

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power Corporation for determination that its plan for curtailing purchases from Qualifying Facilities in minimum load conditions is consistent with Rule 25-17.006, F.A.C.

Docket No. 941101-EQ

**Submitted for filing:
May 2, 1995**

FILE COPY

**REBUTTAL TESTIMONY OF
HENRY I. SOUTHWICK, III**

**ON BEHALF OF
FLORIDA POWER CORPORATION**

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**FLORIDA POWER CORPORATION
DOCKET No. 941101-EQ**

**REBUTTAL TESTIMONY OF
HENRY I. SOUTHWICK, III**

I. INTRODUCTION AND PURPOSE

1
2
3 **Q. Please state your name and business address.**

4 **A. My name is Henry I. Southwick, III. My business address is Post Office**
5 **Box 14042, St. Petersburg, Florida 33733.**

6
7 **Q. Have you previously testified in this proceeding?**

8 **A. Yes. I filed direct testimony on behalf of Florida Power Corporation**
9 **("Florida Power" or "the Company") on February 20, 1995.**

10
11 **Q. Are you sponsoring any new exhibits together with this rebuttal**
12 **testimony?**

13 **A. Yes. I am sponsoring Exhibits ___ (HIS-5) through ___ (HIS-10).**

14
15 **Q. What is the purpose of your rebuttal testimony?**

16 **A. I will respond to portions of the direct testimony of Messrs. Roy**
17 **Shanker and Kenneth Slater on behalf of Orlando Cogen Limited, L.P.**
18 **and Pasco Cogen, Ltd. (jointly "OCL/Pasco"). That testimony questions**
19 **whether Florida Power is correctly implementing the Commission's rules**
20 **for curtailing QF purchases under minimum load conditions. Messrs.**

1 Robert Dolan and Steven Lefton also focus on specific segments of that
2 testimony. I will also answer Mr. Roger Yott's contentions made on
3 behalf of OCL that Florida Power is unfairly treating those of its QF
4 suppliers who have not entered into written voluntary output reduction
5 arrangements.

6
7 On April 25, 1995, Florida Power received copies of proposed
8 supplemental testimony prepared by Mr. Slater. The Company will
9 address that testimony in separate rebuttal to be filed before the hearing
10 in this docket.

11
12 **Q. How is Florida Power's rebuttal testimony organized and how does your**
13 **testimony fit within that organization?**

14 **A. Florida Power's objective is to highlight the key errors in OCL/Pasco's**
15 **position. Toward that end, the Company is submitting rebuttal**
16 **testimony on these primary topics:**

- 17 • OCL/Pasco's self-serving and unsupported analytic framework;
- 18
- 19 • OCL/Pasco's mischaracterization of the minimum load problem
- 20 as a mere economic issue of Florida Power's own making and
- 21 not an "operational problem" justifying curtailments;
- 22
- 23 • OCL/Pasco's incorrect assertions that Florida Power can and
- 24 must do more to avoid involuntary QF curtailments than the
- 25 substantial mitigation measures already undertaken both within
- 26 and outside of the Curtailment Plan;
- 27
- 28 • OCL/Pasco's false conclusion that the minimum load problem
- 29 which the Curtailment Plan seeks to remedy will not result in
- 30 "negative avoided cost" absent curtailments; and
- 31
- 32 • OCL's unsupported effort to achieve what would amount to
- 33 preferential inclusion in the Group A curtailment category.

1 Mr. Dolan's rebuttal focuses on the first two of these topics and I will
2 discuss the last three. Mr. Lefton's rebuttal relates to the fourth item,
3 specifically the propriety of including "unit impact" costs in a properly
4 constructed analysis of negative avoided costs.

5
6 Our supplemental rebuttal will deal with Mr. Slater's criticisms of the
7 Company's negative avoided cost analyses, including his last-minute
8 manipulations of Unit Commitment data in his April 25, 1995
9 supplemental testimony.

10
11 I would like to emphasize that I disagree with countless statements and
12 inferences in the OCL/Pasco testimony, but I am confining my
13 discussion to the three major issues covered by my rebuttal. My failure
14 to mention a particular comment by the OCL/Pasco witnesses
15 (particularly those in Mr. Slater's supplemental testimony) should not be
16 taken as acquiescence.

17
18 **Q. Before turning to your specific subject areas, would you please describe**
19 **your general impressions of the intervenor testimony?**

20 **A. Certainly. The fact that only two of the 22 QF suppliers affected by the**
21 **Curtailment Plan have chosen to file testimony disputing the Plan should**
22 **itself speak volumes. A number of QFs have supported the Plan's**
23 **curtailment priorities as being reasonable, and generally, all QFs have**
24 **been responsive to the Plan when it has been necessary to call for**

1 curtailments. I am convinced that the Plan is grounded on solid
2 principles and is structured in a fair, reasonable, and equitable manner.

3
4 Much of the OCL/Pasco testimony amounts to little more than
5 camouflage designed to create the impression that QF purchases are
6 absolutely unassailable, and to deflect the Commission's attention from
7 the undeniable fact that Florida Power has made tremendous efforts to
8 effectively address the minimum load problem, mitigate the need for
9 curtailments, and achieve a fair apportionment of burdens in the
10 relatively few cases where involuntary curtailments actually become
11 necessary.

12
13 It is probably more significant to note what OCL/Pasco do *not* dispute
14 than what they do dispute. For example, there is no substantiated claim
15 in the OCL/Pasco testimony that the Company's exercise of curtailment
16 rights has been anything other than very narrowly applied. In 1994,
17 Florida Power purchased 4,630,882 MWh of QF energy. That figure is
18 expected to rise considerably in 1995 because of new QF projects
19 coming on-line. In sharp contrast, we have asked for involuntary
20 curtailments from QFs in only 31 hours, amounting to only 4,327 MWh
21 or less than one-tenth of one percent. Likewise, OCL/Pasco do not cite
22 or document any specific injury from the Curtailment Plan. If damages
23 of any significance had been incurred, the Commission certainly could
24 have expected to hear about it. Also absent from OCL/Pasco's case is
25 any claim that the Plan fails to provide adequate notice of curtailments

1 as required by Rule 25-17.086. This is gratifying because one of the
2 Company's major goals was to deal effectively with the notice issue.

3
4 Additionally, in three pieces of prefiled testimony, no OCL/Pasco
5 witness even mentions Section 6.3 of their contracts with Florida
6 Power. Thus, no witness denies that this section specifically
7 contemplated the possibility of curtailments in minimum load conditions.
8 Furthermore, OCL/Pasco have not offered an effective challenge to the
9 principle that the Company would incur *some* measure of negative
10 avoided costs if forced to cycle off a Crystal River coal unit instead of
11 a justifiable curtailment. Their challenges at most go to the question of
12 quantifying a negative avoided cost, a task which Florida Power agrees
13 is difficult to accomplish with precision.

14
15 When reduced to its essential points, the OCL/Pasco testimony leaves
16 the Commission with a fairly narrow set of issues on which to focus.

17
18 **Q. Please provide a brief summary of your rebuttal.**

19 **A.** I begin my analysis from Mr. Dolan's conclusion that Mr. Shanker has
20 created an artificially restrictive framework for evaluating the curtailment
21 issue. As Mr. Dolan explains, Mr. Shanker is reading into the PURPA
22 rules a whole host of substantive tests which in reality simply don't
23 appear in the language of any rule upon which he relies. By doing this,
24 he tries to assume away the minimum load problem, characterizing it as
25 one that should have been planned for and now can be avoided entirely

1 by taking actions that would impose additional costs and reliability risks
2 on the Company's ratepayers in order to continue payments to the QFs.
3 For the reasons given by Mr. Dolan, the Commission should not adopt
4 Mr. Shanker's self-serving and unsupported analytic framework.
5 However, the evidence establishes that Florida Power's Curtailment Plan
6 would pass muster even under that framework.

7
8 Mr. Dolan also explains why OCL/Pasco are in error when they
9 characterize the minimum load problem as a condition of Florida Power's
10 own making. He establishes that Florida Power has prudently planned
11 its system generation supplies and that those planning decisions have
12 been subjected to ongoing scrutiny by this Commission. Nevertheless,
13 given current minimum load levels, the Company is experiencing a
14 periodic problem matching generation and load during minimum load
15 conditions. This is both a reliability concern and an economic concern
16 as I showed in my direct testimony and as I will elaborate upon in this
17 rebuttal. It is wrong to write the problem off as one that Florida Power
18 should have contracted around by negotiating dispatch rights from QFs.
19 In fact, as Mr. Dolan demonstrates, all of the contracts include the
20 curtailment rights which Florida Power needs to implement the
21 Curtailment Plan; OCL/Pasco's contracts, in particular, refer to those
22 rights unambiguously in Section 6.3. I will show that OCL/Pasco's
23 current arguments simply attempt to avoid justifiable curtailments and
24 to shift the burden of matching generation and load directly onto Florida
25 Power ratepayers.

1 I will also address the issue of mitigation. The record should leave no
2 doubt that Florida Power has done everything within reason to mitigate
3 curtailments in ways that will not threaten reliability or unreasonably
4 increase ratepayer costs. The additional measures proposed by
5 OCL/Pasco represent unreasonable ways to assume away an excess
6 generation condition. Moreover, as I will explain, if OCL/Pasco's
7 arguments for disposing of excess generation are to be given any credit,
8 then they must also lead to the conclusion that some of the as-available
9 payments being made to the QFs are far greater than warranted on a full
10 avoided cost basis. OCL/Pasco cannot seriously argue that Florida
11 Power has excess energy to sell off-system at a cost of zero, but that
12 an equivalent amount of energy simultaneously being purchased from
13 QFs is avoiding the need for generation at a cost greater than zero.

14
15 I will also show that OCL/Pasco's attempts to refute the Company's
16 negative avoided cost conclusions are unfounded. The simple fact is
17 that cycling off a Crystal River coal unit to continue purchasing an
18 equivalent amount of energy from QFs would put the Company in
19 exactly the negative avoided cost situation which the FERC and this
20 Commission have cited as justification for curtailment. Contrary to
21 OCL/Pasco's contentions, Florida Power has examined avoided costs
22 over an appropriate time frame and has amply established that it would
23 incur negative avoided costs in the circumstances where the Curtailment
24 Plan would call for curtailments.

1 Finally, I will show why Mr. Yott's equity arguments are wrong. It is
2 certainly significant that no other QFs in the Group B or C curtailment
3 categories have raised an equity claim and I do not believe that such a
4 claim is sustainable based on the facts before the Commission. It is
5 also important to remember that OCL has repeatedly been offered the
6 opportunity, but has declined, to join Group A on terms similar to those
7 applicable to all other QFs in Group A. Florida Power has given sound
8 reasons for its curtailment groupings. OCL alone (note that Pasco did
9 not join in sponsoring Mr. Yott's testimony) would like to be treated as
10 if it had contributed assured output reductions to help solve the
11 minimum load problem, when in fact it has not. Florida Power believes
12 that including OCL in Group A would treat OCL preferentially.

13
14 **Q. You have said that you see the real issues in this case as being fairly**
15 **narrow. Please explain where the basic differences lie between the**
16 **OCL/Pasco position and the Company's position.**

17 **A. OCL/Pasco dispute certain of Florida Power's quantification methods,**
18 **but have not effectively challenged the Company's conclusion that**
19 **when forced to begin cycling off baseload units, the Company will incur**
20 **some measure of increased operating costs (i.e., negative avoided costs)**
21 **as contemplated by the FERC/FPSC rules. Mr. Shanker in fact conceded**
22 **as much at page 23 of his testimony where he said that Section**
23 **292.304(f) was intended to respond to situations where, "a utility**
24 **would, absent curtailments, have to turn off its own base load**
25 **generation due to QF purchases, resulting in net increased operating**

1 costs (i.e., "negative avoided costs")." The big bone of contention is
2 when this unit cycling/negative avoided cost scenario arises.

3
4 Florida Power concludes that the negative avoided cost scenario arises
5 when the Company has:

- 6 (1) taken all reasonable steps, consistent with outstanding
7 contracts/rate schedules, to minimize power purchases from
8 other utility sources;
9 (2) reduced self-generation to minimum operating levels consistent
10 with prudent utility practice and sound economic dispatch; and
11 (3) maximized interchange sales to an extent which is compatible
12 with regulatory criteria and ratepayer interests.

13
14 In contrast, OCL/Pasco assert that the negative avoided cost scenario
15 could only arise after the Company has:

- 16 (1) breached its purchase contracts with other utilities;
17 (2) operated Company units so as to jeopardize reliable, cost-
18 effective service to customers during normal operating
19 conditions solely to guarantee that QFs will not contribute to
20 an over-generation condition during the relatively few hours of
21 minimum load; and
22 (3) given away large amounts of energy below the cost which the
23 Company's customers are paying to generate or purchase
24 energy -- simply to continue buying an equivalent amount of

1 QF energy at an as-available price which, by OCL/Pasco's own
2 reasoning, could only be said to be excessive.

3
4 Florida Power's approach preserves PURPA's objective (discussed by
5 Mr. Dolan) of cost neutrality for native load customers. OCL's
6 approach, in contrast, treats the QF purchases as sacrosanct and
7 represents a direct attack on the ratepayer neutrality principle.

8
9 **II. REBUTTAL TO OCL/PASCO'S TESTIMONY**

10
11
12 **A. Florida Power Should Not Be Required To Engage In**
13 **Mitigation Measures Beyond Those Already Taken**
14 **And Contemplated By the Curtailment Plan**

15
16 **Q. Mr. Shanker claims that all the Company has done to mitigate**
17 **curtailments (and all that the Curtailment Plan requires) is to (1) pursue**
18 **additional Florida Energy Broker sales and (2) reduce (but not eliminate)**
19 **the Company's purchases from the Southern Companies. (Shanker,**
20 **pages 33-34). Do you agree with Mr. Shanker's assessment of the**
21 **facts?**

22 **A. No. I have shown that the current minimum load problem is being**
23 **substantially minimized by use of all reasonable and appropriate**
24 **measures. Taking further steps to avoid QF curtailments would result**
25 **in both a threat to system reliability and a direct adverse effect on**
26 **Company ratepayers.**

1 Mr. Shanker overlooks a large number of measures which the Company
2 has pursued. For example, he fails to mention the Company's recent
3 power sales to Oglethorpe Power Cooperative and the Southeastern
4 Power Administration; additional efforts to market power both on and
5 off the Energy Broker before and during minimum load periods (including
6 direct contacts with all other area utilities likely to have a possible
7 purchase need); significant reductions in the Company's own generating
8 resources (including shutting down the University of Florida unit,
9 shutting down the peaking and intermediate units, and bringing the
10 Crystal River coal units to unprecedented low operating minimums);
11 negotiation of additional voluntary QF output arrangements; and
12 negotiation of a new minimum load energy sell-back arrangement with
13 the Southern Companies.

14
15 I have discussed some of these efforts in my direct testimony and I will
16 elaborate on some in this rebuttal. Mr. Shanker is ignoring the fact that
17 Florida Power has gone to extraordinary lengths to control the minimum
18 load problem and to reduce the need for curtailments.

19
20 **Q. OCL/Pasco's testimony argues that additional mitigation measures**
21 **should be followed before initiating involuntary QF curtailments. What**
22 **is your general response to those claims?**

23 **A. I repeat that Florida Power has gone the extra mile to ensure that**
24 **curtailments will be kept to a minimum, consistent with existing**
25 **contracts, reliability considerations, economic system operation and**

1 ratepayer interests. Messrs. Shanker and Slater discuss several ways
2 in which they believe that the Company can and must do more to
3 mitigate the minimum load problem. These are: (1) establishing a policy
4 of interrupting Southern Company purchases before QFs; (2)
5 reconfiguring the commitment of Company generating units; (3)
6 marketing off-system energy at any market clearing price; and (4)
7 cutting retail prices. The first two measures are aimed at further
8 reducing generation, while the second two are designed to elevate
9 demand.

10
11 in effect, OCL/Pasco are saying that the minimum load problem is not
12 real. They claim there is no mismatch between generation and load
13 because generation can always be further reduced to eliminate the
14 problem and load can always be bumped up with the same effect.
15 There is, according to Messrs. Shanker and Slater, no operational
16 problem at all because there are solutions which the Company is simply
17 unwilling to accept because of economic impacts on itself or its
18 ratepayers. Presumably, in the theoretical world created by these
19 witnesses, the minimum load unit cycling conditions described both by
20 the FERC and this Commission as justifying curtailments would *never*
21 arise because a utility like Florida Power could always cause an excess
22 generation condition to evaporate by (1) walking away from its firm
23 utility purchase commitments; (2) redispatching the system to cycle off
24 baseload units on a long-term basis in order to avoid doing so in the
25 short-term; (3) giving away wholesale interchange power and, by the

1 same logic, presumably even paying a third party to accept it; and (4)
2 similarly, giving away service at retail.

3
4 I will discuss each of these measures in turn and it should become
5 readily apparent that they represent unrealistic, unreliable and/or
6 uneconomic ways in which to address the minimum load problem.

7
8 **1. Interrupting Purchases From The Southern Companies**

9
10 **Q. Do you agree with OCL/Pasco's assertion that Florida Power is**
11 **subordinating firm QF purchase contracts to firm utility purchase**
12 **contracts?**

13 **A. Absolutely not. Before initiating any involuntary QF curtailments, the**
14 **Company has committed to curtailing all of its firm power purchases**
15 **from other utilities to the maximum extent allowed by the applicable**
16 **contracts. In the case of Tampa Electric, Florida Power can and will**
17 **reduce its purchases to zero prior to any involuntary QF curtailments.**
18 **In the case of the Southern Companies, the purchases will be reduced**
19 **as much as possible without running afoul of the existing contractual**
20 **arrangements. As a result, the QF purchases actually are given a better**
21 **interruption priority than the utility purchases -- not an inferior priority**
22 **as OCL/Pasco suggest. Mr. Shanker says that "FPC should curtail its**
23 **other firm utility purchases prior to attempting to curtail purchases from**
24 **the Cogens." (Shanker, page 34). Florida Power has committed to**

1 doing exactly what Mr. Shanker suggests subject to its contractual
2 commitments to the Southern Companies.

3
4 **Q. Is Florida Power somehow placing more importance on its compliance
5 with utility contracts than on its compliance with QF contracts?**

6 **A. No. Florida Power is living by the terms of all of its contracts. It is
7 important to recognize, however, that the contracts are not all the
8 same. The Southern Companies contract, entered into in 1988,
9 contained certain absolute minimum purchase obligations depending on
10 circumstances on the Southern Companies' system. As part of a
11 contract and a FERC-jurisdictional rate schedule, those minimum
12 purchase requirements are enforceable against Florida Power. In
13 contrast, as explained by Mr. Dolan, the Company's QF contracts, many
14 of which like OCL/Pasco's were entered into after the contract with the
15 Southern Companies, anticipated and expressly sanctioned purchase
16 interruptions when made in accordance with Rule 25-17.086. This is
17 a material distinction in contract terms which cannot be ignored. Under
18 the Curtailment Plan, Florida Power is simply applying the various
19 contracts as written.**

20
21 **Q. How do you respond to the assertion that Florida Power could do more
22 to reduce its utility power purchases?**

23 **A. There is no truth to that assertion. As I explained in my direct
24 testimony (at pages 17-18), before each of the first seven curtailment
25 events, Florida Power's system operating personnel in fact avoided all**

1 purchases from Tampa Electric and reduced the purchases from the
2 Southern Companies as much as the contract would allow. During
3 some of the curtailment events, the Southern purchases were avoided
4 entirely and during every event those purchases were reduced to well
5 below the 168 MW contract minimum.
6

7 Thus, Florida Power already has been substantially reducing the
8 Southern Companies purchases from the base 400 MW purchase
9 amount. Moreover, Florida Power has continued its efforts to even
10 further avoid purchases from the Southern Companies during minimum
11 load conditions. At the end of February 1995, we reached an
12 understanding with the Southern Companies that should greatly assist
13 in mitigating the minimum load problem in the future.
14

15 **Q. Please describe that understanding with the Southern Companies.**

16 **A. The arrangement with the Southern Companies is summarized in my**
17 **February 27, 1995 letter to Mr. James Tulloss of Southern Company**
18 **Services, Inc. (See Exhibit ___ (HIS-5)). Basically, the agreement**
19 **permits Florida Power to reduce system generation by selling back the**
20 **required purchases to the Southern Companies during minimum load**
21 **periods whenever Florida Power's energy cost is at or below the**
22 **Southern Companies' energy cost. These sales initially will occur under**
23 **Service Schedule C of the parties' interchange contract.**

1 Q. Do you expect this new arrangement to have a significant impact on QF
2 curtailments?

3 A. Yes. We already have taken advantage of this new arrangement and
4 have thereby avoided one involuntary QF curtailment event.
5

6 Q. Mr. Shanker sees no problem in a hypothetical situation in which Florida
7 Power would be required to pay for power from the Southern
8 Companies, but would not receive that power. (Shanker, pages 36-37).
9 Do you agree?

10 A. I disagree for two reasons. First, if his scenario were to arise, the net
11 effect would be an unwarranted cost burden on Florida Power's
12 ratepayers incurred solely to preserve a cost subsidy to the QFs. The
13 Commission should not require Florida Power to mitigate one adverse
14 cost impact on ratepayers (the unit cycling scenario) by first incurring
15 another type of adverse cost impact for the ratepayers. Florida Power
16 does not believe that the PURPA rules or the QF contracts should be
17 read to require this unreasonable result.

18
19 Second, Mr. Shanker overlooks a very significant point, which is that
20 the Southern Companies purchase requires minimum takes, not just
21 minimum payments. When the Southern Companies also are
22 experiencing light loads, they too have no need for the excess energy
23 and it may not be possible for Florida Power to refuse deliveries.

1 **2. Reconfiguring Commitment Of Florida Power Units**

2
3 **Q. Mr. Shanker asserts that Florida Power has not planned ahead for a**
4 **minimum load problem which it has anticipated for two years or more.**
5 **(Shanker, page 38). Is he right?**

6 **A. No. The Company has been actively pursuing ways to minimize the**
7 **minimum load problem for at least two years. As early as the beginning**
8 **of 1993, we began investigating options to reduce our own unit output**
9 **during minimum load periods. As a result, we expended substantial**
10 **time and resources making modifications to the Crystal River coal units**
11 **as well as other Company generating units to improve their low-load**
12 **operation, by expanding their load control ranges, increasing their ramp**
13 **rates, and reducing their minimum generation capability far below the**
14 **historic levels. We also attempted to renegotiate or work to mitigate**
15 **the minimum purchase requirements in the Company's contract with the**
16 **Southern Companies. As I discussed earlier, we recently were**
17 **successful in that effort. In addition, the Company investigated**
18 **potential ways to increase retail customer loads, but as I discuss later,**
19 **it was concluded that this would not be feasible. In mid-to-late 1993,**
20 **we also began factoring the minimum load issue into the maintenance**
21 **schedule planning for our units and for the QF units. These examples**
22 **illustrate that the Company has responsibly approached the minimum**
23 **load problem in a variety of ways and has worked hard over the past**
24 **couple of years to minimize any impact on QFs in advance of the**
25 **problem.**

1 **Q. Has Florida Power also taken more recent actions to minimize the**
2 **minimum load problem?**

3 **A. Yes. We are reducing minimum load problems on an ongoing basis**
4 **through off-system sales (including the recent sales discussed in Mr.**
5 **Harper's direct testimony to the Rocky Mountain Hydro project and the**
6 **Carter's Dam project); our new power sell-back arrangement with the**
7 **Southern Companies; scheduling of maintenance for our own units and**
8 **for the QF units; and making optimal use of the voluntary QF output**
9 **reductions including an additional arrangement under which Tiger Bay**
10 **agreed to come off-line each night near the end of 1994 upon request**
11 **(thereby avoiding six curtailments in December 1994 that otherwise**
12 **would have been required). We are devoting more time and personnel**
13 **resources than ever before to the planning and operations processes in**
14 **order to minimize QF curtailments. In addition, we have obtained**
15 **access to longer-term weather forecasting services to better anticipate**
16 **our loads and resource needs.**

17
18 **We have made many operating decisions in recent months to help avert**
19 **QF curtailments, such as keeping Company units off-line even though**
20 **they were scheduled to return to service after a maintenance outage,**
21 **advancing the dates for scheduled maintenance, and slowing the rate**
22 **at which the Crystal River nuclear unit was returned to service after an**
23 **outage.**

1 **Q. Is Mr. Shanker correct when he says that the Company has not**
2 **modified its unit commitment planning process to recognize the**
3 **implications of minimum load conditions?**

4 **A. He is wrong on that point as well. In earlier years, Florida Power**
5 **typically performed its Unit Commitment analyses for periods as short**
6 **as two days. We now do these analyses for a minimum of four days**
7 **and for as long as ten days. The decision to extend this period was**
8 **based, in large part, on the need to anticipate and deal effectively with**
9 **minimum load conditions.**

10
11 **Q. Do you agree with OCL/Pasco that Florida Power could do more to**
12 **mitigate the minimum load problem by changing the manner in which its**
13 **units are committed?**

14 **A. No. As I explained earlier, Florida Power has taken all reasonable steps**
15 **both to minimize power purchased from other utility sources and to**
16 **reduce self generation to minimum operating levels consistent with**
17 **prudent utility management and sound economic dispatch. OCL/Pasco's**
18 **contentions that Florida Power could do more in this regard by changing**
19 **the type or number of units committed during a period of up to a week**
20 **is wrong for two main reasons. First, Florida Power does not know that**
21 **far ahead of time if a minimum load condition actually will occur, much**
22 **less the precise time and magnitude of such an event. Second, even if**
23 **Florida Power had such knowledge, sound economic dispatch**
24 **considerations would prevent the type of long-term unit commitment**

1 actions suggested by OCL/Pasco to fix a short-term minimum load
2 problem.

3
4 **Q. Could you explain why Florida Power cannot precisely predict the**
5 **magnitude or occurrence of a minimum load condition and how this**
6 **impacts the actions proposed by OCL/Pasco?**

7 **A. Yes. While Florida Power can make general predictions of potential**
8 **minimum load problems based on weather forecasts and other system**
9 **factors, and even though we are now looking at these potential**
10 **situations more carefully than ever, the actual occurrence of a minimum**
11 **load problem depends upon a variety of factors causing the loads and**
12 **resources (including QF generation) to change. There were a large**
13 **number of potential minimum load (and curtailment) situations during**
14 **the October 1994 through April 1995 period, yet there were only seven**
15 **curtailment events. If Florida Power had implemented some action,**
16 **such as a curtailment, during all periods that had the potential for a**
17 **minimum load problem, there would have been many needless**
18 **curtailments.**

19
20 Even though we carefully compile and review all available information,
21 we often have no more than a few hour's notice that a minimum load
22 problem might occur. This short-term warning seems to preclude the
23 week-ahead system planning fixes that are suggested by OCL/Pasco.

1 Q. Explain why economic dispatch considerations would preclude Florida
2 Power from taking the actions suggested by OCL/Pasco even if it had
3 perfect foreknowledge of minimum load conditions.

4 A. Mr. Slater says at page 9 of his testimony that Florida Power could shut
5 down a baseload unit over an extended period of time and still have no
6 trouble meeting peak loads with uncommitted cycling capacity, peakers
7 or power purchases. While such capacity may be available
8 operationally, it would only be available *at much higher cost*. Mr. Slater
9 is asking us to ignore sound economic dispatch decisions without any
10 recognition of the adverse ratepayer consequences.

11
12 Florida Power follows a customary industry practice of committing units
13 and dispatching them to minimize the cost to ratepayers. Therefore,
14 even if we knew a week ahead of time that a minimum load condition
15 would occur, the most economical solution would probably not be to
16 cycle off a coal-fired baseload plant for the entire week, since higher-
17 cost units would have to be run during the peak periods to make up the
18 energy from the shut-down coal unit, thus raising the overall cost to
19 ratepayers.

20
21 Again, OCL/Pasco seem to be using the circular argument that if one
22 starts with the premise that QF purchases can never be curtailed, then
23 Florida Power could take actions that might prevent the need for those
24 QFs to be curtailed. We do not accept that premise. OCL/Pasco's
25 suggestion that Florida Power change its unit commitment practices to

1 prevent all potential minimum load curtailments amounts to nothing
2 more than a suggestion that Florida Power's ratepayers should accept
3 higher costs instead of Florida Power exercising the legitimate
4 curtailment rights in the QF contracts.

5
6 **Q. Are there other problems with this suggestion by OCL/Pasco?**

7 **A. Yes. As I said earlier, there are many periods that have the potential to**
8 **become minimum load problems. A Level 1 Minimum Load Alert under**
9 **the Curtailment Plan has been issued 47 times since October 1994, and**
10 **that number understates the total number of times where a minimum**
11 **load problem was possible but was avoided without having to issue an**
12 **alert. If Florida Power were to follow OCL/Pasco's suggestion, this**
13 **would mean changing unit commitment, and raising costs, for each**
14 **period in which a minimum load problem is expected -- many more than**
15 **the number of actual curtailment events. Since many of these predicted**
16 **minimum load problems will not occur, costs would be raised**
17 **considerably for ratepayers.**

18
19 **3. Off-System Sales At Discounted Prices**

20
21 **Q. Do you agree with OCL/Pasco that Florida Power could do more to**
22 **mitigate the minimum load problem by marketing power at wholesale?**

23 **A. No. We are following a practice of marketing as much power as we can**
24 **both before and during curtailment events consistent with established**
25 **interchange practices in the state of Florida. OCL/Pasco's contentions**

1 that the Company should sell more power by dropping its prices is an
2 excellent example of my earlier statement that OCL/Pasco would prefer
3 to assume that there never will be any excess generation. This can be
4 seen clearly in Mr. Slater's comment that "FPC's plan fails to require
5 that FPC attempt to market excess generation at a price designed to
6 ensure a sale" (Slater, page 5). If the sale of all excess energy
7 must be "ensured," then it is hard to imagine a situation when there
8 ever would be any excess generation.

9
10 **Q. Is it a given, as Mr. Shanker assumes (Shanker, page 40), that "FPC can**
11 **increase sales by lowering its offering price on or off the Energy**
12 **Broker"?**

13 **A. No, this is not necessarily so during minimum load periods. As I have**
14 **testified previously, minimum load conditions are a function of weather**
15 **conditions. In Florida, these minimum load conditions generally occur**
16 **during nighttime hours when, because of mild weather conditions, there**
17 **is neither a major heating nor cooling demand. Generally, the prevailing**
18 **weather conditions are comparable throughout the region, meaning that**
19 **all area utilities are dealing with relatively low loads at the same time.**
20 **It is very likely that, when Florida Power is experiencing its minimum**
21 **loads, there will be few or no takers for its excess generation.**

22
23 There is also another important point concerning the use of the Florida
24 Energy Broker as a vehicle for mitigating QF curtailments. By definition,
25 Broker sales are hourly transactions. There is no assurance that any

1 Broker transaction will continue from one hour to the next, particularly
2 when everyone in the state is experiencing low demands. On the other
3 hand, the Company has to manage its minimum load conditions across
4 a period which typically spans about three to six hours. When entering
5 a minimum load period, the system operating personnel need to have a
6 workable strategy for balancing the generation and load throughout that
7 period. Using the Broker for this purpose is not feasible because an
8 energy sale may be "here one hour and gone the next." The result of
9 this haphazard scheduling would mean that curtailment instructions also
10 would have to be given on an hour-to-hour basis creating a potential yo-
11 yo effect on the QFs and a scheduling nightmare for the system
12 dispatcher.

13
14 **Q. Can you explain why it is important for a utility that is selling power off-**
15 **system to recover at least the full cost of producing (or purchasing) that**
16 **power?**

17 **A. The answer relates to the question of whether the utility's production**
18 **costs (including purchased power costs) are being properly allocated**
19 **among the utility's different customer classes. Generally, power plant**
20 **capacity is constructed or purchased to serve the peak needs of a**
21 **utility's native load customers. As a consequence, rates for the utility's**
22 **native load customers are designed so that these customers bear the**
23 **entire cost of the utility's generation, including capacity costs and**
24 **energy costs such as fuel and variable O&M expenses. However, from**
25 **time to time the utility is able to market temporarily unneeded capacity**

1 or energy. These off-system sales can benefit the native load
2 customers who have supported the utility's system and who are paying
3 for fuel used to produce energy, because the revenues received from
4 off-system sales are returned to the native load customers in the form
5 of a cost-of-service credit. When a sale is priced at or above the seller's
6 highest production (or purchased power) cost at the time of the sale,
7 the revenue credits will provide a native load benefit. On the other
8 hand, a sale priced below the cost of producing (or purchasing) the
9 energy would fail to return a sufficient credit to the native load
10 customers. In that case, the native load customers would be paying to
11 generate (or purchase) the energy sold to another utility while recovering
12 only a portion of that cost -- in other words, the native load customers
13 would be subsidizing the sale.

14
15 **Q. Are OCL/Pasco arguing that Florida Power should be forced to sell**
16 **power on the interchange market at prices below its incremental cost of**
17 **production?**

18 **A. No. Mr. Shanker concedes that he is not proposing that the Company**
19 **should sell economy energy below its incremental cost. (Shanker, page**
20 **41). Mr. Slater's analysis accepts Mr. Shanker's premise. (Slater, page**
21 **9).**

22
23 **Q. If OCL/Pasco accept the concept of an incremental cost pricing floor for**
24 **off-system sales, then why is there a dispute on this subject?**

1 A. Messrs. Shanker and Slater make the same contention from different
2 perspectives. Their point is that Florida Power is not calculating its
3 costs correctly during minimum load periods and that, during such
4 periods, Florida Power should be happy to sell energy at any price at or
5 above zero.

6
7 Q. Do you agree?

8 A. No. Their position is inconsistent with longstanding practice throughout
9 Florida and it would unreasonably shift the costs of continuing QF
10 purchases onto the backs of Florida Power's native load customers.
11 Their position assumes that QF purchases are always "must-take" rather
12 than acknowledging that QF purchases both by law and contract can be
13 curtailed where continuing the purchases would be more costly to
14 ratepayers. Moreover, their approach could not prevail without also
15 concluding that the as-available price determined for a portion of the QF
16 purchases during minimum load conditions is also overstated.

17
18 Q. Please explain in general terms the arrangements which Florida Power
19 has in place to market power off-system.

20 A. The Company sells power off-system under a variety of bilateral
21 agreements which are structured to provide mutual benefits from
22 purchase and sale transactions. Some arrangements are fairly long-
23 term, such as our summer peaking capacity sales to Georgia Power
24 Company and Oglethorpe Power Cooperative.

1 Many of our off-system sales are shorter-term and are made under the
2 interchange contracts which Florida Power has entered into with other
3 utilities. The Company's interchange partners are located throughout
4 the Southeastern United States and include investor-owned utilities,
5 municipalities, and electric generation and transmission cooperatives.
6 The interchange contracts provide flexibility to accommodate ongoing
7 transactions to meet different operating needs. The individual sales
8 occur under one of a series of service schedules, which provide service
9 options like emergency, short-term firm and economy energy service.

10
11 As is common in the industry, these service schedules provide pricing
12 methodologies, rather than a pre-determined price. For example, a sale
13 may be priced at incremental cost plus losses and a capacity reservation
14 charge. Or, the methodology may specify a split-savings rate which can
15 fluctuate but is set half-way between the seller's incremental cost and
16 the buyer's decremental cost. Under these schedules, Florida Power
17 may at times be a seller and at times be a buyer. Therefore, it is
18 important that both interchange partners share a common understanding
19 as to how the pricing methodologies will be followed over time.

20
21 **Q. Please explain how purchase and sale transactions are accomplished on**
22 **the Florida Energy Broker.**

23 **A. A number of generating utilities in Florida participate in the Energy**
24 **Broker system as a means of maximizing hourly economy energy**
25 **transactions. The Broker enables the participants to match sell quotes**

1 and buy quotes for hourly energy transactions. A computer which is
2 housed at Tampa Electric Company matches the lowest sell bids with
3 the highest buy bids in succession. The goal of this process is to
4 maximize statewide savings available through hourly economy energy
5 transactions.

6
7 **Q. Do the Broker transactions occur automatically?**

8 **A. No.** Once the computer matches the buy-sell quotes, the individual
9 utilities must contact each other and schedule a transaction. There are
10 no rate schedules or service agreements that make up the Energy
11 Broker. In order to transact business, the buyer and seller must have a
12 separate interchange contract which sets out the terms for their
13 economy energy transactions.

14
15 **Q. What interchange schedule is used to make Broker sales?**

16 **A. Broker sales** are made under Schedule C of the buyer and seller's
17 interchange contract. Schedule C is an economy energy rate schedule
18 under which the price is based on a half-way split between the seller's
19 system incremental cost and the buyer's system decremental cost.

20
21 **Q. Is there consistency in the way that Energy Broker participants compute
22 their incremental and decremental cost quotes?**

23 **A. I believe that there is a general understanding among the participants as
24 to how these quotes are derived. This is not an issue over which
25 disputes typically arise.**

1 **Q. Is this consistency promoted by the Energy Broker system?**

2 **A. Yes. The Energy Broker guidelines promote consistency by laying out**
3 **a framework for the calculation of incremental and decremental cost**
4 **quotes. A copy of those guidelines can be found in my Exhibit ___ (HIS-**
5 **6). The guidelines devote several pages to a description of the "Costing**
6 **Methodology of Economy Energy." They explain, for example (at page**
7 **7) that:**

8 **Generally, bilateral contracts specify that all identifiable**
9 **incremental costs for a particular hourly transaction should**
10 **be included in price quotations. These prices may include:**

- 11
- 12 **a) System incremental fuel cost (e.g., derived from**
13 **composite heat rate curves of all units' curve [sic],**
14 **times the incremental replacement cost of fuel.)**
- 15
- 16 **b) Incremental transmission cost.**
- 17
- 18 **c) Incremental operation and maintenance cost.**

19

20 **Q. When does Florida Power make interchange sales on an off-Broker**
21 **basis?**

22 **A. There are many occasions and reasons to sell power off-Broker. First**
23 **of all, as I said earlier, the Broker only handles hourly transactions.**
24 **Longer-term sales necessarily would be made off-Broker. Also, the**
25 **Broker only deals with economy energy transactions. Therefore, any**
26 **sale that has a capacity component (e.g., short-term firm, assured**
27 **capacity and energy, etc.) would be made off-Broker.**

1 **Q. When Florida Power quotes prices for off-Broker sales, does it use the**
2 **same basic pricing methodology as you have described for Broker**
3 **transactions?**

4 **A. Depending upon the nature of the sale and the contract or service**
5 **schedule that best fits the circumstances, the total price quote may**
6 **differ. For example, a short-term firm sale price would include a**
7 **capacity charge in addition to an energy charge reflecting the**
8 **incremental cost of the unit(s) from which the energy will be supplied.**
9 **However, the basic principle applies both on and off the Broker that, in**
10 **establishing an energy price component, the Company will recover at**
11 **least the cost of generating (or purchasing) the MWh of energy that is**
12 **being sold. This is consistent with the Broker guideline which requires**
13 **that incremental cost pricing for Broker sales will be calculated in the**
14 **same way that the participant calculates incremental cost data for its**
15 **other system operating purposes.**

16
17 **Q. Can you give an example of an off-Broker agreement that captures the**
18 **full generating cost concept that you have explained?**

19 **A. Yes. A good example is the Contract for Purchases and Sales of**
20 **Scheduled Power and Energy between Florida Power and Florida Power**
21 **& Light Company. (Exhibit__ (HIS-7)). That contract states that no**
22 **transaction will be priced below the seller's incremental cost, and it**
23 **defines the seller's incremental cost as follows:**

24 **The Seller's Incremental Energy Cost shall be the Seller's**
25 **incremental fuel cost for load dispatching in effect at the**
26 **time of the transaction as determined by the Seller, which**
27 **calculation shall include any start-up costs incurred in the**

1 event a unit needs to be started to supply Scheduled
2 Power and Energy and the cost of the incremental system
3 transmission losses attributable to the Scheduled Power
4 and Energy transaction. The order of priority used to
5 determine the Seller's Incremental Energy Cost will be
6 such that the Scheduled Power and Energy provided under
7 this CONTRACT will be the increment immediately above
8 (i.e., will be deemed to be provided after): (1) the Seller's
9 retail and wholesale load requirements, including spinning
10 reserves; (2) sales of firm capacity and energy; and (3)
11 sales under other prior commitments into which the Seller
12 may have entered.

13 incremental cost here is being defined by reference to the fuel used to
14 generate a block of energy above the energy needed for immediate
15 native load purposes.

16
17 **Q. Mr. Shanker argues that Florida Power must use different methods to**
18 **calculate incremental cost during "normal" conditions and during**
19 **minimum load conditions. (Shanker, pages 42-43). Do you know of**
20 **any precedent for this methodological distinction among Florida utilities?**

21 **A. No.**

22
23 **Q. Is it typical for utilities in Florida to quote interchange sales prices at or**
24 **near zero?**

25 **A. No.**

26
27 **Q. Mr. Slater describes his understanding of "dump energy" practices**
28 **among utilities in two power pools. (Slater, page 13). Does such a**
29 **dump energy practice make sense here?**

30 **A. I see no particular relevance to the pricing arrangements that might be**
31 **practiced in the New York Power Pool or the PJM Pool. Moreover, Mr.**

1 Slater expects Florida Power to "dump" energy below the cost incurred
2 to generate (or purchase) it solely so that the QFs can continue
3 receiving higher as-available energy payments. This is nothing more
4 than a subsidy from the ratepayers to the QFs -- one form of negative
5 cost impact to mitigate another form of negative cost impact.
6

7 **Q. Do you agree that Messrs. Shanker and Slater are properly measuring**
8 **the cost of Florida Power's generation (or purchases) during minimum**
9 **load conditions?**

10 **A. No. These witnesses lose sight of one very important consideration.**
11 **In the unit cycling scenario described in the Curtailment Plan, Florida**
12 **Power experiences a clear negative avoided cost which warrants QF**
13 **curtailments and a corresponding avoidance of as-available energy**
14 **payments. As an alternative to the negative cost impact which justifies**
15 **a curtailment, OCL/Pasco would like Florida Power's ratepayers to**
16 **accept another negative cost impact -- that is the impact of selling**
17 **power for less than it cost the ratepayers to generate the power or**
18 **purchase it (including the purchases from the QFs). In fact, Florida**
19 **Power's true cost in a minimum load period must take into account the**
20 **impact of the QF purchases.**

21
22 **Q. Please respond next to Mr. Slater's contention that Florida Power**
23 **cannot establish a negative avoided cost unless it can show a direct**
24 **increase in production costs. (Slater, page 10).**

1 A. This statement is inconsistent with Mr. Slater's agreement that, when
2 calculating a utility's avoided cost, "it is wholly appropriate to capture
3 all recognizable costs associated with the utility meeting the demands
4 of its customers." (Slater, page 17). More importantly, though, Florida
5 Power has shown that when forced to begin cycling the Crystal River
6 Coal units, additional production-related costs will be incurred; the only
7 real question posed by OCL/Pasco is when this will occur.

8
9 Mr. Slater has placed the cart before the horse. He presumes that no
10 cycling scenario will ever arise because Florida Power can first give
11 power away off-system without having a direct impact on additional
12 production costs. In fact, however, his proposal to sell power off-
13 system at less than the full cost of producing (or purchasing) those
14 particular MWh would have a direct adverse cost impact on Florida
15 Power's ratepayers by forcing them to subsidize continued QF
16 purchases. In the FERC's words, which are quoted in Mr. Dolan's
17 testimony, these off-system sales "would not be just and reasonable to
18 the consumers of the electric utility, because it would result in increased
19 costs to the system's ratepayers." Therefore, giving away power at a
20 price of zero should never be required as a mitigation measure, and
21 absent this mitigation measure and the other excessive measures
22 proposed by OCL/Pasco, there is no question that the unit
23 cycling/increased production cost scenario results.

24
25 Q. Do you have any other criticism of Mr. Slater's pricing theory?

1 A. Yes. Acceptance of Mr. Slater's theory would lead to absurd results.
2 He says that "FPC can offer the excess generation at any price above
3 zero without causing the avoided cost calculation to show a negative
4 result." This is because, according to Mr. Slater, "the price at which
5 the excess is offered for sale is unrelated to costs incurred to produce
6 and is therefore irrelevant to the calculation of avoided costs." (Slater,
7 page 12).

8
9 If the price, indeed, could never be relevant because it has no impact on
10 the cost of production, then the same argument would suggest that
11 Florida Power should be prepared to *pay* a would-be purchaser to buy
12 the excess energy. In other words, Mr. Slater has given no reason for
13 a pricing floor of zero.

14
15 Obviously, in this absurd extension of Mr. Slater's argument, the
16 Company would be incurring a direct, measurable cost in the form of a
17 payment to the power purchaser, yet Mr. Slater's rationale would
18 consider this cost wholly immaterial.

19
20 Q. Please elaborate on your point that selling power at prices at or only
21 slightly above zero during minimum load conditions to avoid curtailing
22 QF purchases would result in an unwarranted subsidy from the native
23 load customers.

24 A. Exhibit ___ (HIS-8) shows the as-available energy prices that were being
25 paid to QFs in each hour during which the seven initial curtailments

1 were made. The payments ranged from \$13.47 to \$17.04 and
2 averaged \$15.62. These payments are equivalent to the system
3 incremental energy cost that would have been incurred to generate a
4 block of energy as large as the combined as-available QF energy
5 deliveries in each hour. During the minimum load curtailment events,
6 this cost would have been based entirely or mostly on the cost of coal-
7 fired generation.

8
9 When Florida Power is generating coal-fired energy at about \$15 and
10 purchasing QF energy at about \$15, then it can sell any temporarily
11 excess energy at or above the \$15 threshold and either remain revenue
12 neutral or perhaps realize some revenue benefit for native load
13 customers. On the other hand, if the Company were compelled to sell
14 this energy at, say \$1, simply to continue purchasing QF energy at \$15,
15 then there would be an obvious subsidization of the QFs by the
16 Company's native load customers. In order to avoid curtailing the QFs,
17 Florida Power's ratepayers would realize inadequate revenue credits to
18 offset their incurred generation costs.

19
20 **Q. In the situation you have described, would the Company's customers be**
21 **incurring costs that they would not have incurred in the absence of the**
22 **QF purchases?**

23 **A. Yes, they would. Let me elaborate on my example to illustrate this**
24 **point. Suppose that:**

- 25 • In HOUR 1, the Company has a minimum load of 2,000 MW, and
26 is supplying that load as follows:

- 1,800 MW of Company generation, plus
- 200 MW of QF purchases;

- In HOUR 2, the Company's minimum load is 1,700 MW, so the Company reduces its own generation to 1,650 MW, which consists (rounded) of 795 MW from Crystal River 3; 260 MW from Crystal River 1 and 2; and 600 MW from Crystal River 4 and 5;
- The Company's production cost for an additional 50 MW in HOUR 2 is \$15 (based on to the price of coal applied to the heat rate curve(s) of the Crystal River coal unit(s) that would be ramped up to generate that increment of energy);
- The as-available energy price being paid to QFs for their 200 MW purchase block is roughly the same \$15 per MWh coal cost;
- Florida Power has unsuccessfully attempted to market power both on and off the Energy Broker in 50 MW blocks at any price at or above the \$15 per MWh production cost.

To further reduce Florida Power's own generation would require it to cycle off a Crystal River coal unit. This would cause the Company to incur some measure of negative avoided costs. Therefore, under the Curtailment Plan, this is the point at which QF curtailments would be initiated. Florida Power would curtail the purchase of 150 MW of QF energy for HOUR 2 (1,650 MW Company generation + 200 MW QF generation - 1,700 MW load = 150 MW excess).

Assume, however, that instead of this justifiable curtailment, the Company continued to purchase the unneeded 150 MW at \$15 per MWh, while simultaneously selling 150 MW of energy at a price of only \$1 per MWh. In this example, the Company's net costs would be unjustifiably increased by the differential between the \$15 per MWh production (and QF purchase) cost (\$2,250) and the \$1 per MWh revenue recovery (\$150). This \$2,100 net cost is a direct result of the

1 sale of an equivalent amount of energy at less than the cost incurred to
2 supply that energy. As I have said, this cost would be borne by the
3 native load customers, contrary to the objectives of PURPA.
4

5 **Q. Mr. Shanker gives an example at page 43 of his testimony using**
6 **different numbers in an attempt to show that Florida Power is**
7 **incorrectly measuring its energy costs during minimum load conditions.**
8 **Is there a logical foundation for his hypothetical system conditions?**

9 **A. No. Mr. Shanker has assumed an infeasible operating scenario. He then**
10 **draws an unsupported conclusion regarding the cost (or perhaps the**
11 **value) of a 100 MW block of Company-generated (or purchased) energy**
12 **which he assumes to be in excess of the Company's needs.**
13

14 **Q. What's wrong with Mr. Shanker's assumed operating scenario?**

15 **A. Mr. Shanker assumes that neither utility generation nor QF purchases**
16 **can be reduced from the levels stated in his example. In reality, either**
17 **of these generation sources can be reduced if it becomes necessary to**
18 **do so. The 100 MW block of energy that Mr. Shanker assumes will be**
19 **produced (or purchased) irrespective of load would not be produced (or**
20 **purchased) under actual operating conditions.**
21

22 **Q. In Mr. Shanker's example of a 2,000 MW load and 2,100 MW of**
23 **generation (1,800 from Company units, 100 from the Southern**
24 **Companies and 200 MW from QFs), how would the Company go about**
25 **adjusting the resources to match the load?**

1 A. If we expected such a condition to materialize, we would take steps to
2 deal with it before it arose. As specified in the Curtailment Plan, we
3 would attempt to avoid the excess generation condition by reducing (or
4 selling back) the purchase from the Southern Companies. If the 100
5 MW assumed purchase from the Southern Companies could be avoided,
6 the generation and load could be brought into balance without need for
7 further reductions in either Company or QF generation.

8
9 Q. What else would the Company do to respond to Mr. Shanker's
10 hypothetical operating condition?

11 A. If necessary, Florida Power would lower its self-generation at least to
12 the normal minimum generation levels shown in the Curtailment Plan.
13 As summarized in my earlier example, this would enable the Company
14 to bring its self-generation to about 1,650 MW or 150 MW *below* the
15 minimum generation level assumed in Mr. Shanker's example. In fact,
16 only a portion of this potential 150 MW reduction would be needed to
17 eliminate the entire 100 MW excess generation condition assumed by
18 Mr. Shanker.

19
20 Q. So is it fair to say that Mr. Shanker's hypothetical condition would not
21 occur under actual system conditions?

22 A. That is correct.

1 Q. If one were to reformulate Mr. Shanker's example so that (1) Company
2 generation already was at the 1,650 MW normal minimum level, *and* (2)
3 Southern Companies purchases already were reduced to a minimum,
4 *and* (3) the Company was making 200 MW of QF purchases at as-
5 available prices, *and* (4) load and generation were in balance, *but* (5) in
6 the next hour the load was expected to decline by another 100 MW
7 such that an excess generation condition was expected, would it then
8 be correct, as Mr. Shanker suggests, that Florida Power would have no
9 discretion to further reduce generation?

10 A. No. Even in that more plausible example, Florida Power would not (and
11 for reliability reasons could not) allow the assumed excess generation
12 condition to materialize. Therefore, it *would* further reduce system
13 generation by 100 MW. The main issue in this case is whether that
14 reduction must come from a Company unit (*i.e.*, a cycling event) or
15 whether it could be accomplished with a permitted curtailment of 100
16 MW of the assumed 200 MW QF supply. Because the cycling scenario
17 under these system operating circumstances would cause the Company
18 to incur negative avoided costs, the Curtailment Plan would authorize
19 a 100 MW QF curtailment in this situation.

20
21 Only by incorrectly presuming that Florida Power can *never* curtail any
22 portion of its QF purchases to avoid excess generation in minimum load
23 conditions, could Mr. Shanker draw the equally incorrect conclusion that
24 "FPC can not save any money by producing less [or purchasing less
25 from the QFs], because it cannot produce less [or purchase less from

1 the QFs].” This circular reasoning ignores the Company’s legitimate
2 curtailment rights.

3
4 **Q. You previously stated that, if one were to accept the Shanker/Slater**
5 **pricing contentions, one would also have to conclude that the QFs are**
6 **being paid too much for as-available energy. Can you please elaborate?**

7 **A. Certainly. The fundamental notion of avoided cost pricing is that the QF**
8 **supply enables the purchasing utility to avoid the alternative cost of**
9 **generating or purchasing an equivalent amount of needed capacity**
10 **and/or energy. For present purposes, I am focusing only on the as-**
11 **available energy.**

12
13 The basic premise of the Shanker/Slater theory is that, in minimum load
14 conditions, we are dealing with a disposal of “excess energy” which is
15 not needed by Florida Power and which allegedly has a cost to Florida
16 Power of zero. If that were assumed to be true (and I don’t agree with
17 the zero cost assumption), then Messrs. Shanker and Slater could not
18 possibly argue in good faith that, as to the number of MWh of excess,
19 any QF is (1) enabling the Company to avoid generating that energy, or
20 (2) enabling the Company to avoid an energy production cost. The
21 same energy amount cannot be a zero cost resource from Florida
22 Power’s perspective, but a much higher cost resource when it is
23 supplied by the QFs. In fact, because of the way in which avoided
24 energy cost pricing is determined, the block of QF-supplied energy
25 theoretically should be priced at or near the price of energy which is

1 sold on the interchange market. The only reason for a significant
2 difference in price would be a difference in the relative block sizes of the
3 interchange sales and the QF purchases. In other words, if one accepts
4 the Shanker/Slater analysis, then an equivalent sized block of QF energy
5 would be priced at or near zero.

6
7 **Q. Please elaborate on the pricing procedures under which the QF energy**
8 **theoretically should be priced at or near zero in the Shanker/Slater**
9 **framework?**

10 **A. The Commission's Rule 25-17.0825(2)(a) describes the required method**
11 **for determining as-available energy prices for QFs. It says that:**

12 **Avoided energy costs associated with as-available energy**
13 **are defined as the utility's actual avoided cost before the**
14 **sale of interchange energy.**

15 The Commission has explained that the reason for looking at the as-
16 available price *before* interchange sales is to ensure that the utility's
17 ratepayers (and not the QFs) will realize the benefits from interchange
18 sales. For example, in Order No. 12634, Docket No. 820406-EU
19 (October 27, 1983) at pages 10-11, the Commission stated:

20 **The rule defines avoided energy costs as a utility's**
21 **actual hourly incremental costs for those hours during**
22 **which no economy energy transactions occur, actual**
23 **incremental costs after the purchase of economy energy,**
24 **or actual incremental costs before the sale of economy**
25 **energy. It is necessary to calculate avoided costs before**
26 **economy energy or broker sales and after broker**
27 **purchases to preserve the benefits of the Florida energy**
28 **broker system for the ratepayers of the participating**
29 **utilities.** Broker purchases enable a utility to lower its
30 overall fuel costs by purchasing energy at a price less than
31 what it would have cost the utility to generate the power
32 itself. This opportunity to lower fuel costs should be
33 preserved; it is preserved if avoided energy prices for QFs

1 are calculated after such purchases have occurred. Broker
2 sales also benefit a utility's ratepayers because we
3 required the profit from broker sales to be accounted for
4 when a utility's base rates are set. The level of income
5 realized from broker sales would decrease if the costs to
6 produce energy sold on the broker system were increased
7 by calculating avoided energy prices for QFs after such
8 sales have occurred. The level of income from broker
9 sales is less affected by the presence of QFs on the
10 utility's system if avoided energy prices for QFs are
11 calculated before broker sales occur. Because we do not
12 believe other ratepayers should experience an increase in
13 the cost to serve them as a result of the presence of QFs,
14 we reject Dade County's contention that avoided energy
15 costs should be calculated after broker sales have
16 occurred.

17 Pricing QF energy *before* interchange sales means that the QF price is
18 derived without reference to the off-system sales - - in other words,
19 based on the same increment of energy that would have been sold on
20 the interchange market. Except for a potential difference in the size of
21 the off-system sale block and the as-available energy block, the two
22 prices should be approximately the same. It is logically not possible to
23 correctly suppose a condition in which economy energy sales should be
24 priced at approximately zero, while at the same time, an equivalent
25 amount of as-available energy is being properly priced at a level much
26 higher than zero.

- 27
- 28 Q. Do you have any other comments on the OCL/Pasco proposal that
29 Florida Power be required to further mitigate curtailments by modifying
30 the way it (and its interchange partners) determine incremental cost?
- 31 A. Yes, just two points. First, Mr. Dolan's rebuttal testimony reveals that
32 the FERC had a very good opportunity to put an explicit off-system
33 sales mitigation requirement into its curtailment rule. FERC did not do

1 that even though two fellow regulatory agencies had asked it to; indeed,
2 as explained by Mr. Dolan, FERC stated that its rules do *not* require a
3 utility to deliver unneeded energy to any third party. Mr. Dolan also
4 shows that this Commission's rules simply encourage off-system sales
5 of unneeded QF energy and only where the sale price is cost-effective
6 to the ratepayers.

7
8 Second, Florida Power has no objection if OCL/Pasco want to market
9 their own curtailed energy to a third party (at any price they choose,
10 including a price below, at or above their own production costs).
11 Section 6.3 of the contracts with these parties lets them dispose of
12 their curtailed energy in any way they choose. That section also says
13 that Florida Power has no obligation to transmit curtailed energy
14 amounts to third parties. But, notwithstanding that provision, Florida
15 Power is certainly willing to wheel their energy to another buyer under
16 the Company's open access transmission tariffs.

17 18 **4. Retail Sales At Discounted Prices**

19
20 **Q. Mr. Shanker also suggests that Florida Power should cut its retail prices**
21 **in order to encourage off-peak demand increases. (Shanker, pages 45-**
22 **46). Please respond.**

23 **A. This is really nothing more than an extension of the low-cost wholesale**
24 **sale proposal. Mr. Shanker is again attempting to create the false**
25 **impression that the minimum load problem can be handled exclusively**

1 as a demand-side problem rather than a supply-side problem. For all the
2 reasons I have given on the wholesale side, I also strongly disagree with
3 Mr. Shanker's unsupported retail pricing proposal.
4

5 **Q. Does Florida Power already have measures in place to create economic**
6 **incentives for its large industrial customers to increase consumption**
7 **during off-peak periods?**

8 **A. Yes. Florida Power currently has a time-of-use rate which includes two**
9 **pricing tiers to reflect peak and off-peak usage.**
10

11 **Q. Has Florida Power considered whether additional pricing incentives**
12 **might be used to increase retail demand and thereby help to alleviate the**
13 **minimum load problem?**

14 **A. Yes. The Company has considered the possible creation of a three-tier**
15 **retail industrial rate which would separately price energy for the**
16 **midnight shift hours. However, given the nature of the Company's retail**
17 **industrial load, this investigation concluded that there was no significant**
18 **opportunity to increase the retail demand through further price cuts. All**
19 **that would have resulted was a windfall price reduction to the industrial**
20 **customers.**
21

22 **Q. Do you agree that Mr. Shanker's example (Shanker, pages 45-46) of**
23 **industrial cogenerators reducing the output of their internal cogeneration**
24 **systems represents a viable method of alleviating minimum load**
25 **conditions?**

1 A. No. There are no industrial cogenerators on the Florida Power system
2 with generation that is not integral to their manufacturing processes.
3 Therefore, there are none that could have any impact on the problem.
4 Because the cogenerators' thermal processes are linked to the use of
5 their own generating equipment, they could not shut down their
6 generators, as Mr. Shanker suggests, without simultaneously stopping
7 their entire production process.

8
9 Q. Do you believe that Mr. Shanker's cut-rate retail pricing proposal has
10 any merit?

11 A. No. Even if otherwise in the interest of Florida Power and its
12 ratepayers, reductions in the existing time-of-use pricing would not be
13 likely to materially affect the midnight shift load patterns, especially not
14 in the short-term period when we most need to deal with the minimum
15 load problem.

16
17 Florida Power is in the business of selling electricity. It benefits the
18 Company and its customers whenever we can increase demand to make
19 use of available generating resources. But, it is not in anyone's interest,
20 except perhaps OCL/Pasco's, if we pay more to generate or purchase
21 power than we receive when we sell that power. This proposition
22 seems clear to me. Reducing retail rates to continue buying QF output
23 at higher rates means (1) the QF output is not needed, and (2) our other
24 customers are subsidizing the QFs by receiving too little on the sale side
25 and paying too much on the purchase side. The only beneficiaries are

1 the QF and, in Mr. Shanker's proposal, the individual retail customer
2 who happens to get a reduction in his rates.

3
4 **B. OCL/Pasco's Negative Avoided Cost Criticisms**
5 **Do Not Undermine Florida Power's Curtailment**
6 **Plan**

7
8
9 **1. Florida Power's Timeframe For Avoided Cost Analysis**

10
11 **Q. Do you agree with the assertions made by Messrs. Shanker and Slater**
12 **that Florida Power has used the wrong time frame to calculate negative**
13 **avoided costs?**

14 **A. No. The Company explained in a conceptual way and made model runs**
15 **to illustrate that negative avoided costs would have occurred during the**
16 **seven curtailment events if no curtailments had taken place. The Unit**
17 **Commit model runs were made over periods ranging from one to three**
18 **days. The time period examined was more than sufficient to capture**
19 **the full impact of negative avoided costs as a result of not curtailing.**
20 **At a minimum, these impacts consist of increased costs due to baseload**
21 **unit start-up costs and higher generation costs during the period when**
22 **a baseload unit is shut down. These increased costs occur during the**
23 **day of the minimum load event, assuming, as we did, that the baseload**
24 **unit can and does return to operation at the end of the minimum shut-**
25 **down period (typically six to eight hours). Our comparative analyses all**
26 **cover the period during which these increased costs occur, and**
27 **therefore cover the appropriate time frame.**

1 Q. Would the negative avoided costs shown by Florida Power "vanish" as
2 Mr. Slater claims if the Company followed the negative avoided cost
3 calculation methodology suggested at pages 23-24 of Mr. Slater's direct
4 testimony?

5 A. No. While I do not fully understand Mr. Slater's methodology, his scant
6 description seems to suggest that Florida Power should presume that
7 the maximum curtailment amount was curtailed in every hour (off-peak
8 and on-peak) for some period longer than the actual curtailment period
9 and up to a week. Mr. Slater evidently would assume a week-long
10 curtailment at the level needed to resolve the most severe one-hour
11 minimum load problem.

12
13 Even if Florida Power had perfect knowledge up to a week before a
14 minimum load condition, it would be draconian to curtail QFs at that
15 level for the entire week and would deprive ratepayers of any benefits
16 from QF purchases during all but the most severe minimum load hours.
17 While we have not performed such an analysis, it is obvious that the
18 replacement energy in the "curtailment case" during hours outside the
19 most severe minimum load hours, including on-peak hours on the
20 following day or days, would offset the start-up costs or increased
21 energy costs due to cycling a baseload unit in the "no curtailment" case.
22

23 Q. Do you agree that Mr. Slater's method is appropriate for use in
24 calculating negative avoided costs?

1 A. No. Florida Power has constructed a reasonable proxy to illustrate what
2 theoretically would have happened on the system and that negative
3 avoided costs could be expected in the absence of *actual* curtailments.
4 Mr. Slater seems to be suggesting that we measure the impact of
5 *hypothetical* curtailments that never occurred. It would be inappropriate
6 and not in the interests of either QFs or ratepayers to implement actual
7 curtailments as Mr. Slater suggests.

8
9 In fact, Mr. Slater's methodology could be extended even further. To
10 carry his approach forward, Florida Power presumably could curtail the
11 maximum amount of QF power needed to avoid any minimum load
12 condition for a period up to several years until there is no longer any
13 potential for a minimum load condition. In this application, every hour
14 of the several-year period would have curtailment at the maximum level
15 expected during the period. Obviously, this would be inappropriate.

16
17 **2. Florida Power's Reference To "Unit Impact" Costs Of Cycling**

18
19 Q. OCL/Pasco do not agree that the type of costs which you and Mr.
20 Lefton describe as "unit impact" costs are properly included in a
21 calculation of negative avoided cost. Please respond.

22 A. Mr. Slater concedes that "[i]n calculating utility avoided costs, it is
23 wholly appropriate to capture all recognizable costs associated with the
24 utility meeting the demands of its customers." (Slater, page 17). We
25 have only recently received the results of Mr. Lefton's analysis and I

1 would say that we need to evaluate these cost impacts further before
2 I would be comfortable using a specific "unit impact" number or set of
3 numbers for system dispatch purposes or for avoided cost pricing.
4 Nevertheless, I am confident that the Company is incurring the type of
5 per-event cycling costs described by Mr. Lefton and that they should be
6 "captured" as "recognizable costs associated with the utility meeting
7 the demands of its customers."
8

9 Mr. Lefton has submitted separate rebuttal testimony answering several
10 specific points raised by Mr. Slater. But, I want to emphasize one
11 critical point. "Unit impact" costs, as measured by Mr. Lefton,
12 represent the *incremental* cost of each additional cycling event. As
13 such, the present value portion calculated on a per cycling event basis
14 would be incurred *whenever* a Crystal River coal unit was forced to
15 cycle off in order to continue a QF purchase. And, as such, these costs
16 certainly do represent part of the negative avoided cost of each cycling
17 scenario.
18

19 **Q. Do any of Mr. Slater's criticisms of Mr. Lefton's "unit impact" cost**
20 **analysis alter your negative avoided cost conclusions?**

21 **A. No. I think that Mr. Lefton effectively responds to the specific**
22 **criticisms. In any case, though, even if the Commission were to**
23 **question the magnitude of Mr. Lefton's measured cycling costs, my**
24 **conclusions would be unaffected. This is because of two reasons. The**
25 **first reason is that we have chosen to use Mr. Lefton's analysis in a**

1 very conservative way. While his study showed that a per-cycle cost
2 may be greater than \$100,000 for a unit like Crystal River 2, we used
3 a much lower figure in our negative avoided cost comparisons.
4

5 **Q. What is your second reason?**

6 **A. The second reason is even more significant. My direct testimony**
7 **establishes that Florida Power would realize negative avoided cost in**
8 **minimum load conditions without curtailments, *even without taking into***
9 ***account the effects of Mr. Lefton's "unit impact" costs.* The start-up**
10 **fuel and maintenance, and repla**
11 **cement power costs which Florida Power already captures in its economic**
12 **dispatch procedures are of sufficient magnitude to produce a negative**
13 **avoided cost in and of themselves. Mr. Slater has not offered any credible**
14 **evidence to dispute this fact.**
15

16 **3. Alleged Unit Commit Errors**

17

18 **Q. Mr. Slater claims in his direct testimony to have uncovered three**
19 **"significant problems" with Florida Power's negative avoided cost**
20 **calculations. (Slater, page 27). How do you respond to these**
21 **contentions?**

22 **A. Florida Power disagrees with the assertion that there were any**
23 **"significant problems" which would negate the conclusions drawn from**
24 **either its conceptual or its numeric analyses of negative avoided costs.**
25 **Because there is a clear interrelationship between the three "problems"**

1 listed in Mr. Slater's direct testimony and the somewhat more detailed
2 assertions presented in his April 25th supplemental testimony, we are
3 evaluating those allegations as part of a thorough review of the Unit
4 Commit simulations. The results of that review will be presented before
5 the hearing in this docket in a further piece of Company rebuttal
6 testimony.

7
8 For present purposes, I would, however, like to stress that it is
9 important to keep in mind what the Unit Commit simulations are – and
10 what they are not. Before a minimum load curtailment event, we must
11 anticipate the levels of available resources and customer demands. The
12 Company has considerable experience making these projections, but this
13 is not an exact science, particularly when we must also predict the
14 operational responses of the QF power suppliers. What I have shown
15 is that whenever the minimum load conditions would cause the
16 Company to cycle a baseload unit, we can be certain that the Company,
17 as a result, would incur net increased operating costs, or a negative
18 avoided cost. As contemplated by the FERC rules and this
19 Commission's rules, the Curtailment Plan lets the QFs know this
20 information *in advance* of the event so that we can avoid this very
21 condition from actually occurring.

22
23 The after-the-fact Unit Commit simulations which we ran are not, and
24 could not be, an exact measurement of the Company's negative avoided
25 costs. Furthermore, they should not be used to discredit the planning

1 and operational decisions that were made before a curtailment (e.g., the
2 specific curtailment amounts which allowed us to prevent the negative
3 avoided cost). This is because the Unit Commit runs represent an after-
4 the-fact reconstruction to illustrate how the system reasonably might
5 have responded *if* the actual curtailments had not occurred. The after-
6 the-fact "what-if" simulations are based on different information than
7 what we knew before-the-fact. For example, the actual curtailments
8 had to be based upon projected loads and resources. However, these
9 Unit Commit simulations reflect actual loads. Instead of projected QF
10 deliveries, they reflect the actual curtailments that were made.

11
12 In my estimation, no such after-the-fact Unit Commit simulations would
13 exactly corroborate planning decisions that were made before the event.
14 Nor would they exactly measure the cost differential between operating
15 scenarios with and without curtailment. But our simulations were very
16 conservative and more likely understate than overstate the magnitude
17 of any negative avoided costs. For instance, they do not capture all of
18 the potential "unit impact" costs of cycling and they assume optimal
19 start-ups, ramp rates and other system responses. In practice, start-ups
20 often take longer (and incur more costs) than we anticipate, QFs may
21 not respond exactly as instructed by the Plan, and numerous other
22 conditions could be less than optimal. The Unit Commit runs help to
23 illustrate my point that it is intuitively apparent before the minimum load
24 condition that the unit cycling scenario would produce negative avoided
25 costs and that the curtailments are justified under the circumstances

1 described in the Plan. The Unit Commit runs are not intended to prove
2 after-the-fact the exact magnitude of the negative avoided cost that the
3 Company was able to prevent by making the curtailment decision.
4

5 **C. The Curtailment Plan Is Not Unfair To QFs Or Any Particular**
6 **QF**
7

8 **Q. Mr. Yott claims that the Curtailment Plan is unfair and discriminatory**
9 **against OCL. (Yott, page 5). Is it true that OCL is treated unfairly**
10 **under the Plan when it comes to output reductions during minimum load**
11 **periods.**

12 **A. No. Probably the best evidence that the Curtailment Plan includes a**
13 **reasonable set of curtailment priorities and treats all QFs fairly is the**
14 **fact that OCL is the only QF out of 22 affected QFs who has filed**
15 **testimony complaining that they are unfair. Even Pasco is not named**
16 **as a co-sponsor of the Yott testimony, as it is with respect to the**
17 **Shanker and Slater testimony. Moreover, a number of other QFs who**
18 **have agreed to voluntary output arrangements affirmatively support the**
19 **Plan's curtailment priorities. These QFs recognize that all of Florida**
20 **Power's QF suppliers are not similarly situated and that the curtailment**
21 **groupings used in the Plan fairly reflect these differences in**
22 **circumstances.**

23
24 **As Mr. Dolan confirms, all of our QF suppliers including OCL have been**
25 **given numerous opportunities to be included in the first priority**
26 **curtailment category (Group A).**

1 **Q. Does the Plan unfairly treat QFs as a class of wholesale power supplier?**

2 **A. I do not see how the Plan possibly could be said to disadvantage or**
3 **unfairly treat QFs as a class of wholesale power supplier. I say this**
4 **because the Plan in fact gives a superior curtailment priority to QF**
5 **suppliers than it does to the Company's own generating equipment and**
6 **its avoidable power purchases from other electric utility companies.**
7 **Before curtailing any QF under Rule 17-25.086, the Plan requires Florida**
8 **Power's system operating personnel to (a) curtail purchases from Tampa**
9 **Electric and the Southern Companies as much as possible (as noted**
10 **earlier, we have gone the extra mile to negotiate even greater**
11 **curtailment capability with Southern since filing the Plan); (b) shut off**
12 **its own intermediate and peaking units and reduce baseload units to**
13 **minimum acceptable operating levels; and (c) shut down its own**
14 **cogeneration plant entirely if operating conditions permit. The Company**
15 **is asking QFs to participate in the minimum load solution through**
16 **involuntary curtailments only after all other generating resources have**
17 **been substantially curtailed.**

18
19 **Q. Please explain why Florida Power does not consider the Group A, B and**
20 **C classification of QFs for curtailment purposes to be unreasonable or**
21 **unfair.**

22 **A. Placing the QF suppliers into one of the three curtailment categories**
23 **properly recognizes that all QFs are not similarly situated in terms of the**
24 **product that they are making available to the Company or the costs that**
25 **they allow the Company to avoid. One major distinction applies to as-**

1 available energy supplies which are consolidated into Curtailment Group
2 C. There has been no real quarrel by any party with the notion that as-
3 available energy supplies are inferior to firm power supplies in terms of
4 dependability and cost avoidance. As-available energy purchases are
5 not assured in terms of amount, time or certainty of delivery. This is
6 true whether the as-available energy is purchased separately or as an
7 amount above and beyond the committed capacity under a firm QF
8 contract. Because as-available energy offers the least value to the
9 system, it is reasonable to interrupt those purchases before a firm
10 power purchase is interrupted. Therefore, the Group C as-available
11 purchases are the first purchases to be curtailed under the Plan.

12
13 There is just as real and material a distinction between the Group A and
14 B QFs because none of the Group B QFs has agreed in writing to
15 provide firm output reduction commitments to help avoid or mitigate the
16 system's minimum load problems. Group A QFs, in contrast, have
17 agreed to provide the system with a significant benefit by clarifying or
18 enlarging the output reduction arrangements under their existing
19 contracts to establish predictable voluntary output reductions that the
20 Company can count on. Florida Power believes that it is both necessary
21 and appropriate to recognize this difference in quality of service during
22 minimum load hours in the distinction drawn between the Group A and
23 B curtailment priorities. We have also agreed to do this as a part of the
24 voluntary output reduction arrangements negotiated with the Group A
25 suppliers. As noted in Mr. Dolan's direct testimony (at pages 24-25),

1 the Company gave the Group A QFs assurance that it would seek to
2 obtain maximum curtailment from *other* QFs before asking the Group A
3 QFs for more than their voluntary output reductions. We believe that
4 the 50 percent curtailment cap applied initially to the Group B QFs
5 (which has not been contested by any party) is consistent with this
6 maximum curtailment commitment without being overreaching or
7 unreasonable.

8
9 **Q. Do you think it would be fair to ignore the factual distinctions between**
10 **the Group A, B and C QF suppliers?**

11 **A. No. I would have a hard time justifying a plan that ignored the**
12 **voluntary contribution made by the Group A QFs or that treated as-**
13 **available energy as if it were firm. These differences cannot be ignored**
14 **if we are to be fair to all QFs.**

15
16 OCL, in effect, claims a preference rather than fair or comparable
17 treatment. Because it claims to be voluntarily (at its sole option)
18 offering some possible output reductions on a short-term basis during
19 minimum load periods, it wishes to be grouped together with other QFs
20 who have been willing to put specific and ongoing output reduction
21 commitments formally in writing. The fact remains that Florida Power
22 cannot depend upon any output reduction from OCL to manage the
23 minimum load problem as it can from those QFs who are included in
24 Group A because of their firm written commitments. In effect, just as
25 it makes sense to distinguish between (1) as-available energy (which is

1 not committed) and (2) firm energy (which is committed), it also makes
2 sense to distinguish between (3) optional QF output reductions (which
3 are not committed) and (4) written QF commitments to reduce output
4 (which are committed).

5
6 **Q. Is it your understanding that treating differently situated QFs in a way
7 that accounts for these differences is consistent with the PURPA rules?**

8 **A. Yes. Under the PURPA rules, it seems to me that different treatment of
9 QF suppliers who are not similarly situated is perfectly appropriate. For
10 example, there always have been distinctions between the treatment of
11 as-available energy versus firm energy. Similarly, in the realm of QF
12 pricing, the rules allow consideration of numerous case-specific factors
13 such as the dependability of a QF's power supply and the extent to
14 which the QF enables the utility to avoid capacity and/or energy costs.**

15
16 It has even been pointed out to me that in 1988, the FERC explained
17 that PURPA doesn't appear to prohibit rate discrimination *among*
18 individual QFs, as opposed to rate discrimination *against* QFs as a class
19 of power suppliers. The FERC also explained that differences in
20 circumstances, in any event, will frequently justify differences in
21 treatment of particular QFs. I find the FERC's observations instructive:

22 No court cases have definitively construed the
23 meaning of discrimination in the context of rates for
24 purchases of power from QFs under section 210, but the
25 most reasonable reading of PURPA precludes
26 discrimination against QFs as a class; it does not require
27 that all QFs be treated the same. The Commission's
28 current rules allow for different rates for QFs. The rules
29 recognize that avoided cost will tend to decline as more

1 QFs enter the market. The Commission's current rules
2 also set the price at full avoided cost, but also provide for
3 negotiated rates that fall below full avoided cost.
4 Certainly, negotiations do not result in the same rate for
5 all QFs. QFs offering different services or different prices
6 are not similarly situated. Thus, differentiation among
7 QFs is not necessarily discriminatory.

8 (See Regulations Governing Bidding Programs, IV FERC Stats & Regs ¶
9 32,455 at 32,027 (1988) reproduced in part in Exhibit __ (HIS-9)).

10 Clearly the distinctions between the Group A, B and C QFs in Florida
11 Power's Curtailment Plan are justified by differences in factual
12 circumstances. I believe that making these distinctions is fair and that
13 ignoring them as proposed by Mr. Yott would be unfair.

14
15 **Q. Is Florida Power still willing to treat OCL as a Group A QF if it is willing**
16 **to enter into a written arrangement providing ongoing and assured**
17 **output reductions comparable to those agreed to by the other Group A**
18 **suppliers?**

19 **A. We would be pleased to sign up all Group B QFs to mutually acceptable**
20 **written output reduction plans because this would simplify the burden**
21 **of dealing with the minimum load problem. Any Group B QF, including**
22 **OCL, is encouraged to do so.**

23
24 **Q. Mr. Yott would like to see the Curtailment Plan include a "banking"**
25 **arrangement which would give credit to QFs when they overcurtail on**
26 **one occasion so that they can avoid curtailment on another occasion.**
27 **Likewise, his proposal would debit QFs who underperform. (Yott, pages**
28 **10-12). First, is it correct, as Mr. Yott suggests, that Florida Power is**

1 making "value judgments about the QFs' individual [compliance]
2 circumstances"?

3
4 A. We are certainly attempting not to do so. As explained in my direct
5 testimony (at pages 50-51), we recognize that QFs may occasionally
6 experience temporary, uncontrollable operating conditions that will
7 prevent their strict compliance with the Curtailment Plan. Just as we
8 would expect to accommodate those circumstances at our own plants,
9 we intend to accommodate them at the QF plants. Toward that end,
10 Mr. Charles Harper has issued instructions to system operating
11 personnel confirming that they should document and accommodate QF
12 compliance difficulties as the Company would do for its own units. Mr.
13 Harper's instructions are set forth in a memorandum which I am
14 including as my Exhibit __ (HIS-10).

15
16 Q. Would the banking arrangement proposed by Mr. Yott cause Florida
17 Power any operational problems?

18 A. I believe it would. When the system operators are trying to rapidly
19 balance generation and loads, they need to have good information as to
20 how much curtailment they can expect from each QF as well as access
21 to effective procedures for implementing these curtailments. If any of
22 22 suppliers had the option of not fully curtailing at the last minute,
23 then the system operating personnel could not reliably and cost
24 effectively balance the generation and load levels. In addition, the
25 operating function would become substantially more complicated. As

1 I have already testified, the Curtailment Plan is intended to promote
2 predictability, ease of implementation, and effective results. I can
3 appreciate OCL's desire to get some credit for over-compliance, but any
4 under-compliance is highly problematic in that it (1) creates additional
5 operating risk and (2) shifts the curtailment burden on that occasion to
6 other QFs or to Florida Power. Even an assurance that someone will
7 pay back tomorrow an amount which he under-contributes today does
8 nothing to cure the minimum load problem today -- all it can do is
9 ensure that today's problem will be worse.

10
11 **Q. Is there a better way for OCL to realize some credit if it chooses to over-**
12 **comply rather than running its plant at a reduced output?**

13 **A.** This is exactly the circumstance mentioned in footnote 6 of the
14 Curtailment Plan at page 29. If OCL wants to provide more curtailment
15 than the system requires, I would encourage it to work with other
16 similarly situated QFs to arrive at a sharing arrangement that may meet
17 their mutual needs. If the system operators *know* in advance that on
18 one occasion 80 MW of reduction is assured from OCL and on the next
19 occasion 80 MW is assured from "X" QF, then generally speaking, the
20 system could be run as effectively as if each of these QFs provided 40
21 MW of reductions on each of the two occasions. I believe that this kind
22 of arrangement allows individual QFs to satisfy their individual operating
23 needs without involving unwilling QFs, confusing the curtailment
24 process or setting up Florida Power as a curtailment compliance
25 policeman.

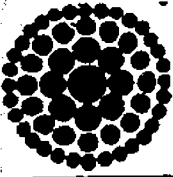
1 Let me just add that OCL seems to be the only QF complaining of a
2 possible non-compliance problem, and Mr. Yott certainly hasn't
3 documented any such problem. OCL seems to believe that it would be
4 a regular over-contributor to a curtailment bank, but it has given no
5 reason to believe that there are other QFs who would regularly under-
6 contribute and thereby balance out the bank account. In fact, from our
7 experience to date, I do not share OCL's belief that there will be
8 persistent under-curtailment incidents. We are certainly expecting
9 ongoing compliance and I would hesitate to develop a mechanism that
10 encourages under-compliance for any reason.

11
12 If I am correct that under-compliance is not a material problem, and if
13 OCL would like to balance out its *own* occasional over-compliance with
14 a predictable methodology for under-curtailing on other occurrences,
15 then this is exactly the kind of issue that might be resolved amicably by
16 means of a voluntary output reduction plan such as we have repeatedly
17 encouraged QFs to discuss.

18
19 Q. Does this conclude your rebuttal testimony Mr. Southwick?

20 A. Yes.

EXHIBITS



**Florida
Power**
CORPORATION

February 27, 1995

Mr. James Tulloss
Southern Company Services, Inc.
Post Office Box 2625
Birmingham, Alabama 35202

Subject: Purchase of UPS energy during minimum load emergencies

Dear Jim:

In the fall of 1994, Florida Power Corporation began to experience difficulty matching its load and power supply during periods of light loading on its system. These periods typically occur in the spring, fall and warm winter periods. The major contributor to this situation is approximately 900 MW of cogeneration capacity that has been added to the FPC system which has very limited dispatch capability. In addition, FPC contracted in 1988 for a 16 year purchase of 400 MW of UPS capacity from the Southern Companies with a Minimum Operation Capacity Obligation (MOCO) of 168 MW, which Southern can require from time to time depending on certain Southern system conditions. Because of this high level of committed off peak capacity and FPC's continuous obligation to match generation to load, FPC has been forced to develop a generation curtailment plan for the cogeneration capacity on its system. This plan was filed with the Florida Public Service Commission in October 1994.

To further mitigate the minimum load problem, FPC has been exploring options with Southern that would allow FPC to return the MOCO energy in a manner that would not harm either companies' customers. Our discussions resulted in a verbal agreement on February 21, 1995 that allows FPC to sell MOCO energy to Southern at Southern's system marginal cost as follows:

1. When the FPC generation dispatcher anticipates that the minimum generation will exceed the forecasted minimum load and anticipates that a Level 3 Minimum Load Warning will be called under the Generation Curtailment Plan for Minimum Load Conditions.
2. If Southern's situation is such that the MOCO is being invoked.

GENERAL OFFICE

3201 THIRTY-FOURTH STREET SOUTH • P.O. BOX 14042 • ST. PETERSBURG, FLORIDA 33733-4042 • (813) 866-6151
A Florida Progress Company

3. The FPC generation dispatcher will contact Southern to determine Southern's system marginal energy cost (and its ability to purchase the energy).
4. If FPC's system marginal energy cost is at or below Southern's system marginal energy cost, Southern will purchase from FPC energy equal to the MOCO energy.
5. These sales will initially take place under Service Schedule C as specified in the Interchange Contract between FPC and Southern until the companies can complete a new opportunity sales schedule for the Interchange Contract.

I am pleased with this arrangement. As you know, we utilized it during the morning of February 27, 1995, and it worked well. I thank you and your colleagues at Southern in helping make this happen.

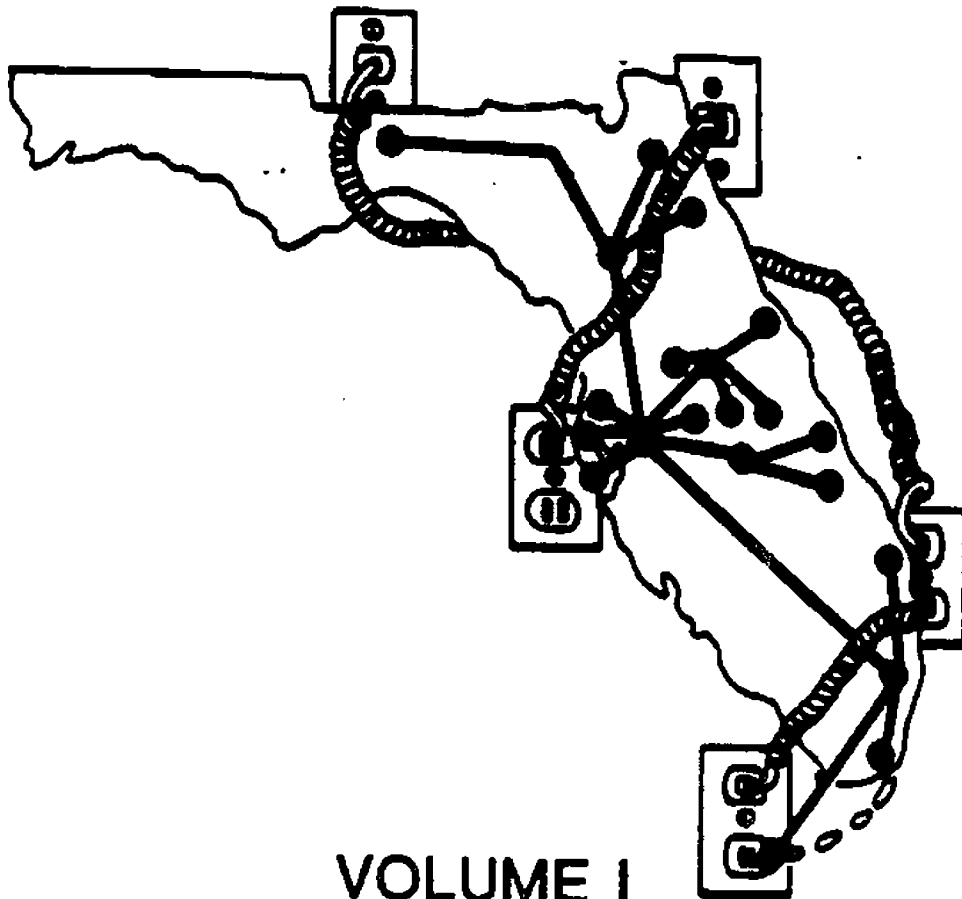
Sincerely,



H. I. Southwick

FLORIDA ELECTRIC POWER COORDINATING GROUP, INC.

FLORIDA ENERGY BROKER SYSTEM HANDBOOK



VOLUME I

JANUARY 17, 1990

IV. Energy Broker Guidelines

1. Contracts

a. Economy Energy Transactions

It is the responsibility of each participant to arrange for contracts with all other participants for the transaction of economy energy. In order to maximize the economic efficiency of the broker system it is strongly recommended that every participant have the contractual ability to transact economy energy with every other Broker participant.

b. Wheeling Transactions

It is the responsibility of the participant requiring wheeling to arrange for the transmission service of a third party.

c. Billing for Economy Energy

Billing for Economy Energy will be in accordance with the bilateral contracts between participants.

2. Matching Guidelines

a. High-Low Matching

Economy energy interchange is based on the concept that various generating entities from time to time will have different costs for the production of energy. The seller can and is willing to produce energy at an incremental cost which is lower than the incremental cost (decremental value) that the buyer would incur by producing the same amount of energy. The underlying purpose of these guidelines is to establish consistency in the cost components included in the matching quotations used in the Energy Broker System and to generally describe those methods used to derive these costs.

It is not the intent of these guidelines to infringe on the obligations or rights associated with any existing bilateral or multilateral interchange agreements. The Energy Broker System is designed to facilitate the state-wide optimal hourly schedule of economic transactions considering each participant's bilateral agreements, each participant's hourly costs quote, existing economy interchange and transmission service agreements, a minimum spread criteria between incremental and decremental cost quote combinations, and any existing transmission system constraints.

To test the minimum spread criteria, the buyer's decremental cost quote is adjusted with the buyer's share of wheeling and losses, if any, (costs/MWH) resulting in an "Adjusted Decremental Cost". The buyer's decremental cost quote is adjusted for the minimum spread criteria in recognition of the prevailing industry practice that buyers generally arrange for wheeling services.

By using a "High-to-Low" transaction matching routine (i.e., matching the highest decremental cost quote with the lowest incremental cost quote, considering all the above mentioned constraints and proceeding through all current hourly quotes) a schedule of proposed transactions will be produced that should maximize statewide savings available from hourly economy energy interchange transactions. The transaction price for each match will be as specified in the bilateral contracts between the matched Broker participants.

b. Minimum Matching Criteria

The Broker will not match any two quotes when the difference between the transaction price and the Adjusted Decremental Cost is less than five percent of the decremental cost. If the transaction price is less than twenty dollars per MWH the difference between the buyer's adjusted decremental cost and the transaction price must be at least one dollar per MWH.

This criteria recognizes that inaccuracies in the forecast of costs may be as high as five percent.

c. Operation Requirements of the Energy Broker System Software

- 1) Each participant's incremental or decremental cost quotations should reflect the participant's incremental or decremental costs, and should meet the following criteria:
 - a) Each buyer's decremental cost quote for a certain block of energy must be lower than that of the preceding block of energy.
 - b) Each seller's incremental cost quote for a certain block of energy must be higher than that of the preceding sell block of energy.
 - c) With respect to each Broker participant's costs quotes for a particular hour, all decremental cost quotes must be lower than all incremental cost quotes.

- 2) Cost quotations should reflect the incremental cost at the tie line points of contiguous systems of that energy the participant is willing to sell or the decremental (or avoided) cost at the tie line points of contiguous systems of the energy the participant is willing to buy.
 - 3) Cost quotations should not include a cost component for third party (wheeling) costs.
 - 4) Economy Energy contracts (Schedule C) will be represented by entries for purchase and sale in the Energy Broker System's "Contracts, Wheeling, and Constraints File (CWCF)" for each bilateral contract a participant has in effect. No changes will be made in the CWCF file unless both parties and any involved wheeling parties have agreed to the changes in writing. This procedure does not apply to wheeling and loss values of the wheeling party. Such changes will be implemented in a timely manner upon notification by the wheeling party.
- d. Costing Methodology of Economy Energy

- 1) The transaction price (TP) for a particular interchange of economy energy in the Broker is based on bilateral agreements and on the fundamental concept that a participant will be able to reasonably foresee operational conditions for the upcoming hour, and therefore will satisfactorily project that participant's incremental expense (decremental value).
- 2) The calculation of incremental and decremental cost quotes is based on the fundamental concept that the incremental cost components of those quotes shall be calculated using the same incremental costing data as that used by the participant in the economic dispatch of its generating units for that hour. Generally, bilateral contracts specify that all identifiable incremental cost components for a particular hourly transaction should be included in price quotations. These prices may include:
 - a) System incremental fuel cost (e.g., derived from composite incremental heat rate curves of all units' curve, times the incremental replacement cost of fuel.)
 - b) Incremental transmission cost.
 - c) Incremental operation and maintenance cost.
- 3) The particular method used to determine the incremental or decremental costs of making an economy energy transaction depends upon each participant's capabilities to simulate system conditions.

If a participant has an on-line energy management system (computer) that is capable of determining the incremental or decremental costs of an economy energy transaction, then these costs should be used for the incremental or decremental cost quotes. Where a participant does not have an on-line computer, an off-line type simulation may be used to supply dispatching personnel with cost information versus system load levels where a set of general system conditions are assumed.

- 4) The resources of the seller (or buyer) shall be energy from its owned generating units, from energy purchased from specific generating units (unit power purchases), or from energy purchased at other than average system cost.

Energy purchased at average system cost may be a resource of the seller and may be eligible for sale only when the cost of the energy purchased by the seller is equal to or greater than the supplying entity's incremental cost at the time of the Broker transaction.

Energy purchased at average system cost may be a resource of the buyer and may only be considered as an avoided (decremental) cost when the cost of the energy purchased by the buyer is equal to or less than the supplying entity's incremental cost at the time of the Broker transaction.

Participants in the Broker are encouraged to make all excess economic generation, including energy obligated under firm capacity schedules, available through the Energy Broker System.

It is recognized that under most bilateral contracts firm capacity schedules have priority over economy transactions. If the buyer of a firm capacity schedule does not have a specified schedule prior to 30 minutes past the hour, then the seller should offer it on the Broker. If an economy transaction is made, it should be made available to the firm capacity schedule buyer as expeditiously as operating conditions will permit (not exceeding 30 minutes) when the firm capacity schedule buyer calls for it. If the buyer has made a specific request for firm capacity schedule energy prior to 30 minutes past the hour, then it becomes a resource of the buyer.

- 5) Costing the Quoted Energy for Limited Fuel

It is recognized that, at times, a participant may be generating energy produced totally by burning a limited fuel (i.e., a limited fuel is a fuel for which the availability is restricted and limited beyond the control

of the generating party and for which the supply is insufficient to meet the participant's total requirements), and that for economic reasons the participant may wish to retain the use of that limited fuel to meet the load of its own system.

During these occasions a participant may enter an incremental or decremental cost quote based upon the incremental or decremental cost of a nonlimited fuel with the understanding that within the following 30-day period the participant will generate an equivalent amount of energy with the quoted fuel.

6) Third Party Costs

The Energy Broker System software inherently considers all applicable third party (wheeling) costs for each possible transaction. The third party costs include third-party transmission service charges and energy losses (non-firm energy) as allocated according to the contractual agreement between buyer and seller.

3. Scheduling Economy Interchange

All Energy Broker System economy interchanges shall be scheduled to start on the hour, and the schedule ramp shall be agreed upon by seller and buyer. The Broker schedule displays the MWH scheduled to be transacted each hour.

4. Confirmation of Proposed Transactions

It is the responsibility of each participant to confirm its proposed transactions with other participants. Two methods currently employed are: 1) Confirm the proposed transaction on the state "Hot Line" telephone, or 2) Automatically accept the proposed Schedule as "Confirmed" unless either participant communicates otherwise.

5. Indemnification Agreement

Each Broker participant shall sign a hold harmless agreement which eliminates liability of FCG or any participating party for real or potential losses as the result of misoperation or unavailability of the Energy Broker System. An example of such agreement is shown in the Appendix.

1 **CONTRACT FOR PURCHASES AND SALES**
2 **OF SCHEDULED POWER AND ENERGY**
3 **BETWEEN**
4 **FLORIDA POWER & LIGHT COMPANY**
5 **AND**
6 **FLORIDA POWER CORPORATION**

7 **THIS CONTRACT** is made and entered into this 12th day of October, 1994 by
8 and between **FLORIDA POWER & LIGHT COMPANY**, a corporation organized and
9 existing under the laws of the State of Florida, herein referred to as "FPL" and
10 **FLORIDA POWER CORPORATION**, a corporation organized and existing under the
11 laws of the State of Florida, herein referred to as "CORPORATION".

12 **WITNESSETH:**

13 **WHEREAS**, FPL and CORPORATION (each individually identified hereinafter as a
14 "Party" and both collectively called hereinafter the "Parties") own and operate electric
15 generating and transmission systems within the State of Florida and maintain
16 interconnections with each other; and

17 **WHEREAS**, FPL and CORPORATION are parties to the Contract for Interchange
18 Service between Florida Power & Light Company and Florida Power Corporation dated
19 July 8, 1977, as amended (the "Interchange Contract") which provides terms and
20 conditions for the interchange of electric power and energy between the Parties; and

21 **WHEREAS**, CORPORATION desires, from time to time, to sell electric power and
22 energy to FPL or purchase electric power and energy from FPL as set forth herein; and

23 **WHEREAS**, FPL desires, from time to time, to sell electric power and energy to
24 CORPORATION or purchase electric power and energy from CORPORATION as set
25 forth herein; and

1 WHEREAS, each Party anticipates having Scheduled Power and Energy available to
2 supply electric power and energy under this CONTRACT and desires to establish the
3 terms, conditions, rights, and obligations with respect to the purchases and sale of
4 Scheduled Power and Energy; and

5 NOW, THEREFORE, in consideration of the foregoing premises and of the mutual
6 benefits to be obtained from the covenants herein, the Parties do hereby agree as follows:

7 **ARTICLE I**

8 **DEFINITIONS**

9 **Section 1.1 - Buyer:** Shall mean the Party who desires to purchase Scheduled Power and
10 Energy under the terms of this CONTRACT.

11 **Section 1.2 - Electric Resources:** Shall mean any electric generating capacity available
12 to a Party and may include electric capacity purchased from another utility.

13 **Section 1.3 - The Federal Power Act:** Shall mean the Federal Power Act, 16 U.S.C.
14 §§ 792 et seq., as it is now in effect or may be amended in the future, or any successor
15 thereto.

16 **Section 1.4 - FERC:** Shall mean the Federal Energy Regulatory Commission or any
17 successor having comparable responsibilities.

18 **Section 1.5 - Force Majeure:** Shall be as defined in Section 6.1 of this CONTRACT.

19 **Section 1.6 - Scheduled Power and Energy:** Shall mean that amount of electric power
20 and/or energy that the Seller agrees to sell and the Buyer agrees to purchase pursuant to
21 a transaction entered into under this CONTRACT.

1 **Section 1.7 - Seller:** Shall mean the Party who desires to sell Scheduled Power and
2 Energy under the terms of this CONTRACT.

3 **Section 1.8 - Prudent Utility Practice:** Shall mean any of the practices, methods and
4 acts engaged in or approved by a significant portion of the electric utility industry during
5 the relevant time period, or any of the practices, methods and acts which, in the exercise
6 of reasonable judgment in light of the facts known at the time the decision was made,
7 could have been expected to accomplish the desired result at a reasonable cost consistent
8 with reliability, safety and expedition. Prudent Utility Practice is not intended to be
9 limited to the optimum practice.

10 **Section 1.9 - Interchange Contract:** Shall mean the Contract for Interchange Service
11 between Florida Power & Light Company and Florida Power Corporation dated July 8,
12 1977, as amended from time to time.

13 **Section 1.10 - Economy Energy:** Shall mean non-firm energy which the seller can
14 produce or purchase and deliver to the buyer at an incremental cost which is lower than
15 the incremental cost the buyer would otherwise incur.

16 **ARTICLE II**

17 **TERM OF CONTRACT**

18 **Section 2.1 - Term:** The term of this CONTRACT shall commence on the 12th day
19 of October, 1994 and shall continue in effect until canceled (i) by either Party
20 upon one year's written notice to the other Party, or (ii) as provided in Section 7.1, or
21 (iii) upon termination or cancellation of the Interchange Contract, or (iv) at any time upon
22 mutual written agreement between the Parties; provided, however, that the term of this
23 CONTRACT shall not be for a period less than the term of any commitment for a
24 transaction hereunder. Notwithstanding anything else in this CONTRACT to the

1 contrary, the Parties' obligations under Section 7.1 shall commence on the date of
2 execution of this CONTRACT.

3 **ARTICLE III**

4 **SCHEDULED POWER AND ENERGY SERVICE**

5 **Section 3.1 - Scheduled Power and Energy Services:** Transactions under this
6 CONTRACT shall be as agreed to by the Parties' Operating Representatives on a case
7 by case basis. Each Party shall be the sole judge of its ability to supply Scheduled Power
8 and Energy, and all transactions hereunder shall be entirely voluntary. A Party may
9 furnish Scheduled Power and Energy from any available Electric Resources it chooses for
10 resale to the other Party, including purchases from a system or systems not a Party to this
11 CONTRACT. Transactions under this CONTRACT shall include but not be limited to
12 purchases and sales of Economy Energy.

13 **Section 3.2 - Scheduled Power and Energy Service Transactions:** In the event a Party
14 requests the other Party to provide Scheduled Power and Energy and the other Party
15 determines that such service is available, the Parties' Operating Representatives shall
16 agree on the specifics for each such transaction. The transaction shall be for a period of
17 not less than two hours nor more than one year.

18 **Section 3.3 - Payment:** The Buyer shall pay the Seller the amount agreed to by the
19 Parties (expressed in \$ per MWh) for the Scheduled Power and Energy transaction, which
20 shall not be less than the Seller's Incremental Energy Cost under Section 3.4 of this
21 CONTRACT and which shall not exceed the sum of (a) and (b) below:

- 22 (a) One hundred and ten percent (110%) of the Seller's Incremental Energy
23 Cost, as calculated pursuant to Section 3.4. In the event and to the extent the

1 Seller's Incremental Energy Cost under Section 3.4 of this CONTRACT
2 represents the cost of purchased power, the ten percent (10%) adder that is
3 applied to such purchased power expense shall not recover more than 1
4 mill/kWh.

5 (b) (1) For FPL as Seller: The Hourly Charge agreed to by the Parties for the
6 Scheduled Power and Energy, not to exceed the maximum Hourly Charge
7 specified in Appendix A, subject to the limitations of Section 3.5(1).
8 Notwithstanding the foregoing, where the Seller enters into a power
9 purchase transaction in order to resell such power under a Scheduled Power
10 and Energy transaction, and where the Seller's Incremental Energy Cost
11 under Section 3.4 of this CONTRACT represents the cost of such
12 purchased power, the maximum Hourly Charge under Section 3.3(b)(1) for
13 such power shall be as provided in Appendix B. Sales of power purchased
14 for the Seller's reliability purposes or for the Seller's economy purposes
15 where the Seller stands by to supply power from its own resources are not
16 subject to the preceding sentence.

17 (b) (2) For CORPORATION as Seller: The Hourly Charge agreed to by the
18 Parties for the Scheduled Power and Energy, not to exceed the maximum
19 Hourly Charge specified in Appendix C, subject to the limitations of
20 Section 3.5(2). Notwithstanding the foregoing, where the Seller enters into
21 a power purchase transaction in order to resell such power under a
22 Scheduled Power and Energy transaction, and where the Seller's
23 Incremental Energy Cost under Section 3.4 of this CONTRACT represents
24 the cost of such purchased power, the maximum Hourly Charge under

1 Section 3.3(b)(2) for such power shall be as provided in Appendix D.

2 Sales of power purchased for the Seller's reliability purposes or for the
3 Seller's economy purposes where the Seller stands by to supply power from
4 its own resources are not subject to the preceding sentence.

5 **Section 3.4 - Seller's Incremental Energy Cost:** The Seller's Incremental Energy Cost
6 shall be the Seller's incremental fuel cost for load dispatching in effect at the time of the
7 transaction as determined by the Seller, which calculation shall include any start-up costs
8 incurred in the event a unit needs to be started to supply Scheduled Power and Energy
9 and the cost of the incremental system transmission losses attributable to the Scheduled
10 Power and Energy transaction. The order of priority used to determine the Seller's
11 Incremental Energy Cost will be such that the Scheduled Power and Energy provided
12 under this CONTRACT will be the increment immediately above (i.e., will be deemed
13 to be provided after): (1) the Seller's retail and wholesale load requirements, including
14 spinning reserves; (2) sales of firm capacity and energy; and (3) sales under other prior
15 commitments into which the Seller may have entered.

16 **Section 3.5 - Charges Under Section 3.3(b):** The Charges under Section 3.3(b) are
17 subject to the following caps:

- 18 (1) The maximum charge under Section 3.3(b)(1) during any day shall not
19 exceed the product of (i) the highest amount (in MW) of service provided
20 by the Seller under this CONTRACT during any hour of the day and (ii)
21 the product of (1) the maximum Hourly Charge specified in Appendix A
22 or Appendix B, as applicable, and (2) sixteen hours. The maximum charge
23 under Section 3.3(b)(1) during any week shall not exceed the product of (i)

1 the highest amount (in MW) of service provided by the Seller under this
2 CONTRACT during any hour of the week and (ii) the product of (1) the
3 maximum Hourly Charge specified in Appendix A or Appendix B, as
4 applicable, and (2) eighty hours.

- 5 (2) The maximum charge under Section 3.3(b)(2) during any day shall not
6 exceed the product of (i) the highest amount (in MW) of service provided
7 by the Seller under this CONTRACT during any hour of the day and (ii)
8 the product of (1) the maximum Hourly Charge specified in Appendix C
9 or Appendix D, as applicable, and (2) sixteen hours. The maximum charge
10 under Section 3.3(b)(2) during any week shall not exceed the product of (i)
11 the highest amount (in MW) of service provided by the Seller under this
12 CONTRACT during any hour of the week and (ii) the product of (1) the
13 maximum Hourly Charge specified in Appendix C or Appendix D, as
14 applicable, and (2) eighty hours.

15 ARTICLE IV

16 CURTAILMENTS AND INTERRUPTIONS

17 Section 4.1 - Interruptions: The Seller's right to interrupt a transaction shall be as
18 agreed to by the Parties' Operating Representatives. In the event and to the extent a
19 Scheduled Power and Energy transaction hereunder is interrupted by the Seller in
20 accordance with the commitment agreed to by the Parties' Operating Representatives for
21 the specific transaction, the Buyer shall be obligated to make payment only for the amount
22 of Scheduled Power and Energy actually delivered up to the time of such interruption.

1 The Buyer's payment obligation will resume if and when the Parties resume the
2 transaction.

3 **Section 4.2 - Curtailments:** The Seller's right to curtail a transaction shall be as agreed
4 to by the Parties' Operating Representatives. In the event a Scheduled Power and Energy
5 transaction is curtailed by the Seller in accordance with the commitment agreed to by the
6 Parties' Operating Representatives for the specific transaction, the Parties may agree to
7 continue the transaction at the curtailed level. During such period of curtailment, the
8 purchasing Party shall be obligated to make payment only for the curtailed level of the
9 Scheduled Power and Energy transaction.

10 **Section 4.3 - Resumptions:** In those instances in which a transaction has been
11 interrupted or curtailed, the Parties may either agree on the specifics to reschedule and
12 resume the Scheduled Power and Energy transaction, or terminate the remainder of the
13 Scheduled Power and Energy transaction. In the event the Parties agree to resume the
14 Scheduled Power and Energy transaction, the Buyer's payment obligation shall be based
15 on the agreed upon level and amount of Scheduled Power and Energy.

16 ARTICLE V

17 **BILLING AND PAYMENT**

18 **Section 5.1 - Presentation and Payment:** Promptly after the first of each month, each
19 Party shall submit a billing statement and invoice for the sales transactions and the
20 respective amounts due under the terms of this CONTRACT for the preceding calendar
21 month except those months in which no amounts are due. All such invoices shall be due
22 and payable within ten days from the date of mailing (as determined by postmark).
23 Invoices not paid within ten days from the date of mailing shall bear interest at the rate

1 provided for refunds under the FERC's regulations (18 CFR Section 35.19a) or any
2 successor thereto. All remittances for payment shall be made by immediately available
3 funds, unless otherwise agreed. Payments due hereunder shall not be subject to any
4 reduction by offset or otherwise.

5 **Section 5.2 - Disputed Bill:** In case any portion of any bill is in bona fide dispute, the
6 full amount of the bill (including the amount in dispute) shall nevertheless be due and
7 payable in accordance with Section 5.1. Payments made and designated "Paid Under
8 Protest" shall be accompanied by the reasons therefore. A Party's payment under protest
9 of the disputed portion of a bill shall not affect any legal or equitable rights it may have
10 to challenge the disputed portion of the bill. Upon final determination of the correct bill
11 amount, any necessary refunds shall be paid within fifteen days, together with interest
12 from the date of payment of the bill, calculated at the rate provided for refunds under the
13 FERC's regulations (18 C.F.R Section 35.19a) or any successor thereto.

14 **Section 5.3 - Challenges to Bills:** Either Party may challenge the correctness of any bill
15 or billing adjustment pursuant to this CONTRACT no later than 12 months after the date
16 payment of such bill or billing adjustment is due. If a Party does not challenge the
17 correctness of a bill or billing adjustment within such 12 months period, such bill or
18 billing adjustment shall be binding upon that Party and shall not be subject to challenge.
19 Any such challenge must be in writing. Where it is determined as a result of such
20 challenge that an adjustment to a bill or billing adjustment is appropriate, such adjustment
21 shall include interest accrued at the rate provided for refunds under the FERC's
22 regulations (18 C.F.R. Section 35.19a) or any successor thereto and shall be provided in
23 the month following such determination.

ARTICLE VI

FORCE MAJEURE AND INDEMNIFICATION

1
2
3 **Section 6.1 - Force Majeure:** In the event that either of the Parties should be delayed
4 in, or prevented from, performing or carrying out any of the agreements, covenants and
5 obligations made by and imposed upon said Party by this CONTRACT by reason of or
6 through any cause reasonably beyond its control and not attributable to its neglect
7 including strike, stoppage in labor, failure of contractors or suppliers of materials, riot,
8 fire, flood, ice, invasion, civil war, commotion, insurrection, military or usurped power,
9 order of any court granted in any bona fide adverse legal proceeding or action, order of
10 any civil or military authority (either de facto or de jure), explosion, act of God or the
11 public enemies, failure or malfunction of system facilities, or unscheduled outage of
12 generating units or transmission facilities; then and in such case or cases, both Parties
13 shall be relieved of performance under this CONTRACT and shall not be liable to the
14 other Party for or on account of any loss, damage, injury, or expense (including
15 consequential damages and cost of replacement power) resulting from or arising out of
16 such delay or prevention from performing; provided, however, that the Party suffering
17 such delay or prevention shall use due and, in its judgment, practicable diligence to
18 remove the cause or causes thereof; and provided, further, that neither Party shall be
19 required by the foregoing provisions to settle a strike except when, according to its own
20 best judgment, such a settlement seems advisable; and provided further, that nothing in
21 this Section 6.1 shall excuse the payment obligations incurred under this CONTRACT.

22 **Section 6.2 - Responsibility and Indemnifications:** In the case of loss, damage or
23 injury (including death) of any person(s) or property, occurring on a Party's own system,
24 that Party shall indemnify, save harmless and defend the other Party hereto (including the

1 other Party's parent, subsidiaries, affiliates and their respective officers, directors, agents
2 and employees) against claims, demands, costs or expenses in any manner directly or
3 indirectly connected with performance of duties under this CONTRACT, whether or not
4 due to or caused by negligence of the other Party (but not when caused by gross
5 negligence or willful misconduct of the other Party) when such injury or damage occurs
6 on its system. Each Party further agrees to waive all rights against and to release the
7 other Party from any liability which the first Party may incur for payment, if any, of
8 benefits to its own employees under any statutory obligation.

9 **Section 6.3 - Consequential Damages:** Notwithstanding any other provision of this
10 CONTRACT, neither Party shall be liable to the other for consequential damages, which
11 shall include, but not be limited to, loss of profits or revenues and costs of purchased or
12 replacement power, under any claims arising under this CONTRACT. Notwithstanding
13 the foregoing, nothing in this Section 6.3 shall be interpreted as affecting Section 6.2.

14 **Section 6.4 - Liability for Interruption or Curtailment:** Unless otherwise agreed to
15 by the Parties' Operating Representatives, each Party hereby releases the other Party from
16 any liability the first Party may incur as a result of the interruption or curtailment of
17 Scheduled Power and Energy service under this CONTRACT.

18 **ARTICLE VII**

19 **MISCELLANEOUS**

20 **Section 7.1 - Regulatory Approval:** The provisions of this CONTRACT are subject to
21 the regulatory authority of the FERC. Upon execution, FPL will file this CONTRACT
22 with the FERC and CORPORATION shall support the filing and approval of this
23 CONTRACT without modification or condition. The Parties agree that all fees assessed

1 by the FERC as they relate to the filing of the Agreement shall be shared equally by the
2 Parties. CORPORATION shall cooperate with FPL and provide information reasonably
3 required by FPL to comply with the applicable filing requirements and the Parties shall
4 not lend support to any party who opposes this CONTRACT before the FERC. In the
5 event this CONTRACT is changed or modified by any regulatory agency or authority,
6 either Party, if adversely affected to a material extent, shall have the right to negotiate
7 for the necessary relief to alleviate said adverse effects brought on by either the changes
8 or modifications so imposed. If the Parties are unable to obtain the necessary relief after
9 a reasonable period of negotiations (not to exceed sixty days), either Party shall have the
10 right to terminate this CONTRACT on fifteen days written notice to the other Party.
11 Nothing contained in this CONTRACT shall be construed as affecting in any way the
12 right of either Party to unilaterally make application to the FERC for a change in rates,
13 terms, and conditions of this CONTRACT under Sections 205 and 206 of the Federal
14 Power Act and the regulations thereunder.

15 **Section 7.2 - Waivers:** Any waiver at any time by any Party of its rights with respect
16 to the other Party or with respect to any matter arising in connection with this
17 CONTRACT shall not be considered a waiver with respect to any other prior or
18 subsequent default or matter.

19 **Section 7.3 - Assignment:** This CONTRACT shall inure to the benefit of, and shall be
20 binding upon, the Parties hereto and their respective successors and assigns, provided that
21 this CONTRACT shall not be assignable or transferable in whole or in part by either
22 Party without the written consent of the other Party, which consent(s) shall not be
23 unreasonably withheld, except that such written consent(s) shall not be required (a) in the
24 case of an assignment or transfer to a successor in the operation of the assignor's or

1 transferor's properties by reason of a merger, consolidation, sale or foreclosure, where
2 substantially all such properties are acquired by such successor, or (b) in the case of an
3 assignment or transfer of all or part of the assignor's or transferor's properties or interests
4 to a wholly-owned subsidiary of the assignor or transferor or to another company in the
5 same holding company as the assignor or transferor.

6 **Section 7.4 - Notices:** Any notice, demand, or request required or authorized by this
7 CONTRACT shall be deemed properly given if mailed postage prepaid to, in the case of
8 FPL:

9 Florida Power & Light Company
10 P. O. Box 029100
11 Miami, Florida 33102
12 Attention: Manager of Inter-Utility Markets

13 and in the case of CORPORATION:

14 Florida Power Corporation
15 P.O. Box 14042 EC 37
16 St. Petersburg, FL. 33733
17 Attention: Director, Energy Control

18 or to such other person as may be designated in writing from time to time by the recipient
19 Party.

20 **Section 7.5 - Governing Agreement:** This CONTRACT shall govern the provision of
21 Scheduled Power and Energy as defined herein. The following provisions of the
22 Interchange Contract are incorporated and made a part of this CONTRACT and shall
23 govern the coordination of interconnected operations between the systems of the Parties:
24 Article II - Interconnections; Article III - Operating Committee; Article IV - Interchange
25 Service (Sections 4.2 and 4.3); Article V - Service Conditions; Article VI - Metering
26 Provisions. In the event any of the terms and conditions of the Interchange Contract are

1 inconsistent with the terms and conditions of this CONTRACT, this CONTRACT shall
2 govern with respect to Scheduled Power and Energy sales and purchases.

3 **Section 7.6 - Governing Law:** The availability, interpretation and performance of this
4 CONTRACT and each of its provisions shall be governed by the applicable laws of the
5 State of Florida and the United States of America.

6 **Section 7.7 - Interconnection with Other Systems:** Nothing contained in this
7 CONTRACT shall restrict or limit either Party from establishing, altering or terminating
8 interconnection points with any person not a party to this CONTRACT or amending or
9 entering into agreements therefor.

10 **Section 7.8 - Headings Not to Affect Meaning:** The descriptive headings of the various
11 sections and articles of this CONTRACT have been inserted for convenience of reference
12 only and shall in no way modify or restrict any of the terms and provisions hereof.

13 **Section 7.9 - No Consent to Violation of Law:** Nothing herein contained shall be
14 construed to constitute consent or acquiescence by either Party to any action of the other
15 Party which violates the laws of the United States as their provisions may be amended,
16 supplemented or superseded, or which violates any other law or regulation, or any order,
17 judgment or decree of any court or governmental authority of competent jurisdiction.

18 **Section 7.10 - Complete Agreement:** This CONTRACT is intended as the exclusive
19 integrated statement of the Parties agreement regarding service provided hereto. Parole
20 or extrinsic evidence shall not be used to vary or contradict the express terms of this
21 CONTRACT.

22 **Section 7.11 - No Dedication of Facilities:** Any undertaking by one Party to the other
23 under any provision of this CONTRACT shall not constitute the dedication of the system
24 or any portion thereof of any Party to the public or to the other Party, and it is

1 understood and agreed that any such undertaking by any Party shall cease upon
2 termination of this CONTRACT.

3 **Section 7.12 - Relationship of the Parties:** Nothing contained in this CONTRACT shall
4 be construed to create an association, joint venture, partnership or any other type of entity
5 between FPL, CORPORATION and any other party.

6 **Section 7.13 - Tax Adjustment:** To the capacity (when applicable) and energy charges
7 under this CONTRACT shall be added the applicable proportionate part of any new or
8 increased taxes and assessments (except State or Federal Income Taxes), imposed by any
9 governmental authority in addition to or in excess of those in effect as of the date of this
10 CONTRACT which are assessed on the basis of meters or customers, or the price of, or
11 revenue from, electric energy or service sold, or the quantity of energy purchased or
12 generated for sale or sold. In the event the selling Party pays a "gross receipts tax" to
13 the State of Florida in respect to power and energy sold hereunder, the selling Party shall
14 be fully reimbursed by the Party purchasing the electric energy.

15 **Section 7.14 - Prudent Utility Practice:** The Parties shall discharge any and all
16 obligations under this CONTRACT in accordance with Prudent Utility Practice.

17 **Section 7.15 - Counterparts:** This CONTRACT may be executed simultaneously in
18 counterparts, each of which shall be effective as of the dates specified above.

19 (The next page, Page 16, is the signature page)

1 IN WITNESS WHEREOF, the Parties have caused this CONTRACT to be executed by
2 their duly authorized officers, and copies delivered to each Party, effective as of the date
3 and year first above stated.

4 ATTEST:

FLORIDA POWER & LIGHT COMPANY

5 BY: 
6 ASSISTANT SECRETARY

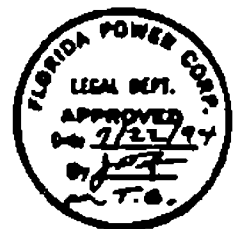
BY: 
Senior Vice President

7 ATTEST:

FLORIDA POWER CORPORATION

8 BY: 
9 ASSISTANT SECRETARY

BY: 
Senior Vice President



1

APPENDIX A

2

FPL MAXIMUM HOURLY CHARGE

3

For FPL as Seller the maximum Hourly Charge under this CONTRACT is \$22.80/MWh.

1 **APPENDIX B**

2 **FPL MAXIMUM HOURLY CHARGE**

3 **For FPL as Seller the maximum Hourly Charge for the purpose of the last two sentences**
4 **of Section 3.3(b)(1) is \$4.91/MWh.**

1 **APPENDIX C**

2 **CORPORATION MAXIMUM HOURLY CHARGE**

3 For CORPORATION as Seller the maximum Hourly Charge under this CONTRACT is

4 **\$15.24 /MWh.**

APPENDIX D

CORPORATION MAXIMUM HOURLY CHARGE

For CORPORATION as Seller the maximum Hourly Charge for the purpose of the last two sentences of Section 3.3(b)(2) is \$ 3.29/MWh.

As-Available Prices During Curtailment Periods

Curtailment Period		As-Available Cost
Date	Hour Ending	(\$/MWh)
10/19/94	3:00	16.74
10/19/94	4:00	16.69
10/19/94	5:00	16.73
10/19/94	6:00	17.04
1/1/95	3:00	16.03
1/1/95	4:00	16.06
1/1/95	5:00	16.05
1/1/95	6:00	16.04
1/1/95	7:00	16.11
1/2/95	2:00	14.28
1/2/95	3:00	15.53
1/2/95	4:00	15.65
1/2/95	5:00	15.70
1/2/95	6:00	15.76
1/2/95	7:00	15.80
1/7/95	1:00	15.04
1/7/95	2:00	15.67
1/7/95	3:00	15.47
1/7/95	4:00	13.47
1/7/95	5:00	14.59
1/7/95	6:00	15.57
1/7/95	7:00	15.73
1/8/95	2:00	15.51
1/8/95	3:00	15.66
1/8/95	4:00	15.71
1/8/95	5:00	15.79
1/14/95	3:00	15.88
1/14/95	4:00	15.45
1/14/95	5:00	15.81
1/30/95	2:00	15.21
1/30/95	3:00	14.54
1/30/95	4:00	14.81
1/30/95	5:00	15.45

Average As-Available Cost	15.62
Maximum As-Available Cost	17.04
Minimum As-Available Cost	13.47

Proposed Regulations

53 Federal Register (1988)

¶ 32,455 Regulations Governing Bidding Programs

53 F.R. 9324 (March 22, 1988); 53 F.R. 31882 (August 22, 1988).

18 CFR Parts 35 and 293

[Docket No. RM88-5-000]

Regulations Governing Bidding Programs

March 16, 1988

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking (NPR).

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to adopt regulations which would authorize state regulatory authorities and non-regulated electric utilities to implement bidding procedures as a means of establishing rates for power purchases from qualifying facilities (QFs) under section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA).

A bidding program is a formally organized market to acquire incremental supplies of electricity. The purpose of this proposed rule is to permit bidding programs that would accurately establish utilities' avoided cost. To accomplish this goal, the Commission proposes to amend its current regulations to establish conditions and to provide specific guidance to the state regulatory authorities and non-regulated electric utilities on the use of bidding programs to set avoided costs. This proposed rule sanctions the use of bidding as a procedure for purchasing electricity from QFs.

The Commission believes that bidding will promote the statutory objectives of PURPA by encouraging cogeneration and small power production, energy conservation, efficient use of facilities and resources by electric utilities and equitable rates for electric consumers.

DATES: The Commission is scheduling a public hearing to be held on July 5, 1988, to provide interested persons with an opportunity to make oral presentations of their views. Requests to participate must be filed in writing (separately from comments) with the Secretary on or

before June 14, 1988. An original and 14 copies of written comments on this proposed rule must be filed with the Commission on or before June 14, 1988. Replies to written comments must be filed with the Commission on or before July 14, 1988. Replies to written comments shall not exceed 15 double-spaced pages.

ADDRESS:

Public hearing and comments:

Federal Energy Regulatory Commission,
825 North Capitol Street, NE., Wash-
ington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

General questions:

Martha M. Poindexter, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8428.

Technical questions:

William Longenecker, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 376-4444.

James C. Liles, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8069.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's action in Docket No. RM88-5-000 adopted and released March 16, 1988.

The full text of this Commission action is available for inspection and copying during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426; at the Atlanta Regional Office, 730 Peachtree Street N.E., Room 800, Atlanta, GA 30308; at the Chicago Regional Office, Federal Building, 230 South Dearborn Street, Room 3130, Chicago, IL 60604; at the (cont'd)

reasonable standard for rates for utility purchases from QFs, within the meaning of section 210(b) of PURPA, "be interpreted in a manner which looks to protecting the interests of the electric consumer in receiving electric energy at equitable rates." 46

It is also possible that a bidding procedure will result in prices for QF power that are above administratively determined "full avoided cost." Under these circumstances, bidding would result in more cogeneration and small power production than would otherwise be forthcoming. Thus, by accurately determining the purchasing utility's incremental cost, bidding would foster the statutory purpose of encouraging QFs.

Furthermore, by prioritizing purchases from QFs, bidding will promote equitable rates for consumers and the efficient use of electric resources and facilities. 47 Bidding among QFs is likely to generate savings by improving the incentives for efficient cogeneration and small power production, thereby encouraging production by the most efficient QFs. Bidding will reward the QFs who can produce power more efficiently, and therefore at a lower cost. By ensuring that utilities are purchasing capacity from more efficient and lower cost QFs, bidding will promote the efficient use of electric resources and conservation, that is, the lower cost production of electric energy. Also, by fostering the public dialogue associated with the need for new capacity and accurately defining the costs of such capacity, bidding will encourage the adoption of cost effective conservation.

Finally, a properly implemented bidding procedure would not appear to run afoul of section 210's proscription against discriminatory rates for purchases from QFs. Section 210(b) states "that "[t]he rules prescribed—shall ensure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or qualifying small power production facility, the rates for such purchase—(2) shall not discriminate against qualifying cogenerators or qualifying small power producers." 48 Provided QFs are given an equal opportunity to compete for capacity in a bidding process, QFs are not discriminated against as a class.

No court cases have definitively construed the meaning of discrimination in the context of rates for purchases of power from QFs under section 210, but the most reasonable reading of PURPA precludes discrimination against QFs as a class; it does not require that all QFs be treated the same. The Commission's current rules allow for different rates for QFs. The rules recognize that avoided cost will tend to decline as more QFs enter the market. 49 The Commission's current rules also set the price at full avoided cost, but also provide for negotiated rates that fall below full avoided cost. Certainly, negotiations do not result in the same rate for all QFs. 50 QFs offering different services or different prices are not similarly situated. Thus, differentiation among QFs is not necessarily discriminatory.

Furthermore, a definition of discrimination that would bar any differentiation among QFs would lead to several nonsensical results. For example, the inability to treat QFs differently would prevent utilities and state commissions from allocating capacity payments among QFs whenever more QF capacity is being offered than capacity is needed by the utility. It would also prevent allocation of capacity payments to reflect the characteristics and quality of the power to be supplied by different QFs.

2. Legal Authority to Impose Conditions on the Use of Bidding

Section 210 of PURPA gives the Commission the authority to impose any conditions that are reasonably necessary to ensure that bidding, if employed by states and nonregulated electric utilities, is implemented in a manner consistent with PURPA. The Commission has the authority under section 210 of PURPA to require states and nonregulated electric utilities that voluntarily wish to adopt new (or to continue preexisting) bidding procedures, to implement the Commission's regulations on bidding. The Commission, acting pursuant to PURPA's delegation of rulemaking authority, may direct the states concerning the specifications and conditions for bidding procedures designed to determine a utility's avoided or incremental cost within the meaning of section 210(b) of PURPA. 51 Bidding

March 3, 1995

Re: Curtailment Procedure

Rey Garcia	Mike Hietkamper	Chuck Gallagher
Bud Finley	Doug Garrett	Dave Johnston
Tamara Waldmann	Dick Patterson	
Dick Hall	Jon Douberly	
John Tyler	Frank Witkowski	

Florida Power expects all cogenerators to comply with all levels of the MINIMUM LOAD EMERGENCY CURTAILMENT PLAN, just as we expect our own units to comply with minimum loads, or cycling as the case may be. We recognize however, that due to a specific short term operational reason a FPC unit or a cogenerator connected to the FPC system may not be able to reduce to a minimum load or cycle off until repairs are completed.

During any level of the MINIMUM LOAD EMERGENCY CURTAILMENT PROCEDURE ECC may be notified by a cogenerator that they are unable to comply with a request to reduce load. If you should receive a call from a cogenerator asking not to reduce load during the curtailment period do the following:

1. Note the time, date and the name of the person making the request on the curtailment log. Include the reason why the request is being made and the duration of the request.
2. Request that a written statement of why the unit could not comply with the request be sent to the Florida Power ECC via fax by 1700 the next working day.
3. Refer to the Minimum Load Emergency Curtailment Procedure User's Guide, Chapter 3, Sample sessions 3.2.3 to exclude any cogenerator from the curtailment calculations.

If you are in doubt as to what to do, or say in a particular situation concerning a curtailment issue call Linda Brousseau or Chuck Harper.

Chuck Harper

cc:
H.I. Southwick
L. D. Brousseau