS vs. 150 MW
23 for Phase 1 of the purchase), and it is unknown what FPL will do if its petition is

1 rejected.

2

3 Q. WHAT ARE YOUR PARTICULAR CONCERNS REGARDING THE
4 PROPOSED PURCHASE WHICH YOU THINK MUST BE ADDRESSED
5 BEFORE A WELL-INFORMED DECISION CAN BE MADE?

6

7 A. There are three general concerns which must be addressed. They are:

8

9 • Is Scherer #4 an appropriate component to FPL's least cost plan?

10

11 • Was the purchase of Scherer #4 a direct result of FPL's capacity
12 solicitation? And if so, was the selection of Scherer #4 appropriate?

13

14 • Should ratepayers pay for the acquisition premium?

15

16 Of course the answers to these questions are somewhat inter-related, and each
17 entails myriad other questions.

18

19 **SCHERER #4 AS A COMPONENT OF FPL'S LEAST COST PLAN**

20

21 Q. PLEASE DESCRIBE YOUR CONCERNS REGARDING THE PROPRIETY
22 OF SCHERER #4 AS AN ELEMENT OF FPL'S LEAST COST PLAN.

23

1 A. The my concerns can be divided into two groups. First, there are the general
2 concerns regarding the treatment of DSM alternatives in FPL's planning process and
3 how that treatment creates unnecessary costs to ratepayers, use of energy resources and
4 environmental damage. These concerns were presented before the Commission in
5 Docket Nos. 890973-EI and 890974-EI.

6
7 Second, there are concerns regarding the specific operating, economic and
8 environmental implications of Scherer #4. It is necessary to reemphasize that the OPC
9 has not had the opportunity to determine, if in fact, the Scherer #4 purchase is or is
10 not an appropriate addition to FPL's power mix. Therefore, it would be inappropriate
11 for the OPC to take a specific position at this time. However, the OPC does believe it
12 is vital to establish this fact prior to approval.

13
14 Q. WHAT ARE YOUR CONCERNS REGARDING THE OPERATION OF
15 SCHERER #4?

16
17 A. The operating, economic and environmental implications of Scherer #4 are
18 intertwined. In this instance, we are referring to any economic penalties which might
19 arise due to physical constraints imposed on the system as a result of the purchase of
20 Scherer #4. There are two types of potential constraints which are of particular
21 concern: 1) lost opportunities to make other purchases from the Southern Companies,
22 qualifying facilities, or other Florida utilities because of transmission limitations, and 2)
23 limitations on the future operations at Scherer #4 resulting from environmental

1 constraints.

2

3 Q. PLEASE EXPLAIN THE TYPES OF LOST OPPORTUNITIES TO MAKE
4 OTHER PURCHASES TO WHICH YOU REFER.

5

6 A. This issue embraces the displacement of other potential purchases. Potential
7 sellers who may effectively be blocked from selling to FPL due to transmission
8 limitations include: qualifying facilities in northern Florida, other Florida utilities, and
9 other types of sales from the Southern Companies. We are concerned about the
10 potential lost opportunities associated with firm power, economy and other transactions
11 which might be displaced by this purchase due to transmission limitations.

12

13 The Letter of Intent addresses both companies working toward upgrading the
14 Florida-Southern Companies interface. This ostensibly would allow for economic and
15 all firm power transactions. However, what would be the economic ramifications if this
16 up-grade did not take place? Furthermore, even with this up-grade, are there
17 sufficient opportunities to fill the available transmission with other purchases?

18

19

20 Q. PLEASE DESCRIBE THE POTENTIAL OPERATING LIMITATIONS TO
21 WHICH YOU REFER.

22

1 A. The second issue embraces potential limitations on the future operations of
2 Scherer #4. No litigation involving Scherer #4 has taken place yet in Florida,
3 therefore it is important that any assumptions made regarding the plant be limited.
4 One area where caution may be merited is in the assumed unconstrained operation of
5 the plant. There may be issues, of which we are as yet unaware, which could
6 potentially limit the continued operation of this plant. Remember, upon the
7 completion of this sale, the host state of Georgia will be unaffected by any imposed
8 limitations or conditions on the operation of the plant. This could add additional
9 impetus and strength to any local parties advocating limitations on the unit's operation.
10

11 Furthermore, FPL has stated that the sale comes with emission allowances. It
12 is implied that the emission allowances will be sufficient for Scherer #4 to be operated
13 without constraint or penalty. Constraints may entail limits on operation or on the
14 quality of fuel which must be utilized by the unit to keep annual emissions within the
15 associated allowances. Penalties would be the cost associated with purchasing
16 additional allowances as needed.
17

18 It is unclear what level of emission allowances will be assigned to Scherer #4
19 because the unit only came on-line at the very end of the baseline period (1980-1989)
20 specified in the Clean Air Act for determining emission allowances. The exact amount
21 of emission allowances and the implications, if any, on the operation or costs of
22 Scherer #4 should be determined before the purchase can be evaluated.
23

1 Q. WOULDNT THE EMISSION ALLOWANCE PROVISIONS OF THE
2 CLEAN AIR ACT ALSO AFFECT THE COST OF THE OTHER OPTIONS?

3

4 A. This is undoubtedly true. A proper analysis may reveal that the purchase of
5 Scherer #4 with sufficient allowances might have advantages over a new generating
6 unit that would need to acquire allowances.

7

8 The Clean Air Act also has important implications for the economics of DSM
9 programs. This is due both to DSM options' lack of emissions and to special emission
10 credits which are awarded to utilities that pursue conservation.

11

12 In conclusion, it is obvious that the recently passed Clean Air Act has
13 important ramifications for the economics of the Scherer #4 purchase.

14

15 Q. DO YOU HAVE ADDITIONAL CONCERNS REGARDING THE
16 ECONOMIC IMPLICATIONS OF SCHERER #4?

17

18 A. Yes. FPL's testimony does not support the claim that Scherer #4 is the lowest
19 cost option available to FPL. Putting the specific criticisms aside for the moment, the
20 information displayed in Mr. Waters' exhibits can not be relied upon without an
21 opportunity to examine the supporting studies. His presentation of these results does
22 not even address the most obvious questions regarding these studies. The options
23 represent generation additions of different sizes which come on-line during different

1 time frames. Without examination of the underlying studies, acceptance of Mr.
2 Waters' findings requires a grand act of faith.
3

4 Q. DO YOU ALSO HAVE CONCERNS REGARDING THE EVIDENCE
5 THAT IS PRESENTED FOR REVIEW?
6

7 A. Yes, I do. Even if one had reason to believe that Mr. Waters' analysis was
8 preformed correctly, the evidence presented would still be inadequate to accept the
9 proposition that the Scherer #4 purchase is FPL's least cost option.
10

11 Mr. Waters testifies to the economic advantage of the Scherer #4 purchase
12 compared to an Integrated Gasification Combined Cycle (IGCC) facility, a Scherer
13 Unit Power Sale, and a purchase under FPL's standard offer (which is based upon a
14 500 MW coal unit). These comparisons represent far too narrow a selection of options
15 to support the economic superiority of the Scherer #4 purchase.
16

17 An immediate criticism is that the comparison is made solely against supply-side
18 options. This eliminates an entire category of options which may well prove to be not
19 only the most cost-effective for the utility but the least costly to Florida as a whole,
20 especially if environmental and economic development considerations are included.
21 Furthermore, as mentioned above, the economics of these options may have been
22 greatly enhanced by the recent passage of the Clean Air Act.
23

1 Second, the selection presumes the necessity of base load generation, for these
2 are the only units examined. There is no evidence presented to support this
3 contention. Peaking units (e.g., combustion turbines) may be the best type of addition.
4

5 Third, Mr. Waters has not included some of the most cost effective supply-side
6 options, such as standard combined-cycle generation.
7

8 Fourth, the record is insufficient to support the contention that the Scherer #4
9 purchase was the best proposal received in response to FPL's solicitation. In fact, it is
10 not clear from FPL's prefiled testimony whether GPC offered a sale of Scherer #4 or
11 simply a UPS sale form Scherer #4 in response to FPL's solicitation. Did the sale of
12 the unit evolve from that solicitation, or did it result from parallel negotiations? If it
13 did not result directly from the solicitation, what are the implications for the solicitation
14 process? I will reserve discussion regarding the selection of Scherer #4 from FPL's
15 RFP for later in my testimony because it entails a larger set of issues than the present
16 one.
17

18 Fifth, there are several important issues regarding the future supply and cost of
19 fuel for Scherer #4 which are not sufficiently addressed in FPL's evidence yet need to
20 be. Is FPL's acceptance of a 25% ownership in the on-going station fuel contract
21 proper given the expected operating level for the four units? What are the terms and
22 costs under this contract? Does FPL expect to continue purchasing fuel for Scherer
23 #4 in conjunction with the other units at the station, or to negotiate its own fuel

1 contract? If FPL decides to purchase fuel under a separate arrangement, are there any
2 potential fuel delivery difficulties?
3

4 Q. IS IT NOT SUFFICIENT THAT MR. WATERS COMPARED THE
5 PURCHASE TO THE NEXT UNIT SPECIFIED IN FPL'S GENERATION
6 EXPANSION PLANS, I.E., AN INTEGRATED GASIFICATION COMBINED
7 CYCLE?
8

9 A. Such a comparison may have been adequate if the selection of the IGCC had
10 been thoroughly investigated, approved as the best next addition, and conditions had
11 not changed in the interim. However, the last generation planning case did not
12 explicitly examine the appropriateness of an IGCC as the next unit, much less approve
13 one for construction.
14

15 Instead, the IGCC simply served as a future option required to balance the
16 demand/supply mix in the studies. It is a necessity of these types of studies to utilize
17 such generic units as "filler" in order to examine the specific effects of the units under
18 investigation, which in that case were the Lauderdale repowering and the Martin
19 combined-cycle units. These generic IGCC additions are better categorized as "best
20 guesses" rather than thoroughly examined selections. It was never proposed nor
21 assumed in that case that the Commission was approving the construction of an IGCC
22 plant.
23

1 Q. ARE THERE ANY DIMENSIONS OF THE PROPOSED PURCHASE IN
2 ADDITION TO THE ESTIMATED REVENUE REQUIREMENT IMPACT ON
3 FPL WHICH YOU BELIEVE NEED EXPLORATION BEFORE AN INFORMED
4 DECISION CAN BE MADE?
5

6 A. Yes, I believe it is essential that the risk profile of the purchase be understood
7 and compared to that of the other options. The risk profile defines which parties are
8 at risk for any costs associated with problems with the unit's performance or
9 unexpected changes in its cost of operation. This is of special interest in the present
10 case because the Scherer #4 purchase has several unique attributes compared to the
11 other options.
12

13 Q. WHAT ARE THE PARTICULAR RISK RELATED ATTRIBUTES TO
14 WHICH YOU ARE REFERRING?
15

16 A. The proposal is for a purchase of a plant which would become an asset on
17 FPL's books and would be included in rate base. It differs from the other potential
18 FPL owned options (i.e., the hypothetical IGCC) in that FPL did not undertake or
19 directly supervise its construction, commissioning, or operation and maintenance.
20 Experience shows that utility constructed plants, even later units at the same station,
21 can be subject to severe operating problems. Hence, there is no inherent performance
22 guarantee on Scherer #4 resulting from GPC's experience at with the other Scherer
23 units.

1
2 The differences in risk profile are even more distinct between the proposed
3 purchase and any contract sale. Contract power sales, whether they be with another
4 utility or a qualifying facility, inevitably have performance standards which the seller
5 must satisfy. Failure to perform up to contract requirements almost always results in a
6 corresponding decrease in the utility's payment for power. Thus, the seller bears a
7 significant portion of the performance risks.
8

9 Q. HASN'T FPL PROPERLY ACCOUNTED FOR THESE DIFFERENCES IN
10 ITS PLANNING?
11

12 A. FPL has noted that non-price issues are an integral part of its evaluation of the
13 responses to its capacity solicitation. FPL's evaluation criteria, provided on Denis
14 Exhibit No. ___ Document No. 2, includes at least nine criteria that address the
15 division of risks between the utility and the seller (i.e., 4. price risks, 5. security of fuel
16 supply, 11. completion security, 12. security of payment in excess of value, 13. financial
17 viability of facility and respondent, 14. plant maintainability and availability, 15.
18 respondent's experience, 16. level of development, and 18 contract terms and
19 conditions).
20

21 While we concur with FPL regarding the importance of these criteria, we have
22 difficulty accepting one assumption that appears to be implicit in FPL's filing; that is,
23 that a project owned by FPL is superior regarding these criteria than one that is not.

1 Ownership would give FPL more control over the unit than a contract purchase would;
2 however, ownership also brings additional risk, along with control. In the case of utility
3 owned units, only shareholders and ratepayers are available to absorb any additional
4 costs, direct or indirect, resulting from the unit's performance. It can not simply be
5 assumed, as FPL appears to have, that the additional control of the unit resulting from
6 ownership more than off-sets the additional risk. This issue merits further
7 investigation.
8

9 Q. HAS FPL PROVIDED SUFFICIENT EVIDENCE TO EVALUATE THE
10 RISKS ASSOCIATED WITH THIS PURCHASE?
11

12 A. No, in fact the record is lacking the most fundamental piece of evidence
13 regarding the riskiness of this proposed purchase -- the purchase contract. The
14 contract - and only the contract - will define the legal division of risk between FPL and
15 GPC. In my opinion, no definitive conclusions regarding the attractiveness of this sale
16 can be reached until after the contract has been reviewed.
17

18 Q. FPL HAS PROVIDED THE LETTER OF INTENT OUTLINING THE
19 TERMS THAT ARE INTENDED TO BE IN THE PURCHASE AGREEMENT, IS
20 THIS NOT SUFFICIENT EVIDENCE?
21

22 A. No, it is not. There are two major problems with relying upon the terms of the
23 Letter of Intent as evidence. First, what is the legal the relevance of the Letter? The

1 terms discussed in the Letter will be superseded by the final contract, so when it comes
2 time for any enforcement, the terms in the Letter are moot.

3
4 Second, is the generality of the terms described in the Letter. They are much
5 too vague, or simply absent, with regard to many of the aspects of risk we are
6 concerned about. The Letter does not even speak to the responsibilities of GPC
7 regarding the condition and continued performance of the plant.

8
9 **EVALUATION AND SELECTION OF RFP RESPONSES**

10
11 Q. MOVING ON TO YOUR SECOND GENERAL CONCERN, WHAT IS THE
12 NATURE OF YOUR CONCERNS REGARDING THE SELECTION OF
13 SCHERER #4 FROM THE RESPONSES TO FPL'S RFP?

14
15 A. The propriety of the selection of Scherer #4 as the winning bid out of the
16 thirty-four received has implications for both the propriety of Scherer #4 as a resource
17 option in FPL's least cost plan and for the treatment of the acquisition premium.

18
19 Regarding the first point, FPL claims that its screening process indicated that
20 Scherer #4 was the best overall proposal received in response to its solicitation, though
21 it appears that the proposal was for a UPS rather than a direct sale of the unit. It is
22 easy to believe that an operating plant would receive a relatively strong score,
23 especially when compared to proposed facilities which have yet to be sited. However,

1 regardless of how intuitively appealing this selection might be, it must be thoroughly
2 justified.

3
4 As explained later, the ability to collect any of the acquisition premium should
5 be contingent upon this purchase being an arms-length transaction. This amplifies the
6 requirement that the selection process be unbiased and fair.

7
8 Furthermore, the fact that another utility won the solicitation should compel
9 FPL to make a more thorough disclosure of the basis of that selection than might
10 otherwise be necessary. Failure to demonstrate the appropriateness of this selection
11 might damage the credibility of future solicitations. This would result in decreased
12 interest and response by potential bidders, ultimately resulting in higher costs to Florida
13 ratepayers. This issues is particularly important because it appears that GPC's response
14 to the solicitation was a UPS sale from Scherer #4, not a unit sale.

15
16 Nonetheless, FPL has not even attempted to present any hard evidence in
17 support of Scherer's selection. Mr. Denis's testimony on the selection process is
18 entirely superficial and inadequate. Mr. Denis' testimony could be summarized in four
19 sentences: FPL had a solicitation. There were many responses. FPL reviewed them
20 according to its criteria. Scherer #4 UPS was judged the best proposal.

1 What Mr. Denis' testimony did not discuss is: How the criteria were applied,
2 except to say that it is proprietary. How Scherer #4 UPS best met any of the 18
3 criteria listed on his Exhibit ____ (Document No. 2).
4

5 All that Mr. Denis did present in support of Scherer #4's selection was a bar
6 graph which he claims represents the final scores of the best options.
7

8 Once again the only way this element of FPL's testimony can be accepted is as
9 an act of faith.
10

11 Q. YOU HAVE INDICATED THAT THE RECORD IS UNCLEAR AS TO
12 WHETHER OR NOT THERE IS A DIRECT CONNECTION BETWEEN THE
13 UNIT SALE OF SCHERER #4 AND FPL'S SOLICITATION. WHY IS THIS
14 RELATIONSHIP IMPORTANT TO ESTABLISH?
15

16 A. The relationship of the purchase to the solicitation is important for the reasons
17 just described. These concerns would be greatly exacerbated if it were discovered that
18 the Scherer #4 purchase did not directly evolve from GPC's proposal to FPL in that
19 solicitation, but resulted from separate negotiations.
20

21 The validity of the solicitation itself can be called into question if it appears
22 that FPL had been negotiating a unit purchase with GPC prior to the solicitation, yet
23 did not establish a purchase price until after the solicitation responses were reviewed.

1 This might indicate a "sweetheart deal" between the two utilities at the expense of the
2 FPL's ratepayers (if the acquisition price increased as a result) and the other bidders
3 (the cost of preparing their proposals).
4

5 Again it is important to emphasize, that the OPC is not arguing that the
6 purchase nor the method it was arrived at were inappropriate. The OPC is simply
7 arguing that there are some very important issues which are not addressed by FPL's
8 submissions yet need to be established in this docket.
9

10 ACQUISITION PREMIUM

11
12 Q. PLEASE EXPLAIN WHAT THE ACQUISITION PREMIUM REPRESENTS
13 IN THIS CASE?
14

15 A. The Acquisition Premium is the difference between the price paid by FPL for
16 the Scherer #4 asset and the original cost of that asset to GPC less accumulated
17 depreciation (i.e., net book value).
18

19 The total price paid by FPL is reputedly equal to or less than the fair market
20 value of the asset. If it were not FPL, should not be allowed to purchase it. The
21 Commission should only consider an Acquisition Premium to the extent it represents
22 the difference between the asset's fair market value and its net book value.
23

1 For this purchase, FPL claims an Acquisition Premium of approximately \$111
2 million.

3

4 Q. IS THIS THE SAME TYPE OF ACQUISITION PREMIUM WHICH
5 OCCURS WITH BUSINESS MERGERS AND ACQUISITIONS?

6

7 A. It is a part of, but not all of, the Acquisition Premium involved in utility
8 mergers and acquisitions. The difference is very important to regulation.

9

10 The Acquisition Premium associated with the merger or acquisition of an entire
11 business embraces the differences between market and book values of all the assets
12 involved; however, it also involves an additional asset known as Goodwill.

13

14 Goodwill is the difference in cost between what is paid by the acquiring
15 company and the fair market value of all the assets of the acquired concern. In other
16 words, Goodwill is the value the purchaser places on the business, as a business, above
17 and beyond the value of the tangible assets involved.

18

19 Goodwill is an intangible asset. Not surprisingly, Goodwill is the subject of
20 considerable discussion and debate when regulated businesses are involved.

21

22 Q. DOES THE TREATMENT OF THE ACQUISITION PREMIUM IN THIS
23 CASE INVOLVE ANY CONSIDERATION OF THE REGULATORY

1 TREATMENT TO BE AFFORDED TO GOODWILL?
2

3 A. No, it need not. The purchase price of Scherer #4 does not include any
4 Goodwill. Consequently, the issues involved with the treatment of the Acquisition
5 Premium are narrower. Is the purchase price at or below fair market value? Does it
6 matter if the sale is between two regulated utilities?
7

8 Accordingly, rate base treatment of, any or all of, the Acquisition Premium
9 involved in this case should not have a precedent setting affect on the regulatory
10 treatment of Goodwill in future proceedings.
11

12 Q. PLEASE EXPLAIN THE IMPLICATIONS THE SELECTION PROCESS
13 HOLD FOR THE RATE TREATMENT OF THE ACQUISITION PREMIUM?
14

15 A. The implications of the resource selection process draw us to my third general
16 area of concern -- how should the acquisition premium be treated?
17

18 Traditional regulatory ratebase theory argues against allowing an acquisition
19 premium on a utility asset to be allowed into ratebase.
20

21 Q. WHY MIGHT THE PROPOSED PURCHASE BE EXEMPTED FROM THE
22 TRADITIONAL RATE BASE TREATMENT AFFORDED TO INTER-UTILITY
23 TRANSACTIONS?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

A. In this case the validity of the acquisition premium is tied to the validity of the purchase price representing the fair market value. This in turn, is directly tied to validity of FPL's solicitation and award process. Ratebase treatment might only be justified in this instance because this resource was acquired as a result of a competitive bidding process. This process suspends traditional cost-of-service treatment in favor of quasi-marketplace competition.

Accordingly, if there is any reason to doubt the validity of that process as an unbiased competition (including un-intentional biases) then no rate base treatment should be allowed for the acquisition premium. These concerns would embrace the relationship between the purchase ultimately agreed upon and GPC's proposal to the solicitation, which was discussed earlier in this testimony.

CONCLUSIONS

Q. WHAT IS YOUR CONCLUSION REGARDING FPL'S REQUEST PRESENTED BY MR. WOODY IN HIS TESTIMONY (PAGE 9) THAT "THE COMMISSION ... FIND THAT THE PURCHASE OF SCHERER NO. 4 IS NECESSARY, REASONABLE AND PRUDENT, AND THAT FPL CAN INCLUDE THE ENTIRE PURCHASE PRICE IN ITS RATE BASE."?

1 A. At this point, FPL's claims can be treated only as assertions. There has been
2 no provision of evidence that vaguely comes close to that demanded by a reasonable
3 reviewer. Accordingly, I see no way that this Commission can reach the conclusions
4 requested by FPL. I believe that failure to allow sufficient investigation may prove
5 damaging to FPL's ratepayers both directly from this purchase and from the impact it
6 might have on future solicitations.

7

8 Furthermore, I see no reason why this purchase requires an expedited hearing.
9 FPL has provided for replacement power in the event that this decision is delayed, and
10 therefore, FPL customers are not exposed to a short-fall of generating capacity.

11

12 Q. WHAT IS YOUR RECOMMENDATION?

13

14 A. I strongly recommend that the Commission extend the investigation of this
15 purchase to allow sufficient exploration of the issues. If this is not allowed and the
16 purchase is approved, I believe that the Commission should not allow rate base
17 treatment of the acquisition premium.

18

19 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

20

21 A. Yes, it does.

ATTACHMENT A

CARLTON WILLIAM BARTELS

Associate Scientist
Tellus Institute
Energy Systems Research Group

Education

Masters of Business Administration: University of Vermont, 1985.
Bachelor of Engineering: State University of New York at Stony Brook, 1979.

Experience

1987 - Present: Energy Systems Research Group, Inc. Responsibilities include assessment of energy policy impacts; evaluation of electric energy systems including production costs, cost allocation, power planning.

1981 - 1986: Vermont Department of Public Service, Montpelier, Vermont, 1983-1986: Director of Regulated Utility Planning - supervised planning staff; responsible for strategic planning for electric utility industry statewide; member of state negotiating team for power supply contracts; state utility economics expert. 1981-1983: Public Service Electrical Planning Engineer.

1979 - 1981: Green Mountain Power Corporation. March 1981 - November 1981: Energy Planning Engineer. October 1979 - March 1981: Electrical Engineer.

Consulting Services Not Resulting in ESRG Report or Testimony

Client	Dates	Services Provided
Town of Weybridge, Vermont	Feb. 1990	Valuation of Hydro Electric Station.

Pennsylvania Office of Consumer Advocate	Jan. 1990	Consulting on Incentive Regulation.
Vermont Department of Public Service	Aug. 1989	Aided in Development of Strategy to Mitigate Adverse Impact of FERC Decision Denying Vermont DPS Rights to Preference Power.
Nevada Office of Consumer Advocate	May 1989 - Oct. 1989	Analysis of Purchased Power and Select Resale Issues in Regard to Annual Power Adjustment Clause.
Utah Committee of Consumer Services	Feb. 1989 - June 1989	Attended Multi-Jurisdictional Conferences on Cost Allocation Issues Resulting from the Merger of PacifiCorp and Utah Power and Light.
Minnesota Department of Public Service	Mar. 1989 - Oct. 1989	Organizational Audit Focused on Changes Necessary to Support a Least Cost Planning Process; Assisted in the Development of Comments in response to Commission Investigation into Financial Incentives and Bidding Systems; and Assisted in the Development of Comments regarding a Proposed Rule Governing the Resource Planning Process.
Colorado Office of Consumer Counsel	Jan. - June 1989	Quantitative Analysis Regarding Colorado Public Service's Proposed Ratemaking Treatment if Fort Saint Vrain Nuclear Facility Were to be Converted to Natural Gas Firing.
Missouri Office of Public Counsel	July - Dec. 1988	Survey of Least Cost Planning Processes in Selected States Focusing Upon Their Impacts on Regulatory Responsibilities and Staffing.

ESRG Testimony

Agency	Case or Docket No.	Date	Topic
Kansas Corporation Commission	(Tellus 90-123)	Nov. 1990	Review of Kansas City Power & Light Company's proposed acquisition of Kansas Gas & Electric Company from ratepayers' standpoint.
Public Service Corporation of Utah	90-035-06 (Tellus 88-140B)	Aug. 1990	Investigation into the Reasonableness of Allocations and its Rates and Charges for Utah Power & Light Company.
Rhode Island Public Utilities Commission	1972 (Tellus 90-010)	Jun. 1990	Siting Permit for Manchester Street Station Repowering.
New Hampshire Public Utilities Commission	DR-89-244 (ESRG 90-019)	Mar. 1990	Rate Impact of Northeast Utilities take-over of Public Service Co. of N.H.
Vermont Public Service Board	5372 (ESRG 89-201)	Feb. 1990	Power Cost Issues in Central Vermont Public Service Rate Request.
Vermont Public Service Board	5330 (ESRG 89-078)	Dec. 1989	The role of Hydro-Quebec Power in a least-cost energy resource plan for Vermont.
Vermont Public Service Board	5270 (ESRG 88-18)	Aug., Sep., Oct. 1988	Generic Least Cost Planning Investigation.

Vermont Department of Public Service Testimony

Agency	Docket No.	Date	Topic
Vermont Public Service Board	5078	Jan. 1986	Concerning Cost Benefit of Hydro Quebec Phase II Contract

Vermont Public Service Board	4906-A	May 1985	Surcharge Associated with Vermont Yankee IGSCC Outage; Cost Estimate and Rate Design
Vermont Public Service Board	4882/4877/ 4966	Feb. 1985	Fuel Adjustment Clause of Burlington Electric Department
Vermont Public Service Board	4968/4972	Feb. 1985	Cost Benefit Analysis of Proposed Moretown #8 Hydroelectric Facility
Vermont Public Service Board	4905	May 1984	Cost Benefit of Firm Power Contract Between Department of Public Service Contract and Hydro Quebec
Vermont Public Service Board	4906	Apr. 1984	Central Vermont Public Service Rate Case
Vermont Public Service Board	4759	Dec. 1983	Central Vermont Public Service Rate Design
Vermont Public Service Board	4804	June 1983	Establishment of Statewide PURPA Rates
Vermont Public Service Board	4796	Apr. 1983	Green Mountain Power Rate Case and Rate Design
Vermont Public Service Board	4609/4637	Sep. 1982	Green Mountain Power Rate Design for Ripple System

ESRG Publications

- Nov. 1990: *Kansas City Power & Light Company's Proposed Acquisition of Kansas Gas & Electric Company: Issues Affecting Kansas Ratepayers.* A report to: Citizens' Utility Ratepayers Board. Tellus Study No. 90-123. Co-author.
- Aug. 1990: *A Review of the Tariff Policies and Procedures of the Tasmanian Hydro-Electric Commission. Stage One: Situation Analysis and Terms of Reference.* A report to The Tariff Steering Committee - Tasmania. Tellus Study No. 90-076. Author.
- July 1990: *District Heating from the Manchester Street Station - Public Policy Perspective.* A report to: Rhode Island Governor's Office of Housing, Energy and Intergovernmental Relations. Tellus Report 90-034. Co-author.

- May 1990: *Evaluation of Repowering the Manchester Street Station.* A report to Rhode Island Division of Public Utilities and Carriers; Rhode Island Department of Administration, Division of Planning; and Rhode Island Governor's Office of Housing, Energy, and Inter-governmental Affairs. Tellus Report 90-010. Principal Author and Project Manager.
- Mar. 1990: *The Northeast Utilities Plan for Public Service Company of New Hampshire: Issues Affecting New Hampshire Consumers.* A report to: State of New Hampshire, Office of the Consumer Advocate. Tellus Report No. 90-019. Co-Author.
- Dec. 1989: *The Role of Hydro-Quebec Power in a Least-Cost Energy Resource Plan for Vermont.* A Report to the Public Service Board of Vermont on behalf of the Department of Public Service. ESRG Report No. 89-078. Co-author.
- Oct. 1989: *Evaluation of Staffing Requirements for the Minnesota Department of Public Service Imposed by Potential Least-Cost Planning Processes.* A Report to the Department. ESRG Report No. 89-18A. Co-author.
- Aug. 1989: *Regulating the Kingsley Hydro-Electric Facility and Dam to Provide Scouring Flows on the Platte River.* A Report to the National Audubon Society. ESRG Report No. 89-134. Co-author.
- Dec. 1988: *Least Cost Integrated Planning in Vermont: Issues and Directions.* A Report to the Vermont Department of Public Service. ESRG Report No. 88-18A. Co-author.
- Dec. 1988: *Least Cost Integrated Planning Processes for Electric Utilities: Implementation in Five States.* Prepared for the Missouri Office of Public Counsel. ESRG Report No. 87-62. Co-author.
- Sep. 1988: *An Overview of the Processes by Which Power is Purchased from Qualifying Facilities in New England.* ESRG Report No. 88-90. Co-author.
- July 1988: *The Cost to Ratepayers of the Proposed LILCO Settlement.* A Report to Suffolk County. ESRG Report No. 88-23. Co-author.
- Apr. 1988: *Report on the Cost Allocation Issue Arising from the Proposed Merger of Utah Power and Light and PacifiCorp, Maine.* A Report to the Public Service Commission of Utah on behalf of the Committee of Consumer Services. ESRG Report No. 87-107C. Co-author.

Apr. 1988: *An Evaluation of Central Maine Power Company's Proposed Purchase of Power from Hydro Quebec. A Report to the Maine Public Utilities Commission Staff. ESRG Report No. 87-30. Co-author.*

Vermont Department of Public Service Publications

Sep. 1988: *Twenty-Year Electric Power Plan.*

July 1984: *The Development of Rates Pursuant to Public Service Board Rule 4.100.*

Nov. 1983: *The Development of Rates Pursuant to Public Service Board Rule 4.100 (June 1983, revised November 1983).*

Feb. 1983: *Electric Power Supply in Vermont.*

Feb. 1983: *Twenty-Year Electric Power Plan by Vermont Department of Public Service.*

11/90

CERTIFICATE OF SERVICE
DOCKET NO. 900796-EI

I HEREBY CERTIFY that a true and correct copy of the DIRECT TESTIMONY OF CARLTON W. BARTELS, has been furnished by U.S. Mail or by *hand-delivery to the following on this 21st day of November, 1990.

MATTHEW M. CHILDS, ESQUIRE
Steel Hector & Davis, P.A.
215 South Monroe Street
Suite 601
Tallahassee, FL 32301

FREDERICK M. BRYANT, ESQUIRE
Moore, Williams, Bryant,
Peebles & Gautier, P.A.
Post Office Box 1169
Tallahassee, FL 32302

JOHN T. BUTLER, ESQUIRE
Steel Hector & Davis, P.A.
4000 S.E. Financial Center
Miami, Florida 33131-2398

*M. ROBERT CHRIST, ESQUIRE
EDWARD A. TELLECHEA, ESQUIRE
Florida Public Service Commission
Division of Legal Services
101 East Gaines Street
Tallahassee, FL 32399-0872

FREDERICK J. MURRELL, ESQUIRE
Schroder & Murrell
The Barnett Center, Suite 375
101 Third Avenue West
Bradenton, FL 34205

JOSEPH A. MCGLOTHLIN, ESQUIRE
Lawson, McWhirter, Grandoff
& Reeves
522 E. Park Avenue, Suite 200
Tallahassee, FL 32301



John Roger Howe