

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Joint Petition for)
Determination of Need for an)
Electrical Power Plant in Volusia)
County by the Utilities Commission,)
City of New Smyrna Beach, Florida,)
and Duke Energy New Smyrna Beach)
Power Company Ltd., L.L.P.)
_____)

DOCKET NO. 981042-EM

October 12, 1998

ORIGINAL

DIRECT TESTIMONY

OF

MICHAEL D. RIB

ON BEHALF OF

FLORIDA POWER CORPORATION

CORRECTED

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FPSC RECORDS/REPORTING

IN RE: JOINT PETITION FOR DETERMINATION OF NEED
FOR AN ELECTRICAL POWER PLANT IN VOLUSIA COUNTY
BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA
BEACH, FLORIDA AND DUKE ENERGY NEW SMYRNA BEACH
POWER COMPANY LTD., L.L.P.
DOCKET NO. 981042-EM

DIRECT TESTIMONY OF MICHAEL D. RIB

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

2 **A** My name is Michael D. Rib, and my address is One Power Plaza, 263 13th Avenue
3 South, St. Petersburg, FL 33701-5511.

4 **Q By whom are you employed and in what position?**

5 **A** I am presently the Director of Resource Planning at Florida Power Corporation (FPC),
6 a regulated investor-owned electric utility.

7 **Q Please describe your duties and responsibilities with FPC.**

8 **A** I am responsible for the development of energy resource plans that combine fuel and
9 generating resource alternatives into cost-effective and flexible plans to serve our
10 customers. I am also responsible for reporting these plans to the agencies in the State,
11 as appropriate under the current regulatory framework. In the course of carrying out
12 my responsibilities, I have become generally familiar with the regulatory framework
13 applicable to planning and siting new generation in Florida.

14 **Q Please summarize your educational background and experience.**

1 **A** I earned a B.S. degree in Mechanical Engineering from the Virginia Polytechnic
2 Institute (VPI & SU) in 1981. I am a member of Pi Tau Sigma, the national honor
3 society for Mechanical Engineering and a registered Professional Engineer in Florida.

4 **Q** **Please summarize your employment history and work experience.**

5 **A** Following several technical internship positions, I joined FPC's staff in 1981. I
6 worked for four years in the Company's New Technology Department working on
7 applied technology development projects. From 1985 through 1993, I worked in the
8 Fossil Production area with varying progressive responsibilities in plant engineering
9 and maintenance as well as environmental management and project construction. In
10 1994, I joined the planning team, with progressive responsibilities leading to my
11 current position.

12 **Q** **Have you previously appeared before regulatory authorities?**

13 **A** I routinely present Company plans and represent the Company's position with the
14 Florida Public Service Commission (the Commission) and the Florida Reliability
15 Coordinating Council (FRCC).

16 **PURPOSE AND SUMMARY OF TESTIMONY**

17 **Q** **What is the purpose of your testimony in this proceeding?**

18 **A** I am testifying on behalf of FPC in opposition to the Joint Petition for a determination
19 of need. My testimony describes the relationship between the statutory planning
20 responsibilities of retail utilities, such as FPC, and the procedures for determining the

1 need for new generation capacity in this State. I also discuss how merchant plants fall
2 outside this process and how their introduction into this process will impair the ability
3 of the Commission and retail utilities to meet their statutory responsibilities. Finally, I
4 explain why the petitioners have failed to demonstrate that the proposed Project is
5 “needed,” as that term is understood in the utility industry in Florida.

6 **Q Please summarize your testimony.**

7 **A** Retail utilities in Florida, like FPC, have the statutory responsibility to plan for new
8 generation capacity through the 10-year site plan process and to engage in related
9 conservation planning under the Florida Energy and Efficiency Conservation Act
10 (FEECA). These planning responsibilities are integrally related to siting new
11 generation capacity under Section 403.519 and the Electric Power Plant Siting Act
12 (the Siting Act) and to the development of demand side management (DSM) and
13 conservation programs under FEECA. In fact, Section 403.519 is a part of FEECA,
14 and the 10-year site plan requirement was adopted as part of the same law that
15 included the Siting Act.

16 Utilities like FPC — which must plan for new generation only on the basis of
17 firm commitments that it can count on — may not rely on Duke’s mere stated
18 intentions to market power in this State when and where it chooses. Neither can the
19 Commission. The future intentions of merchant plant developers like Duke are not
20 foreseeable or enforceable. Allowing merchant plants to intrude themselves into our
21 regulatory system will serve only to create confusion and to impair planning for new
22 generation capacity.

1 The “need” criteria in Section 403.519 are utility specific. Only retail utilities
2 like FPC have a need for generating capacity since only such utilities have a statutory
3 duty to serve customers. A merchant plant does not “need” generating capacity and
4 certainly does not need any particular amount of such capacity. A merchant plant
5 developer needs only profits, and can pursue them in many ways. In essence, Duke’s
6 petition and testimony are based on Duke’s perception that marketing opportunities
7 exist in Florida. But this does not amount to a showing of need in the sense that the
8 term has been used by the industry in this State. Accordingly, the Joint Petition
9 should be denied.

10 **10-YEAR SITE PLAN PROCESS**

11 **Q You have indicated that you are responsible for developing FPC’s plans for**
12 **generation capacity as part of its 10-year site plan. Please describe FPC’s**
13 **responsibilities as a state-regulated utility to assess and plan for adequate**
14 **generating capacity to meet its needs for electric power.**

15 **A**Florida law requires that FPC and other utilities like it submit to the Commission a 10-
16 year site plan estimating the utility’s power-generating needs and the general location
17 of its proposed power plant sites. In recent years, FPC has submitted updated 10-year
18 site plans to the Commission (and formerly the Department of Community Affairs)
19 annually. To carry out this task, FPC must analyze its existing generating capacity
20 and firm power purchase resources and evaluate whether it must secure additional
21 capacity to serve its customers over the planning period.

1 under Section 403.519 are all part of a unitary regulatory framework for determining
2 whether, when, and how state-regulated retail utilities should add generating capacity.
3 While there are exemptions to certain of these statutory requirements (e.g., for plants
4 with smaller steam components), they do not apply here.

5 The related nature of these requirements may be seen from the fact that the
6 site-plan law (Section 186.801) says “All findings by the commission [in its review of
7 a utility’s 10-year site plan] shall be made available to the Department of
8 Environmental Protection for its consideration at any subsequent electrical power
9 plant site certification proceedings.” As far as FEECA is concerned, the need
10 provision, Section 403.519, says the Commission shall consider conservation
11 measures taken by or reasonably available to the applicant.

12 In this context, it is my understanding, in carrying out my responsibilities as a
13 resource planner, that Section 403.519 is the means by which the Commission and
14 state-regulated utilities (with a statutory obligation to serve retail customers in this
15 State) carry out plans that will enable those utilities to discharge their obligations to
16 provide adequate generating capacity to serve their customers, while meeting other
17 regulatory obligations, such as those under FEECA.

18 **Q Has this understanding of the statutory framework entered into your planning**
19 **activities for FPC?**

20 **A** Yes. In planning future capacity needs for FPC, I am able to take into account and
21 rely upon only matters within the control and subject to the regulation of the

1 Commission — in short, what state-regulated utilities have done or are likely to do (as
2 reflected in their 10-year site plans and FEECA programs). Planning for future
3 capacity needs is difficult enough using these assumptions. To complicate matters,
4 generation planning may not be conducted without regard to transmission system
5 constraints. So, we must factor in what we know and may reasonably predict about
6 both generation resources and, with assistance, transmission system constraints, given
7 existing generation resources and disclosed plans for future construction.

8 **Q As part of this planning process, do Florida utilities, like FPC, plan to provide a**
9 **reserve margin to ensure that capacity will exist to cover contingencies?**

10 **A** Yes. FPC plans for a reserve margin above the forecast annual firm load peaks.

11 **Q In developing its 10-year site plan and in calculating its reserve margin, is FPC**
12 **permitted to take into account plans to purchase power that are not based upon**
13 **an agreement that provides for the sale to FPC of firm capacity and energy?**

14 **A** No, FPC may not take the capacity into account at all.

15 **Q Why not?**

16 **A** The energy contributions would be speculative, at best. Neither FPC nor the
17 Commission can count on having capacity available when FPC actually needs it
18 absent a power sales agreement.

1 **Q Absent a power sales agreement providing for the sale to FPC of firm capacity**
2 **and energy, would FPC or the Commission be able to rely upon prospective**
3 **purchases of electrical power from a merchant power plant located anywhere in**
4 **the State?**

5 **A No.** Neither FPC nor the Commission would have any assurance that when FPC
6 actually needed the power, it would be available. For example, in circumstances
7 where Northern or Central Florida may be experiencing unusually cold (or hot)
8 weather, it is possible if not probable that states to the north would be experiencing the
9 same or worse conditions. This might provide market opportunities or even business
10 imperatives for a merchant plant to sell its power outside the State. This past summer,
11 the Mid-West experienced a severe heat wave leading to power shortages and sky-
12 high rates for wholesale power. In such circumstances, neither FPC nor the
13 Commission could expect that a merchant plant located here would agree to market its
14 energy in this State on less favorable terms.

15 Because (1) merchant plants have no statutory duty to serve retail customers in
16 this State, and (2) utilities in this State, by hypothesis, would have no contractual
17 entitlement to firm capacity and energy, there would be no mechanism to force
18 merchant plants to meet the needs of retail utilities in Florida when those needs are
19 most severe. In fact, relying on the availability of merchant plant power may lull
20 utilities and the Commission into a false sense of security.

21 Of course, meeting the needs of utilities during times of shortfall must be
22 distinguished from situations where an abundance of power exists but merchant plants

1 may simply take advantage of market opportunities to displace the output from less
2 modern generating plants in this State. In such circumstances, it is not appropriate to
3 say that the purchasing utilities truly “need” this additional capacity to serve their
4 customers since they could meet their needs without it. In fact, displacement may
5 ultimately lead to the shut down of existing plants, resulting in no net improvement in
6 reliability.

7 As is explained more fully in FPC’s testimony by Mr. Vincent Dolan, under
8 the existing regulatory framework, utilities and the Commission have prudently
9 anticipated that existing plants would enjoy a long, useful life, and they have provided
10 for the recovery of costs for such plants over a corresponding horizon. Switching
11 ~~approaches~~ to a short-term market-driven approach would raise serious planning and
12 regulatory issues that may not be adequately addressed in the context of an ad hoc
13 proceeding for one merchant plant. These issues affect how all retail utilities plan for
14 and build generating capacity in this State, and they involve policy and reliability
15 implications for utility customers.

16 **Q If merchant plants were allowed to site plants under Section 403.519 and the**
17 **Siting Act, would this affect the planning responsibilities of the Commission and**
18 **utilities like FPC?**

19 **A** Yes. This would impair the ability of the Commission and a utility to conduct
20 necessary planning under the Florida regulatory requirements.

1 As I have explained, merchant plants have no statutory duty to serve. Absent
2 power sales agreements for the sale of firm capacity and energy, they have no
3 obligation to sell power in this State whatsoever. This could have a number of serious
4 ramifications for planning by the Commission and state-regulated utilities.

5 To name some of these considerations, merchant plant advocate
6 representatives stated in a Staff workshop that they would resist disclosing
7 development plans for merchant plants due to competitive considerations. This
8 means, of course, that plans for merchant plants may be disclosed routinely only at the
9 eleventh hour, frustrating efforts by retail utilities to anticipate their development, size,
10 location, characteristics, and contracting arrangements.

11 I understand that Duke has now taken the position that it is subject to the 10-
12 year site plan requirement as a "utility" falling within the definition of Section
13 366.02(2). But this definition refers only to utilities that operate a generation "system"
14 within the State of Florida, and, in my opinion, what Duke proposes to build and
15 operate should not be considered a generation "system," but a single power plant like
16 many other investor owned non-utility generators (NUGs) in the State. In any event,
17 to say that this new power plant may be covered by the 10-year site plan process after
18 it is built provides little comfort to planners. Duke did not participate in the 10-year
19 site planning process before it developed its plans, and the Commission and the
20 utilities in this State were at the mercy of Duke's whim about whether, when, or where
21 it would seek to build a plant. In fact, this is the second proposal Duke has advanced
22 in two years, having abandoned the first.

1 Further, Duke's new position gives little or no assurance about whether plans
2 for future plants would be disclosed in a 10-year site plan. If the Commission creates
3 the precedent of granting a "need" for Duke's merchant plant, other merchant plant
4 developers — including other subsidiaries of Duke's parent corporation — could
5 likewise enter the State, agreeing to participate in the 10-year site planning process
6 only after their plants are built. This further frustrates the planning process.

7 Allowing merchant plant developers to site plants under Section 403.519 and
8 the Siting Act would create other problems as well. Even if the Commission
9 determines in a formal proceeding that a merchant plant is somehow "needed," despite
10 the fact that only firm power commitments can satisfy a utility's need, the developer
11 may choose to abandon the project after the need determination for any number of
12 business reasons — thus frustrating planning expectations and wasting Commission
13 and utility planning resources — or the developer may choose to commit the plant's
14 output to out-of-state utilities and/or operate at partial capacity for extended periods of
15 time.

16 **Q If we assume that a "need" does exist for additional capacity, have Petitioners**
17 **provided assurances in their testimony and exhibits that Duke's Project would**
18 **meet any such need?**

19 **A** No, they have not. To the contrary, in its contract documents, Duke takes away with
20 one hand what it purports to be giving with the other.

1 First, it is significant that the Petitioners have not yet entered into a power
2 purchase agreement. They have submitted with their papers a “Participation
3 Agreement.” See RLV-1. The Participation Agreement contemplates that Duke may
4 build a 240 MW power plant, not a 540 MW power plant as the Joint Petition states,
5 and that Duke will provide an “entitlement” to the Utilities Commission, City of New
6 Smyrna Beach (UCNSB) of 20 MW — not the 30 MW set forth in the Joint Petition
7 — out of the 240 MW capacity. Duke retains as “Additional Development Rights”
8 (see Sec. 6.0) the right to build in excess of 240 MW and then to provide some
9 apportioned amount of an additional entitlement of 10 MW to UCNSB.

10 This entitlement is qualified by Duke’s determination of what is in its own
11 business interests. Under Section 1.1 of the Participation Agreement, Duke promises
12 to afford the entitlement only for “the period during which the Facility . . . is
13 technically capable . . . of producing electric energy at a cost that results in a
14 reasonable profit and cash flow to the owner of the Facility when such energy is sold.”
15 (Emphasis added). Under Section 1.2, the entitlement is further restricted to such
16 “hours during which the Facility is available.”

17 The Participation Agreement contains other qualifications and restrictions on
18 the availability of power from the proposed Project. For example, under Section 3.4,
19 Duke reserves the right to abandon the Project based on its assessments of its business
20 interests. Specifically, its obligation to construct the facility is subject to, among other
21 things, “no circumstance or event existing or having occurred that has had or could

1 reasonably be expected to have a material adverse effect on the feasibility, prospects
2 or business of the Facility.” (Emphasis added).

3 Significantly, nothing in the Participation Agreement provides any assurances
4 whatsoever that Duke would sell power from the merchant component of the Project at
5 any time or on any terms to any utility in this State. Although Petitioners’ testimony
6 suggests that Duke’s current intention is to sell power from the merchant plant in the
7 State of Florida, it provides no guarantees, and Duke nowhere represent that it has
8 even a single firm contract to sell power to any Florida utility. The only assurance that
9 Duke provides in this regard is its unenforceable, current business intentions.

10 **Q As a planner, when you are attempting to assess whether generating capacity is**
11 **needed for purposes of recommending that FPC request a determination of need**
12 **under Section 403.519, is it appropriate to consider merchant plant development**
13 **plans?**

14 **A** Under the current statutory and regulatory framework, the answer is no. To
15 understand this from a planner’s point of view, it is important again to keep in mind
16 that Section 403.519 and the Siting Act do not exist in a vacuum. They are an integral
17 part of the regulatory tools in this State for accomplishing the primary statutory
18 purpose of ensuring adequate electricity at reasonable cost. In this State, this purpose
19 is accomplished by the Commission, as regulatory agency, and by the retail utilities, as
20 the regulated entities.

1 From a planning point of view, the question whether generating capacity is
2 “needed,” must be asked and answered in this context. In our regulatory system, only
3 state-regulated utilities serve retail customers. Therefore only state-regulated retail
4 utilities can possibly have a “need” for generating capacity for the purpose of
5 providing adequate electricity at a reasonable cost to the consumers of this State. For
6 this reason, it is meaningless for a utility planner or the Commission to say that a
7 merchant plant is “needed” unless it is needed by a particular utility.

8 For the same reasons, it makes no sense from the point of view of utility or
9 Commission planning or siting to say that a merchant plant itself is ever “needed,”
10 when one takes into account what a merchant plant is. By definition, it has no
11 obligation to sell its power to any utility in this State. Therefore, even if a particular
12 utility or a collection of utilities may need generating capacity, they certainly do not
13 need another power plant facility that has not committed its capacity to the retail
14 utilities in this State. (Even the merchant plant developer does not “need” its own
15 project; any given project represents only a speculative business venture that may or
16 may not generate profits for the developer. In truth and in fact, nobody “needs” a
17 merchant plant.)

18 If the Commission were to permit Duke to build its merchant plant based on
19 Duke’s stated intention to sell power in this State on a merchant basis, FPC and other
20 utilities would have to reconcile this with their current obligation not to rely on non-
21 firm power in their capacity assessments. There is no viable way to do this under the

1 current regulatory framework. FPC cannot rely on the availability of Duke's proposed
2 generating capacity in any way. Neither can the Commission.

3 **Q You have described how "need" as used in Section 403.519 and in related**
4 **planning activities is a utility-specific concept. Are there other respects in which**
5 **"need" from the point of view of planning and siting must be utility-specific,**
6 **referring to state-regulated retail utilities?**

7 **A** Certainly. The first criterion in Section 403.519 concerns the need for "electric system
8 reliability and integrity." It is a truism that the Commission oversees system
9 reliability and integrity under the Grid Bill through its authority to regulate the
10 activities of utilities such as FPC. It makes no sense to talk about "reliability" in the
11 context, for example, of a merchant plant that cannot be directed to sell its output in
12 this State.

13 The next criterion is the "need for adequate electricity at a reasonable cost."
14 Again, it makes no sense from a planning or regulatory point of view to discuss the
15 "need" for something neither the Commission nor a utility (with the duty to serve
16 customers) can count on and, again, only a retail utility can possibly have a "need" for
17 capacity, since only such utilities serve the people in this state. Similarly, it makes no
18 sense from a planning or regulatory point of view to talk about ensuring "reasonable
19 cost" in the context of entities that do not charge retail customers for power.

20 The next criterion is "whether the proposed plant is the most cost-effective
21 alternative available." This simply may not be addressed without asking, "alternative"

1 to what? From the perspective of a merchant plant developer, the developer is
2 considering alternative ways to make money. From the perspective of a state-
3 regulated retail utility, the utility is considering alternative means to ensure sufficient
4 generating capacity to meet its statutory obligation to serve its customers. For
5 planning and regulatory purposes, the statutory criterion applies to decisions made by
6 utilities with the obligation to serve and not to consideration of alternative
7 opportunistic ventures.

8 The next criterion is that the “commission shall also expressly consider the
9 conservation measures taken by or reasonably available to the applicant or its
10 members.” The petitioners concede that Duke New Smyrna does not take
11 conservation measures required of state-regulated utilities under FEECA.
12 Accordingly, this criterion — like all the others — must be applied for planning and
13 regulatory purposes as a retail utility-specific criterion.

14 **PETITIONERS’ FAILURE TO SHOW NEED**

15 **Q Have the Petitioners demonstrated that these “need” criteria are satisfied as they**
16 **are used in the statute?**

17 **A** No. They have not and cannot, given the fact that the “need” criteria of the statute are
18 utility-specific criteria. Petitioners have attempted to establish need through the
19 testimony of Dr. Dale M. Nesbitt basically by redefining “need” and turning the
20 statutory criteria upside down.

1 Dr. Nesbitt is blunt in stating at the beginning of his testimony that “I have not
2 approached the question of ‘need’ simplistically by measuring peak Florida demand
3 (expressed in GW); adding up available installed capacity (expressed in GW), and
4 comparing the two using some criterion such as reserve margin or loss-of-load
5 probability.” Nesbitt Direct, p. 14. He says that this approach “misses the
6 fundamental reality that some of the old installed capacity in Florida is higher in cost
7 than the new capacity could be installed for.” *Id.* He says that “[i]n installing new
8 capacity will eliminate old, uneconomic capacity, obviate the requirement to preserve
9 and/or run it, and reduce the intrinsic cost to generate electricity in Florida.” *Id.* pp.
10 14-15. He then proceeds to demonstrate that “the Project will be inframarginal
11 relative to virtually all of the existing oil and gas power plants in Florida and will
12 operate in preference to them.” *Id.* p. 22 (emphasis added).

13 Thus, Dr. Nesbitt is frank in acknowledging that the Project is not needed to
14 meet any perceived or actual shortfall in capacity in relation to projected load. To put
15 this another way, the Project is not needed to enable any retail utility in Florida to
16 serve its customers. What he is contending is that there is a market opportunity in this
17 State for merchant plant developers like Duke to build modern, more efficient plants
18 that will displace existing generating capacity.

19 Whether or not this is a good idea, it does not address the criteria of Section
20 403.519. To begin with, as I have explained, the statutory criteria are utility-specific.
21 Petitioners do not even attempt to make a utility-specific showing for the merchant
22 plant component of the Project. Further, Petitioners do not even attempt to show a

1 need for additional capacity by looking at the need of any particular group of retail
2 utilities and demonstrating a shortfall in capacity in relation to projected load. Rather,
3 they start with a showing that Duke can produce energy more cheaply with its Project
4 than some existing plants and reason from this premise that the plant is “needed.”

5 This could be viewed as an unabashed argument in favor of an un-checked
6 proliferation of new power plants in this State, and for a regime that contemplates
7 waves of new construction every several years when entrepreneurs — or state utilities
8 — perceive that new technology creates market opportunities. This is confirmed by
9 the direct testimony of Martha O. Hesse, who anticipates the introduction in this State
10 of a “fleet of gas-fired combined cycle plants.” Hesse Direct, p. 19.

11 Of course, the construction of any new plant will have an environmental
12 impact. For this reason, the Siting Act contemplates that none (over a certain size)
13 will be built unless the Commission first determines that the impact is worth it, i.e.,
14 that the generating capacity is really “needed.” Like it or not, this is a very deliberate,
15 regulatory approach to plant construction, not a market-driven free-for-all. Petitioners
16 are seeking to circumvent this regulatory approach and have this Commission permit a
17 virtually unrestrained market approach to the issue. Indeed, Dr. Nesbitt relies on
18 models and analyses that assume market deregulation. See, e.g., DMN-15, p. 13
19 (demonstrating “the way the world will work” “after deregulation”).

20 As explained more fully in FPC’s testimony by Mr. Dolan, Petitioners’ request
21 raises serious policy issues that cannot be adequately addressed in this proceeding and

1 that, in fact, require legislative amendments to Section 403.519. In this same vein,

2 Ms. Hesse admits:

3 Economic efficiency would be served [by merchant plants] as long as the
4 standard assumptions of competitive markets were met. The chief of these in
5 this case is that externalities must be appropriately valued and incorporated
6 into the price of electricity. Whether that would be the case with a fleet of gas-
7 fired combined cycle plants would be an empirical exercise beyond the scope
8 of this testimony

9 Hesse Direct, p. 19 (Emphasis added). The point I wish to make is that whether or
10 not the Florida Legislature would be receptive to Petitioners' arguments after
11 appropriate hearings, Petitioners' testimony does not prove the existence of "need"
12 under Section 403.519.

13 **UNECONOMIC DUPLICATION OF RESOURCES**

14 **Q Assuming it had the power to do so, if the Commission allowed merchant plants**
15 **to be built in this State without power purchase agreements with state-regulated**
16 **utilities for firm capacity and energy sales, would this lead to the uneconomic**
17 **duplication of generation and transmission facilities?**

18 **A Yes, this would occur. At the recent Staff workshop on merchant plant issues,**
19 **representatives of various merchant plant developers stated that there was a wide-**
20 **spread perception that Florida provided significant economic opportunities for**
21 **merchant plant development due to its demographic and geographic characteristics. I**
22 **am aware that such a perception exists, and it is borne out by Petitioners' own**
23 **testimony in this case, as discussed above. Currently available planning information,**
24 **however, demonstrates that the retail utilities have plans in place to meet their needs in**

1 their respective service territories over the appropriate planning horizon — without
2 relying on merchant plants — accounting together for all the retail customers in
3 Florida.

4 Although Dr. Nesbitt contends that Florida utilities are currently planning to
5 meet only half of a projected load of 6000 MW, he does not clearly indicate the
6 timeframe over which he is projecting this load, and he appears to be relying on the
7 utilities' 1997 plans. Specifically, he states:

8 The Altos North American Regional Electricity Model projects economically
9 viable and profitable new additions of up to 6,000 MW of new gas-fired
10 combined cycle ("CC") power plants in Peninsular Florida, which I use
11 synonymously with the Florida Reliability Coordinating Council ("FRCC")
12 region, and several tens of thousands of MW of new gas CC entry elsewhere
13 throughout North America. Our predicted substantial quantity of new installed
14 capacity in Peninsular Florida — 6,000 MW — is approximately twice the
15 quantity of new capacity that FRCC itself reported to NERC in FRCC's 1997
16 OE411 Annual Report.

17 Nesbitt Direct, p. 14. FRCC's 1997 10-year Plan, State of Florida, projected installed
18 capacity additions of 3,958 MW for winter, and 3,692 MW for summer. By contrast,
19 FRCC's 1998 Regional Load and Resource Plan projected installed capacity additions
20 of 8,039 MW for winter and 7,611 MW for summer. The plans prepared this year
21 demonstrate that Florida utilities are planning to add significant capacity beyond that
22 projected in 1997. Accordingly, Dr. Nesbitt is mistaken in his discussion of aggregate
23 statewide capacity and is potentially way off the mark on the economic viability of
24 merchant combined-cycle plants in light of the planned generation additions proposed
25 by the regulated electric utilities in Florida. Of course, each utility must assure that it

1 has adequate capacity to meet its own needs, and FPC is doing just that without
2 reliance on merchant plants.

3 Thus, merchant plant developers will not be supplying power to meet any
4 actual shortfall that the utilities may be experiencing. As Ms. Hesse and Dr. Nesbitt
5 essentially concede, if merchant plants sell their power in this State at all, it will be to
6 utilities that already have sufficient capacity to serve their customers. The net result of
7 this is that merchant plants would simply be taking advantage of newer facilities to
8 undercut production costs from existing facilities that state-regulated utilities
9 constructed — under the auspices of the Commission — pursuant to their statutory
10 obligations in Florida, resulting in economic waste. The statutory and regulatory
11 framework in this State, however, is not oriented toward encouraging a proliferation of
12 opportunistic short-term projects in Florida that are not needed to enable state-
13 regulated utilities to serve their customers. Whether or not this may make sense in the
14 context of a regulatory framework that allows it and adequately ameliorates its
15 negative impacts, it is my understanding that such a framework does not exist in
16 Florida at this time.

17 **Q If the Commission has a concern about whether retail utilities are taking**
18 **sufficient steps to provide for adequate generating capacity to serve the**
19 **customers of this State, what recourse does it have?**

20 **A** To begin with, under the 10-year site plan process, the Commission may and does
21 interact directly with the utilities to ensure that it is satisfied about the planning of new

1 generating capacity and the status of utility reserve margins. If the Commission has
2 concerns about utility planning, FPC has stood ready and continues to stand ready to
3 address these concerns through the site-plan process, as outlined in the statutes, and
4 through the efforts of the FRCC, Florida's designated region of the National
5 Electricity Reliability Council (NERC), the organization responsible for overseeing
6 system reliability in North America.

7 Further, under Section 366.05, if the Commission determines that inadequacies
8 exist with respect to the energy grids developed by state-regulated utilities, the
9 Commission shall have the power, "after a finding that mutual benefits will accrue to
10 the electric utilities involved, to require installation or repair of necessary facilities,
11 including generating plants . . . with the costs to be distributed in proportion to the
12 benefits received" This provision goes on to direct that the "electric utilities
13 involved in any action taken . . . pursuant to this subsection shall have full power and
14 authority . . . to jointly plan, finance, build, operate, or lease generating . . . facilities,"
15 using, if applicable, the provisions of Section 403.519 and the Siting Act.

16 CONCLUSION

17 **Q Does this conclude your direct testimony?**

18 **A** Yes, it does.

19
20
21