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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the matter of: : DOCKET NO. 981042-EM

:
: 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. :

VOLUME 3

Pages 355 through 523

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN JULIA L. JOHNSON
COMMISSIONER J. TERRY DEASON
COMMISSIONER SUSAN F. CLARK
COMMISSIONER JOE GARCIA
COMMISSIONER E. LEON JACOBS, JR.

DATE: Thursday, December 3, 1998

TIME: Recommended at 9:05 a.m.

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

REPORTED BY: MARY ALLEN NEEL, RPR

BUREAU OF REPORTING

RECEIVED 12-14-98

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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APPEARANCES: As heretofore stated.

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P R O C E E D I N G S

(Hearing reconvened at 9:05 a.m.)

(Transcript continues in sequence from
Volume 2.)

CHAIRMAN JOHNSON: We'll go back on the record. When we left last night, we were entertaining motions to strike. I understand that the parties had the opportunity to go over the testimony and meet and that they've reached some agreement on the issues.

MR. LAVIA: Yes, Madam Chair, we have reached agreement. What the parties would propose is that Florida Power & Light and Florida Power Corporation prepare amended testimony --

CHAIRMAN JOHNSON: I'm sorry. For the benefit of the court reporter, do they need to state their names? Are you following? Do they need to enter --

MR. LAVIA: I entered an appearance yesterday with Schef.

MR. MOYLE: John Moyle, from the Moyle Flannigan law firm, here on behalf of U.S. Generating. Rob Sniffen was here yesterday.

CHAIRMAN JOHNSON: And just for the benefit of the court reporter, you need to state your name before you --

1 MR. LAVIA: My name is John LaVia,
2 L-a-V-i-a.

3 CHAIRMAN JOHNSON: And you represent?

4 MR. LAVIA: I represent the Duke New Smyrna
5 and the Utilities Commission of New Smyrna Beach.

6 CHAIRMAN JOHNSON: Thank you.

7 MR. LAVIA: Sorry about that.

8 CHAIRMAN JOHNSON: That's fine.

9 MR. LAVIA: So the agreement that we've
10 reached is that Florida Power & Light and Florida
11 Power Corporation will prepare amended testimony and
12 allow us to review it just to check for accuracy,
13 because we've scribbled all this out, and we'll file
14 it at the earliest convenient -- at the earliest time
15 possible, possibly tomorrow.

16 CHAIRMAN JOHNSON: So you're going to
17 withdraw your motion to strike?

18 MR. LAVIA: I will withdraw the motion to
19 strike.

20 CHAIRMAN JOHNSON: And to the extent that
21 they have prefiled and you have similar motions, we
22 can entertain those at that time.

23 MR. LAVIA: I don't believe there will be
24 any additional motions.

25 CHAIRMAN JOHNSON: Okay.

1 MR. BUTLER: John Butler on behalf of
2 Florida Power & Light Company. I concur that that's
3 what we've agreed to do, and I expect to be able to
4 get a revised version of Mr. Steinmeier's prefiled
5 testimony by tomorrow morning to provide to the
6 Commission.

7 CHAIRMAN JOHNSON: Thank you. Mr. Sasso?

8 MR. SASSO: Yes. Likewise, we have reached
9 agreement with opposing counsel, and we'll make an
10 effort today to try to get our prefiled testimony
11 revised also and hopefully be able to file it
12 tomorrow. Thank you.

13 COMMISSIONER CLARK: You don't anticipate
14 we'll get to your witness today?

15 MR. SASSO: We may, but -- I suppose that
16 we could proceed in that event with the testimony
17 currently prepared for purposes of cross examination,
18 and it just will not be submitted to the Commission
19 for consideration until it's revised.

20 COMMISSIONER CLARK: I meant your witness.

21 MR. SASSO: Yes.

22 CHAIRMAN JOHNSON: Any other preliminary
23 matters?

24 MS. PAUGH: Yes, Madam Chairman. We have
25 an outstanding motion for protective order from Tampa

1 Electric Company regarding depositions proposed to be
2 taken by Duke New Smyrna. The time for discovery has
3 come and gone. It's arguable that that motion is
4 moot, but I needed to bring that to the Commission's
5 attention.

6 MR. WRIGHT: Madam Chairman, upon the
7 issuance of the other protective order by the
8 Prehearing Officer, we verbally withdrew our request
9 and communicated that with Staff and with Mr. Beasley,
10 and will do it on the record at this time.

11 Frankly, in the press of getting ready for
12 the hearing, we didn't have time to file a formal
13 written notice of withdrawal of the notice of
14 deposition.

15 CHAIRMAN JOHNSON: Okay.

16 MR. BEASLEY: We will withdraw our motion,
17 so that would put that to rest.

18 CHAIRMAN JOHNSON: Thank you. Any other
19 preliminary matters?

20 MS. PAUGH: Yes, Madam Chairman. We have a
21 request from Florida Power Corporation for official
22 notice. I don't know if you want to take that at this
23 time or if that should be taken during the testimony.
24 I'll leave that to Power Corp.

25 CHAIRMAN JOHNSON: I'm sorry. We have

1 what?

2 MS. PAUGH: A request for official notice,
3 or judicial notice I believe is how the pleading is
4 titled, regarding documents that related to
5 yesterday's oral argument.

6 CHAIRMAN JOHNSON: Do we have that? Do we
7 have copies of that?

8 MR. SASSO: Yes, ma'am. We filed that
9 before the commencement of the hearing.

10 CHAIRMAN JOHNSON: Today?

11 MR. SASSO: No, it was Tuesday morning, I
12 believe, that it would have been filed with the
13 Commission, with a notice of filing. And out of an
14 abundance of caution, we also filed a request to take
15 official notice. We're not certain that that's
16 necessary. But we did it, as I say, in an abundance
17 of caution.

18 The materials included in the notice of
19 filing include the Laws of Florida, Chapter 73-33,
20 which is essentially the '73 Power Plant Siting Act
21 and the ten-year site plan law, the Staff analysis for
22 the 1980 legislation, the Transmission Line Siting
23 Act, the legislative history for the 1990 amendments.
24 And then we also filed the Public Utilities Commission
25 decision in Empire Power Company, the North Carolina

1 case that I mentioned, and the decision of the North
2 Carolina Court of Appeals in that case, a 1993
3 decision, and Duke's brief to the North Carolina Court
4 of Appeals in that case.

5 CHAIRMAN JOHNSON: Was there any objection
6 to us taking official recognition of the information
7 stated by Mr. Sasso?

8 Seeing none, the Commission will take
9 official recognition of these documents.

10 Would you like for us to identify them and
11 mark them, or is that sufficient?

12 MR. SASSO: Well --

13 CHAIRMAN JOHNSON: It's fine that we just
14 take official recognition.

15 MR. SASSO: Yes, that's acceptable to us,
16 as long as they're in the record and that's clear.

17 CHAIRMAN JOHNSON: You know what? In an
18 abundance of caution, and just to have a clear record
19 and make it even easier to follow, I'm going to
20 identify these as an exhibit and mark them and just
21 have them in the record.

22 MR. SASSO: Very well.

23 CHAIRMAN JOHNSON: So I'll identify that as
24 Exhibit 1, and the title will be Florida Power Corp's
25 Request for Judicial Notice, and I'll show that

1 admitted without objection.

2 MR. SASSO: Thank you.

3 (Exhibit 1 was marked for identification
4 and received in evidence.)

5 MR. GUYTON: Commissioner, while we're
6 trying to get some housekeeping matters out of the
7 way, Florida Power & Light Company submitted requests
8 for admission to the joint petitioners in this
9 proceeding which have been admitted by the joint
10 petitioners.

11 I'm sorry.

12 CHAIRMAN JOHNSON: No, I'm sorry. What
13 were you saying?

14 MR. GUYTON: Florida Power & Light Company
15 has submitted requests for admission to the joint
16 petitioners in this proceeding, and some of those
17 admissions have been admitted. And we would like to
18 go ahead and identify those admissions as an exhibit
19 and get them included in the record, as well as the
20 documents that have been admitted.

21 CHAIRMAN JOHNSON: Okay. Should we have
22 those, or are you passing them out now?

23 MR. GUYTON: We're passing them out now.

24 The first document is the request for
25 admissions themselves. The second document -- which I

1 guess I should ask that that be identified as an
2 exhibit.

3 CHAIRMAN JOHNSON: The first document?

4 MR. GUYTON: The request for admissions.

5 CHAIRMAN JOHNSON: I'll identify that as
6 Exhibit 2.

7 (Exhibit 2 was marked for identification.)

8 MR. GUYTON: The second document is a
9 document that was admitted as to its authenticity in
10 this request for admissions. It's the FRCC 1998 Load
11 and Resource Plan. We're going to hand that out and
12 ask that that be identified.

13 CHAIRMAN JOHNSON: The 1998 Regional Load
14 and Resource Plan, July 1998, will be identified as
15 Exhibit 3.

16 (Exhibit 3 was marked for identification.)

17 MR. SASSO: Madam Chair, that was 3?

18 CHAIRMAN JOHNSON: Yes, that was 3.

19 MR. GUYTON: Madam Chairman, the third
20 document that we would like to hand out is the FRCC's
21 1998 Reliability Assessment, which is also another
22 document that has been admitted by the joint
23 petitioners in this case in response to our request to
24 admit.

25 MR. WRIGHT: As to its authenticity.

1 CHAIRMAN JOHNSON: We will identify that as
2 4, the 1998 Reliability Assessment.

3 (Exhibit 4 was marked for identification.)

4 MR. GUYTON: Commissioners, while we're
5 handling matters of this manner, I have certified
6 copies of the document that I handed out in my oral
7 argument handout yesterday, the petition of ARC/CSW
8 for a determination of need before this Commission. I
9 would like to go ahead and have that identified as an
10 exhibit as well. These are certified copies from the
11 Commission's records.

12 CHAIRMAN JOHNSON: That will be identified
13 as Exhibit 5, Petition for Determination of Need,
14 Docket 920761-EQ.

15 (Exhibit 5 was marked for identification)

16 CHAIRMAN JOHNSON: Anything else,
17 Mr. Guyton?

18 MR. GUYTON: No, Commissioner. I need to
19 get a couple of these to the court reporter.

20 CHAIRMAN JOHNSON: Okay.

21 MS. PAUGH: Madam Chairman, Staff has a
22 request for official recognition. The documents that
23 we request official recognition of are listed in a
24 document that we've given an exhibit cover page, and
25 we would request that that be marked as an exhibit and

1 entered into the record if the parties have no
2 objections to what is included therein. The parties
3 were given this list yesterday.

4 CHAIRMAN JOHNSON: We'll mark that as
5 Exhibit 6, Documents for Official Recognition
6 Requested by Staff of FPSC. And I'll go ahead and
7 admit this one now, seeing no objection.

8 (Exhibit 6 was marked for identification
9 and received in evidence.)

10 MR. GUYTON: Florida Power & Light would
11 move the admission of Exhibits 2, 3, 4, and 5.

12 CHAIRMAN JOHNSON: Show those admitted,
13 seeing no objection.

14 (Exhibits 2, 3, 4, and 5 were received in
15 evidence.)

16 MR. SASSO: Just to be clear, has Exhibit 1
17 also been admitted?

18 CHAIRMAN JOHNSON: Yes, I admitted that one
19 earlier on.

20 Anything else? Are we then prepared to
21 swear in the witnesses or -- I'm sorry.

22 MS. PAUGH: We're close. I would now like
23 to request of the parties if there are any corrections
24 to the Prehearing Order. I would advise the parties
25 that Tampa Electric Company has let me know that there

1 is a misstatement of their position on Issues 17 and
2 11, and those corrections will be made to the
3 Prehearing Order. But in case there are any other
4 corrections to it, I think now would be a good time to
5 take those.

6 CHAIRMAN JOHNSON: Okay. We'll go in order
7 then.

8 MR. GUYTON: Madam Chair, on page 10 of the
9 Prehearing Order, Mr. Steinmeier is listed as to
10 certain issues that he is a witness. Issue 2 should
11 be removed, and Issue 23 should be added.

12 CHAIRMAN JOHNSON: Anything else,
13 Mr. Guyton?

14 MR. GUYTON: Not that I have found yet.
15 Thank you.

16 CHAIRMAN JOHNSON: Any other parties?

17 MS. HERSHEL: On page 34, Issue 21, FECA's
18 position should say, "No position at this time."

19 MS. PAUGH: Madam Chairman --

20 CHAIRMAN JOHNSON: Where was that? I'm
21 sorry. I didn't --

22 MS. HERSHEL: Page 34, Issue 21. FECA's
23 position says "no" right now. It should say, "No
24 position at this time."

25 CHAIRMAN JOHNSON: Okay.

1 MS. PAUGH: Madam Chairman, with respect to
2 the "no position at this time" versus "no," we made
3 the changes before the Prehearing Order was issued
4 because of the waiver of taking a position if it isn't
5 taken by the time of prehearing, or in this instance,
6 somewhat after prehearing. So I would recommend
7 against making that position "no position at this
8 time." It needs to be "yes," "no," or something.

9 CHAIRMAN JOHNSON: Any response?

10 MS. HERSHEL: We have taken -- our position
11 has been "no position at this time" on several of the
12 other issues. I'm not quite certain why we can't have
13 it on this issue.

14 MS. PAUGH: Those should all have been
15 removed and changed to "no."

16 CHAIRMAN JOHNSON: Is that what we
17 traditionally do at this date? I'm trying to recall.

18 MS. PAUGH: We can take "no position" if
19 that position is pending review of evidence adduced at
20 trial. But beyond that, we need to -- the parties and
21 Staff needs to take a position or not by the time of
22 the prehearing, or again, in this case, shortly after
23 the prehearing. Several days were allowed in
24 addition.

25 CHAIRMAN JOHNSON: Or at a minimum, maybe

1 she -- you might want to say "no position," because it
2 says just "no"; right?

3 MS. HERSHEL: I could change it to "yes" at
4 this time, and that will be fine.

5 CHAIRMAN JOHNSON: I'm sorry.

6 MS. HERSHEL: I could change it to "yes" at
7 this time if you can't accept the "no position."

8 CHAIRMAN JOHNSON: I mean, we have other
9 "no positions." We have LEAF with no -- it just
10 doesn't say "at this time." I mean, I'm looking at
11 this. LEAF is "no position." U.S. Gen is "no
12 position."

13 MS. HERSHEL: Just "no position"?

14 MR. MOYLE: We also said at this time, the
15 same way they did.

16 COMMISSIONER CLARK: Well, I think the
17 point Staff is trying to make is that at this point
18 you've lost your opportunity to take a position on it
19 other than what would be taken by other parties.

20 MR. MOYLE: I had understood previously you
21 all had done it different ways, and sometimes you had
22 allowed people to take a position at a later point in
23 time as compared to altering it prior to the hearing.
24 That's why we did that. If there's something that
25 came out that we wanted to in post-hearing filings

1 provide you some information or a position, we wanted
2 to preserve the right to do that. And I assume that's
3 the same reason LEAF and the other party did as well.

4 COMMISSIONER CLARK: I think it's okay to
5 have no position, but to infer that you would have the
6 opportunity to take a different position at a
7 different time is -- I don't think you have that
8 opportunity.

9 MS. PAUGH: The Prehearing Order is very
10 clear on that count. Parties must take a position by
11 the time of prehearing, and no exceptions were made in
12 this proceeding.

13 I'm sorry. Not the Prehearing Order. It
14 was the Order Establishing Procedure.

15 CHAIRMAN JOHNSON: But at this time, if
16 they would like to say "yes," is that allowable?

17 MS. PAUGH: I don't think so. They have
18 waived their ability to take a position. And upon
19 reflection, Commissioner Clark is correct. A party
20 can take no position. That means they're not
21 responding to a position. They can't take a later
22 different position. So she is correct. I apologize
23 for my misstatement. Where a position said "at this
24 time," that language was taken out and left as "no
25 position." So those parties in those positions have

1 waived their ability to take a position.

2 CHAIRMAN JOHNSON: Okay. Could you cite me
3 in the Prehearing Order?

4 MS. PAUGH: I'm sorry?

5 CHAIRMAN JOHNSON: Could you cite me the
6 provision in the Prehearing Order that states -- and
7 I'm understanding from the parties at least that they
8 were confused, so I'm trying to -- before ruling on
9 whether or not the position can be stated as "yes," I
10 want to make sure that the language was clear and
11 where that's stated in the Prehearing Order.

12 MS. PAUGH: I don't think that we can do
13 that. I don't think a party can change a position at
14 this point.

15 CHAIRMAN JOHNSON: No, no. I want to see
16 in the order where we tell them that.

17 MR. MOYLE: The order on procedure is what
18 she's referring to.

19 MS. PAUGH: The order on procedure does
20 mention that. I'll find it for you.

21 CHAIRMAN JOHNSON: Oh, I thought you had
22 that.

23 MS. PAUGH: On page 5 of the Order
24 Establishing Procedure, it states, "Any issue not
25 raised by a party prior to the issuance of the

1 Prehearing Order shall be waived by that party except
2 for good cause shown. A party seeking to raise a new
3 issue after the issuance of the Prehearing Order shall
4 demonstrate that it was unable to identify the issue
5 because of the complexity of the matter, discovery or
6 other prehearing procedures were not adequate to fully
7 develop the issue, due diligence was exercised to
8 obtain facts touching on the issue, information
9 obtained subsequent to the issuance of the Prehearing
10 Order was not previously available to enable the party
11 to identify the issue, and introduction of the issue
12 could not be to the prejudice or surprise of any
13 party."

14 CHAIRMAN JOHNSON: I'm going to allow FECA
15 to state their position as "yes." I understand that
16 there might have been some confusion. They aren't
17 trying to add an additional issue, and they aren't
18 adding any additional explanation to that "yes"
19 answer. But I'm going to allow that particular
20 change.

21 The others, one point of clarification that
22 we can make is, if they said, "No position at this
23 time," if they want to change that to "no position,"
24 that's fine, just to make sure that whatever their
25 position is is clearly reflected in this document.

1 But I do understand that it is a policy of
2 this Commission that you cannot later develop your
3 position after you've heard and taken all the
4 testimony. So we aren't going to allow you to have
5 kind of a pending "we don't have a position at this
6 time." But let the record reflect that FECA's
7 position is "yes."

8 And we'll get to yours, Mr. Moyle.

9 Anything from Florida Power Corp.?

10 MR. SASSO: No.

11 MR. BEASLEY: Ms. Paugh has already covered
12 our corrections to the two points.

13 CHAIRMAN JOHNSON: Okay. Mr. Moyle?

14 MR. MOYLE: Obviously, we're okay with your
15 pronouncement as to the way you want that handled.
16 We'll just have the "no position."

17 CHAIRMAN JOHNSON: Okay. No corrections?

18 MR. WRIGHT: There's one typo in our
19 appearances. The last should be UCNSB.

20 CHAIRMAN JOHNSON: Okay. Staff, anything
21 else?

22 MR. MOYLE: Madam Chair?

23 CHAIRMAN JOHNSON: Yes, Mr. Moyle?

24 MR. MOYLE: I'm sorry. Just on an
25 appearance, if I could be included on the appearance,

1 that would be helpful as well.

2 CHAIRMAN JOHNSON: Oh, okay.

3 MR. LAVIA: Did you have someone --

4 MR. MOYLE: Rob Sniffen of our firm is also
5 handling this, but I see most of the other parties
6 have two lawyers, and if I could be included, I would
7 appreciate it.

8 MS. PAUGH: I'm sorry, Mr. Moyle. Are you
9 adding an appearance of yourself to the appearances?
10 I couldn't hear you.

11 MR. MOYLE: Yes.

12 MS. PAUGH: Okay. That change will be
13 made.

14 CHAIRMAN JOHNSON: Anything else, Staff?

15 MS. PAUGH: Not with the Prehearing Order.
16 I suggest that we go ahead and swear witnesses and
17 take public comment thereafter if there's anyone here
18 to comment.

19 CHAIRMAN JOHNSON: At this time, could all
20 the witnesses stand. And if there's anyone in the
21 audience that would like to provide public testimony,
22 if you could stand at this time. I'm going to swear
23 everyone in at this time, if you could raise your
24 right hands.

25 (Witnesses collectively sworn.)

1 CHAIRMAN JOHNSON: Thank you. You may all
2 be seated.

3 Are there members of the public that would
4 like to come forward and make presentations before the
5 Commission today?

6 Let the record reflect that there were no
7 public members to provide any public testimony to the
8 Commissioners. And with that, I think we can go to
9 the witnesses.

10 MS. PAUGH: That's correct, Madam Chairman.
11 Mr. Ronald L. Vaden is listed as the first witness.

12 CHAIRMAN JOHNSON: And as he's coming
13 forward, there was one other preliminary matter. Will
14 we need to take a witness out of order?

15 MR. WRIGHT: Yes, ma'am. I conferred with
16 at least all parties at the table and confirmed that
17 they and the Staff have no objection to taking
18 Mr. John C. L'Engle, who is listed as the third
19 witness, second in the order. That is, he would
20 follow Mr. Vaden.

21 CHAIRMAN JOHNSON: Thank you.

22 MR. WRIGHT: Thank you.

23 Madam Chairman, I just have a procedural
24 question. It's been a while since I've been in a
25 hearing. Does the court reporter already have a copy

1 of Mr. Vaden's testimony and exhibits, or do I need to
2 hand her one?

3 CHAIRMAN JOHNSON: I think you might need
4 to.

5

- - - - -

6

RONALD L. VADEN

7 assumed the stand as a witness on behalf of Utilities
8 Commission, City of New Smyrna Beach, Florida, and
9 Duke Energy New Smyrna Beach Power Company, Ltd.,
10 L.L.P. and, having been previously sworn, testified as
11 follows:

12

DIRECT EXAMINATION

13

BY MR. WRIGHT:

14

Q Good morning, Mr. Vaden. Will you please
15 state your name, title, and business address for the
16 record?

17

A Ronald L. Vaden, 200 Canal Street, New
18 Smyrna Beach, Florida. And I'm the director of the
19 Utilities Commission for the City of New Smyrna Beach,
20 Florida.

21

Q You said Ronald L. Vaden?

22

A Yes, that's correct.

23

Q Are you the same Ronald L. Vaden who
24 prepared and caused to be filed in this proceeding
25 prefiled direct testimony consisting of 22 pages and

1 exhibits numbered consecutively RLV-1 through RLV-8?

2 A Yes, that's correct.

3 Q Do you have any changes or corrections to
4 make to your testimony at this time?

5 A No, I do not.

6 Q If I were to ask you the same questions
7 that are contained in this testimony today, would your
8 answers be the same?

9 A Yes, they would.

10 Q And do you adopt this as your sworn
11 testimony --

12 A Yes.

13 Q -- for the purposes of this hearing?

14 A (Nodding head affirmatively.)

15 MR. WRIGHT: Madam Chairman, I request
16 that Mr. Vaden's testimony be entered into the record
17 as though read.

18 CHAIRMAN JOHNSON: It will be so inserted.

19 MR. WRIGHT: Madam Chairman, I would also
20 request that Mr. Vaden's exhibits be marked for
21 identification at this time. I don't know if it's
22 your pleasure to mark them as one exhibit or as
23 eight.

24 CHAIRMAN JOHNSON: Let's do a composite
25 exhibit.

1 MR. WRIGHT: All right. By my list, that
2 would be Exhibit 7, Mr. Vaden's composite exhibit.

3 CHAIRMAN JOHNSON: And that consists of
4 RLV-1 through 8?

5 MR. WRIGHT: RLV-8, yes, ma'am.

6 CHAIRMAN JOHNSON: Show those marked as
7 Composite Exhibit 7.

8 (Composite Exhibit 7 was marked for
9 identification.)

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**IN RE: JOINT PETITION FOR DETERMINATION OF NEED
BY THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA
AND DUKE ENERGY NEW SMYRNA BEACH POWER COMPANY,
FPSC DOCKET NO. 981042-EM**

DIRECT TESTIMONY OF RONALD L. VADEN

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

2 A: My name is Ronald L. Vaden, and my business address is
3 Utilities Commission, City of New Smyrna Beach, 200 Canal
4 Street, New Smyrna Beach, Florida 32168.

5

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

7 A: I am employed as Utilities Director by the Utilities
8 Commission, City of New Smyrna Beach, Florida.

9

10 **Q: Please describe your duties with the Utilities
11 Commission, City of New Smyrna Beach, Florida.**

12 A: As Utilities Director of the Utilities Commission, City
13 of New Smyrna Beach ("UCNSB"), my responsibilities
14 include the general administration of the combined
15 electric, water, wastewater, reuse water systems, and
16 Internet access services, the preparation and
17 presentation of budgets, rules, regulations, long and
18 short range plans, financing and capital improvements,
19 staffing, consulting services and related items requiring
20 Utilities Commission action.

21

22

DIRECT TESTIMONY OF RONALD L. VADEN

QUALIFICATIONS AND EXPERIENCE

1

2 **Q: Please summarize your educational background and**
3 **experience.**

4 A: I received a Bachelor of Science degree in Electrical
5 Engineering, with specialization in Power Engineering,
6 from North Carolina State University in 1986. In
7 addition, I have completed numerous American Public Power
8 Association Utility education and training courses (e.g.,
9 courses on FERC's Comparability Notice of Proposed
10 Rulemaking, Rate Design, Negotiating Power Supply
11 Contracts, Distribution System Evaluation, and
12 Transmission Line Design). I have also completed 24
13 credit hours in the MBA program at University of Central
14 Florida, including course work in Management, Marketing,
15 Statistics, and Accounting.

16

17 **Q: Please summarize your employment history and work**
18 **experience.**

19 A: Utilities Commission, City of New Smyrna Beach, FL:
20 In January 1987, shortly after receiving my B.S.E.E.
21 degree, I was employed by the UCNSB as an Electrical
22 Engineer. In January 1988, I was promoted to
23 Electrical Engineer II, and in October 1992, to
24 Supervising Engineer, Electrical. In December 1993,
25 I was again promoted, this time to Supervising

DIRECT TESTIMONY OF RONALD L. VADEN

1 Engineer, Power Supply and Planning. From January to
2 March 1996, I served as Assistant Director of
3 Utilities, and in March 1996, I assumed my present
4 position as Utilities Director.

5

6 **Q: What are your responsibilities with respect to the New**
7 **Smyrna Beach Project?**

8 A: As the Utilities Director of the Utilities
9 Commission, City of New Smyrna Beach, I am
10 responsible for coordinating UCNSB staff and various
11 consultants with Duke Energy Power Services for the
12 Project.

13

14 **Q: Have you previously testified before regulatory**
15 **authorities or courts?**

16 A: Yes. I testified in FERC Docket No. ER93-327-000 and, in
17 Volusia County Circuit Court, in the condemnation hearing
18 for Florida Power Corporation's Smyrna-Cassadaga 115 kV
19 transmission line.

20

21 **PURPOSE AND SUMMARY OF TESTIMONY**

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

23 A: I am testifying on behalf of the Utilities Commission,
24 City of New Smyrna Beach, Florida ("UCNSB"), and Duke
25 Energy New Smyrna Beach Power Company Ltd., LLP ("Duke

DIRECT TESTIMONY OF RONALD L. VADEN

1 New Smyrna"), the joint applicants for the Commission's
2 determination of need for the New Smyrna Beach Power
3 Project (or "the Project"). My testimony describes the
4 Utilities Commission, City of New Smyrna Beach, its
5 relationship to the City of New Smyrna Beach, Florida,
6 and the basic elements of the business relationship
7 between the UCNSB and Duke New Smyrna. My testimony also
8 describes the UCNSB's historical and projected capacity
9 and energy requirements, the UCNSB's existing and
10 projected generating facilities and other power supply
11 resources, the UCNSB's energy conservation efforts, the
12 cost-effectiveness of the Project to the UCNSB and our
13 retail electric customers, and other benefits provided to
14 New Smyrna Beach and Volusia County by the Project.
15 Finally, my testimony addresses the cost of the
16 downstream transmission upgrades planned to accommodate
17 power deliveries from the Project to other utilities in
18 Peninsular Florida.

19

20 **Q: Please summarize your testimony.**

21 **A:** The New Smyrna Beach Power Project will provide needed
22 and cost-effective capacity and energy to serve the
23 customers of the Utilities Commission of New Smyrna
24 Beach. Our plans and analyses indicate that the UCNSB's
25 entitlement share of the Project's capacity will

DIRECT TESTIMONY OF RONALD L. VADEN

1 contribute to our reliability and to substantial cost
2 savings as compared to other supply-side and demand-side
3 alternatives. Additionally, the Project will provide
4 significant benefits to New Smyrna Beach and the Volusia
5 County community. The Commission should grant our
6 requested determination of need for the Project.

7

8 **Q: Are you sponsoring any exhibits to your testimony?**

9 **A:** Yes. I am sponsoring the following exhibits.

10 RLV-1. The Participation Agreement between the UCNSB
11 and Duke New Smyrna, including Amendment Number
12 One to the Participation Agreement.

13 RLV-2. Historical and projected customers of the
14 UCNSB.

15 RLV-3. Historical and projected summer and winter peak
16 demands of the UCNSB system.

17 RLV-4. Historical and projected energy requirements of
18 the UCNSB system.

19 RLV-5. The UCNSB's power supply resources.

20 RLV-6. Cost-effectiveness tables.

21 RLV-7. Summer and winter reserve margins for
22 Peninsular Florida with and without the
23 Project's seasonal capacity.

24 RLV-8. Comparison of capital costs, heat rates, and
25 availability factors for proposed generating

DIRECT TESTIMONY OF RONALD L. VADEN

1 units for Peninsular Florida.

2 I am also sponsoring Tables 4, 5, 6, 7, 8, 9, 11,
3 12, 13, and 14, and Figures 16, 17, and 18, in the
4 Exhibits filed in support of the Joint Petition on August
5 19, 1998, as well as the text contained in Sections II.B,
6 II.F, IV.A, V.A, and VI of those Exhibits.

7

8 **THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA**
9 **AND THE CITY OF NEW SMYRNA BEACH, FLORIDA**

10

11 **Q: Please describe the Utilities Commission, City of New**
12 **Smyrna Beach, Florida, and its purposes and activities.**

13 **A:** The Utilities Commission, City of New Smyrna Beach,
14 Florida, was created by Chapters 67-1754 and 85-503, Laws
15 of Florida. The UCNSB provides electric, water,
16 wastewater, reuse water and internet access services to
17 the citizens of New Smyrna Beach and surrounding areas of
18 Volusia County. With respect to the Florida Public
19 Service Commission's jurisdiction, the UCNSB is a
20 municipal electric utility within the meaning of Section
21 366.02(2), Florida Statutes.

22

23 **Q: Please describe the relationship of the UCNSB and the**
24 **City of New Smyrna Beach.**

25 **A:** The UCNSB is a statutorily created unit of the City of
26 New Smyrna Beach. The UCNSB is governed by a board of
27 five commissioners who are appointed by the City

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1 Commission for three-year terms. The City of New Smyrna
2 Beach is a city chartered in 1943 pursuant to Chapter
3 22408, Special Acts of Florida, 1943. Pursuant to its
4 authorizing laws, the UCNSB has broad authority to
5 provide various utility services, including the authority
6 to contract for various components of those services.
7 The approval of the City Council (5 members) is required
8 for certain commitments of the UCNSB, such as debt
9 obligations.

10

**THE UTILITIES COMMISSION, CITY OF NEW SMYRNA BEACH, FLORIDA
AND DUKE ENERGY NEW SMYRNA BEACH POWER COMPANY**

11

12

13

14

**Q: Please describe the business relationship between the
15 Utilities Commission, City of New Smyrna Beach, Florida
16 and Duke Energy New Smyrna Beach Power Company.**

15

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**A: The Utilities Commission, City of New Smyrna Beach,
Florida, and Duke New Smyrna have entered into a
Participation Agreement that sets forth the parties'
duties and responsibilities in their business
relationship. The key features of the Participation
Agreement are as follows.**

23

24

25

26

27

1. The UCNSB will furnish the site for the New Smyrna Beach Project to Duke New Smyrna. The Project site has been transferred to Duke New Smyrna.
2. The UCNSB will also furnish an interconnection point for the New Smyrna Beach Project to the 115 kV bus

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- 1 at the UCNSB's Smyrna Substation.
- 2 3. The UCNSB will provide reuse water from its adjacent
3 wastewater treatment plant (currently under
4 construction) and will provide other water supply
5 sufficient for the make-up water requirements of the
6 Project. Approximately 50% of the water required for
7 the project will be supplied by reuse water from the
8 adjacent western wastewater treatment plant which is
9 currently under construction.
- 10 4. The UCNSB will design, engineer, and construct
11 modifications of the UCNSB Smyrna Substation to
12 accommodate the proposed plant. Any downstream
13 transmission upgrades that are payable by the
14 Project are Duke New Smyrna's obligations.
- 15 5. Duke New Smyrna has granted to the UCNSB an
16 "entitlement" to 30 MW of the Project's capacity for
17 the technical and economic life of the Project.
18 Duke New Smyrna will provide the energy associated
19 with the entitlement capacity at agreed-upon
20 pricing. When the final power purchase agreement is
21 negotiated and executed, Duke New Smyrna will,
22 consistent with FERC regulations, file that
23 agreement with the FERC.
- 24 6. Duke New Smyrna will design, engineer, construct,
25 finance, own, and operate the Project, and will

DIRECT TESTIMONY OF RONALD L. VADEN

1 market all capacity, energy, and, subject to future
2 FERC approval, ancillary services provided from the
3 Project. Duke New Smyrna is also responsible for
4 the provision of natural gas service to the Project.

5

6

OVERVIEW OF THE UCNSB'S ELECTRIC SYSTEM

7

A. Description of the UCNSB's Electric System

8

**Q: Please summarize the service area and the number and
9 types of customers served by the Utilities Commission,
10 City of New Smyrna Beach.**

11

12

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25

**Q: Please summarize the historical and projected summer and
22 winter peak demands of the UCNSB electric system.**

**A: The UCNSB electric system is a Winter peaking system.
24 The current maximum peak demand was experienced in 1996
25 at a load level of 89 MW. The UCNSB's historic Summer**

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1 peak demand was 80.2 MW, registered in June 1998. Peak
2 demand levels have grown linearly over the past several
3 years and are expected to grow steadily for the
4 foreseeable future due to consistent customer growth,
5 largely in the residential customer class. The table and
6 figures of Exhibit ____ (RLV-3) present the UCNSB's
7 historical and projected summer and winter peak demands,
8 including the amount of each peak that was served by our
9 various power supply resources.

10

11 **Q: Please summarize the historical and projected energy**
12 **requirements of the UCNSB electric system.**

13 A: Since 1992, energy requirements for UCNSB have grown at
14 an average rate of 2.6%. Net Energy for Load (N.E.L.)
15 for the last full fiscal year (1997) was 325,229 MWH.
16 Exhibit ____ (RLV-4) presents the historical and
17 projected energy requirements for the UCNSB electric
18 system. The figure presents historical and projected
19 N.E.L. data, including the amount of each year's N.E.L.
20 that was provided by our various power supply resources.

21

22 **B. The UCNSB's Power Supply Resources**

23 **Q: What power plants does the UCNSB own and operate?**

24 A: The UCNSB currently owns and operates two power plants
25 with total capacity of 18.8 MW. These plants are fired

DIRECT TESTIMONY OF RONALD L. VADEN

1 by #2 Diesel Fuel.

2

3 **Q: What other power supply resources does the UCNSB**
4 **currently have?**

5 A: At the present time, the UCNSB has contracts with Florida
6 Power Corporation (FPC), Tampa Electric Company (TECO)
7 and Enron Power Marketing (EPM). UCNSB also has
8 entitlement to a portion of the St. Lucie #2 Nuclear
9 Power Plant through the Florida Municipal Power Agency
10 (FMFA) and partial ownership of FPC's Crystal River 3
11 Nuclear Power Plant. Exhibit _____ (RLV-5) lists the
12 UCNSB's current power supply resources.

13

14 **C. Energy Conservation Measures**

15 **Q: As a small utility not subject to the FEECA energy**
16 **conservation requirements, what types of energy**
17 **conservation or demand-side management programs does**
18 **the UCNSB provide to its customers?**

19 A: The UCNSB offers a load management program, by which
20 customers receive credits on their electric bills in
21 return for permitting the UCNSB to curtail service to
22 selected appliances (e.g., air conditioning, heating, and
23 water heating) for limited periods of time during peak
24 conditions. We also provide energy audits on request to
25 our customers. Exercise of our load management program

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1 reliably reduces our summer and winter peak demands by
2 approximately 10 percent, or by 8 to 9 MW. In emergency
3 conditions, we can achieve reductions between 12 and 13
4 MW by full, unlimited exercise of our load management
5 program.

6
7 **Q: Does the UCNSB plan to install a solar photovoltaic
8 electric generation facility within the next five years?**

9 **A:** Yes. The UCNSB plans to install a solar photovoltaic
10 generation unit with a capacity of approximately 150 kW
11 adjacent to the Project site in 2001 or 2002. When that
12 facility comes into service, we also plan to offer a
13 "green pricing" option for our customers who want to have
14 their electric rates based on the power provided to the
15 system by our photovoltaic facility.

THE UCNSB'S NEED FOR THE PROJECT**A. Planning Processes**

17
18
19 **Q: Please summarize the UCNSB's planning processes.**

20 **A:** UCNSB annually forecasts all aspects of its load for the
21 upcoming year, taking into account known areas of
22 customer growth, expected weather patterns, historical
23 data and economic conditions. In addition, five-year
24 budget estimates and ten-year load projections are
25 calculated annually.

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1 **Q: Based on the UCNSB's planning processes, what are the**
 2 **system's projected power supply needs, both for capacity**
 3 **and energy?**

4 **A: The following table summarizes the UCNSB's capacity and**
 5 **energy needs:**

Year	Capacity (MW)	Energy (MWH)
1998	90	334,109
1999	92	344,450
2000	93	349,513
2001	95	354,421
2002	96	359,686
2003	97	364,168

14 **Q: Please describe how the UCNSB forecasts its peak demands**
 15 **and energy requirements.**

16 **A: The UCNSB's load forecast is developed by the UCNSB**
 17 **staff, based on regression analyses of historical loads,**
 18 **energy use, customer growth, and future economic**
 19 **considerations. System energy requirements are forecast**
 20 **using separate regression analyses for four customer**
 21 **classes: residential, general service non-demand, general**
 22 **service demand, and streetlighting. For the residential**
 23 **class, expected sales are estimated using a regression**
 24 **model based on historical sales data. Verification of**
 25 **the results is based on a comparison with the forecasted**
 26 **average use per customer. The number of residential**

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1 customers is forecast using historical data and projected
2 growth in known (permitted or well into the planning
3 stages) Planned Unit Developments. Projected sales of
4 the general service non-demand, general service demand,
5 and streetlighting classes are based on time series
6 regression analyses. After the regression analyses are
7 complete, projected peak demands are calculated based on
8 historical load factor relationships for the total UCNSB
9 system. The final load forecasts are refined based on
10 projected weather conditions (e.g., an El Nino year),
11 future economic considerations, and a review of recent
12 projections against actual results.

13

14 **B. The New Smyrna Beach Power Project's Contributions to**
15 **UCNSB System Reliability**

16

17 **Q: Please describe the effect the New Smyrna Beach Power**
18 **Project will have on the UCNSB's System Reliability.**

19 **A:** The New Smyrna Beach Power Project will provide needed
20 electric generating capacity that will help enable the
21 UCNSB system to maintain adequate and reliable service to
22 our customers. Additionally, due to the proximity of the
23 New Smyrna Beach Power Project to the UCNSB system,
24 reliability will be greatly enhanced. Currently, UCNSB
25 is dependent on the state transmission grid for receipt
26 of energy from its purchased power suppliers; the
27 immediate proximity of the Project reduces our exposure

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1 to loss of supply due to transmission outages.

2

3 C. Supply-Side and Demand-Side Alternatives Considered

4 **Q: What Supply-Side and Demand-Side Alternatives to the New**
5 **Smyrna Beach Power Project were considered by the UCNSB?**

6 A: In its consideration of whether to enter into the
7 Participation Agreement and to obtain the entitlement
8 capacity and energy from the Project, the UCNSB evaluated
9 both self-build generation options and other purchase
10 options. The self-build generation alternatives
11 considered were relatively small gas-fired technologies,
12 with capacities in the range of 20 to 50 MW. These were
13 rejected for two reasons. First, their small size
14 rendered them non-cost-effective because the capital cost
15 necessary to bring natural gas to New Smyrna Beach
16 outweighed the savings that the gas units would have
17 provided. If gas had been available with no additional
18 capital outlays required, however, these small units
19 would have been cost-effective as compared to continued
20 purchases. Second, their higher heat rates rendered them
21 uneconomic, or non-cost-effective, as compared to the
22 Project.

23 The UCNSB currently offers a load management program
24 and actively promotes its implementation and use. As
25 mentioned above, our load management program normally

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1 provides approximately 8 to 9 MW of peak demand
2 reductions during Summer and Winter peaks, and is capable
3 of providing 12 to 13 MW of reductions in maximum
4 implementation mode. As the UCNSB's peak demands and
5 energy requirements grow, we expect our load management
6 program to grow proportionately. From October 1987
7 through September 1996, the UCNSB also implemented a
8 trial time-of-use rate program for commercial consumers;
9 the customers who subscribed to the rate did not find it
10 sufficiently beneficial to warrant continued
11 participation. The UCNSB continues to consider similar
12 options for time-of-use rate designs to reduce peak
13 demands and energy consumption.

14 Our needs for the capacity and energy provided by
15 the Project exist even assuming this anticipated growth
16 in our load management program. The UCNSB also intends
17 to install an approximately 150 kW Photovoltaic
18 generation plant near the Project site.

19

20 **D. Cost-Effectiveness Evaluation**

21 **Q: Please describe the cost-effectiveness evaluations by**
22 **which the UCNSB determined that the New Smyrna Beach**
23 **Power Project is the most cost-effective alternative for**
24 **meeting its future power supply needs.**

25 **A: UCNSB analyzes all power supply options with a computer**

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1 based system modeling program. The UCNSB evaluated the
2 power supply opportunity afforded under the Participation
3 Agreement against purchasing capacity and energy from
4 Tampa Electric Company ("TECO") and Florida Power
5 Corporation ("FPC"). Compared to the TECO-FPC purchase
6 options, the power supply option offered by the New
7 Smyrna Beach Power Project is projected to save the UCNSB
8 approximately \$3.1 million per year, for the first ten
9 years of the Participation Agreement, and approximately
10 \$2 million per year for the following ten years. The
11 total projected net present value of the savings provided
12 to the UCNSB by the Project is approximately \$39 million.
13 The UCNSB's cost-effectiveness evaluations are shown in
14 Exhibit ____ (RLV-6). Since the Project is significantly
15 cost-effective to the UCNSB and our electric customers,
16 the Project will contribute significantly and
17 substantially to the UCNSB's need for adequate
18 electricity at a reasonable cost.

19

20 ADDITIONAL BENEFITS OF THE NEW SMYRNA BEACH POWER PROJECT

21 **Q: Will the New Smyrna Beach Power Project provide any**
22 **additional benefits to the New Smyrna Beach and Volusia**
23 **County communities? Please explain.**

24 **A: Yes. The New Smyrna Beach Power Project will provide**
25 **substantial additional benefits to both New Smyrna Beach**

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1 and Volusia County. Among these are the following:

- 2 1. Peak employment of approximately 250 persons, many
3 of them from the Volusia County area, in the
4 construction of the Project.
- 5 2. Creation of approximately 20 permanent jobs
6 associated with the operation of the Project.
7 Priority for these permanent jobs will be given to
8 qualified local personnel where possible.
- 9 3. Payments in lieu of taxes to the City of New Smyrna
10 Beach in the amount of \$750,000 per year, plus tax
11 payments to Volusia County and other taxing
12 districts therein.
- 13 4. Additional economic activity due to the multiplier
14 effect of the newly created jobs.

15

16 **CONSISTENCY WITH PENINSULAR FLORIDA POWER NEEDS**

17 **Q: Will the proposed New Smyrna Beach Power Project**
18 **contribute to meeting the need of Peninsular Florida for**
19 **system reliability and integrity?**

20 **A:** Yes. The Project will provide efficient capacity and
21 energy within the Peninsular Florida wholesale market.
22 It is my expectation that most or all of the Project's
23 capacity and energy will be sold to other utilities in
24 Peninsular Florida. The Project can, and would be
25 expected to, contribute meaningfully to system

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1 reliability and integrity in Peninsular Florida, simply
2 by increasing the amount of capacity available. Even
3 during periods when portions of the Project's capacity
4 were not committed to a specific Florida utility, it is
5 likely that it would be available for purchase and
6 service. My Exhibit ____ (RLV-7) shows the summer and
7 winter reserve margins for Peninsular Florida with and
8 without the appropriate seasonal capacity of the Project
9 included.

10

11 **Q: Will the proposed Project contribute to meeting the need**
12 **of Peninsular Florida for adequate electricity at a**
13 **reasonable cost?**

14 **A:** Yes, for two reasons. First, the Project is a state-of-
15 the-art combined cycle power plant with low capital costs
16 and low operating costs. Indeed, the Project's capital
17 costs are generally lower than those of other similar
18 units being proposed for Peninsular Florida, and the
19 Project's heat rate is comparable to those other, more
20 expensive units. Second, because no other utility is
21 obligated to buy the Project's output, it should be
22 expected that they will only buy power from the Project
23 when it represents a cost-effective alternative to other
24 options. This is readily shown in Exhibit ____ (RLV-8),
25 which presents a comparison of capital costs, heat rates,

DIRECT TESTIMONY OF RONALD L. VADEN

1 and availability factors for ten proposed combined cycle
2 units and one proposed combustion turbine unit.

3

4 **Q: How, if at all, does the Project relate to strategic**
5 **factors or issues that are appropriate for consideration**
6 **with respect to siting and building new power plants in**
7 **Florida?**

8 **A:** The Project is consistent with strategic factors that may
9 be considered when determining to build a power plant,
10 both from the UCNSB's perspective and from the
11 perspective of the State. The Project will be fueled by
12 domestically produced natural gas rather than by an
13 imported fuel that may be subject to interruption due to
14 political or other events. The Project has a low
15 installed cost and a highly efficient heat rate, assuring
16 its long-term economic viability. As a merchant plant
17 constructed at the expense of Duke New Smyrna, the
18 Project will provide power with no risk to Florida
19 electric customers and will impose no obligation on
20 either Florida utilities or their customers. The
21 Project's gas-fired combined cycle technology is
22 exceptionally clean environmentally, minimizing potential
23 risks associated with future changes in environmental
24 regulations. The Project's efficient technology and use
25 of clean, natural gas fuel will improve the overall

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1 environmental profile of electricity generation in
2 Florida. The Project will also contribute to reducing
3 the consumption of petroleum fuels for electricity
4 generation in Florida.

5

6

COST OF TRANSMISSION UPGRADES

7 **Q: Has the Utilities Commission, City of New Smyrna Beach,**
8 **Florida prepared an estimate of the cost for the**
9 **transmission upgrades that are planned to accommodate**
10 **power deliveries for the Project?**

11 **A: Yes.** As described in the testimony and exhibits of
12 Michel Armand, P.E., two additional transmission line
13 segments are planned to accommodate power deliveries from
14 the Project to other utilities in Peninsular Florida.
15 These are (1) a second 115 kV transmission circuit on the
16 existing 18-mile 115 kV Smyrna to Cassadaga transmission
17 line and (2) a new 115 kV transmission line,
18 approximately 7.5 miles in length, from the Cassadaga
19 substation to the Lake Helen substation. The UCNSB has
20 estimated the total cost of these additional transmission
21 facilities, including the termination facilities
22 necessary to connect the lines to the respective
23 substations, to be \$6,330,650.

DIRECT TESTIMONY OF RONALD L. VADEN**REQUESTED COMMISSION ACTION**

1

2

Q: What action are UCNSB and Duke New Smyrna asking the Commission to take in this proceeding?

3

4

A: The Utilities Commission, City of New Smyrna Beach, Florida and Duke Energy New Smyrna Beach Power Company are petitioning the Commission to issue its order granting an affirmative determination of need for the New Smyrna Beach Project. This is a viable, clean, highly efficient, and cost-effective power project that will benefit the Utilities Commission of New Smyrna Beach, its retail electric customers, and other Peninsular Florida utilities and their retail customers, without any obligation to purchase the Project's output, without any obligation to pay for the Project's capital cost, and without financial, operating, or business risk to them.

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Q: Does this conclude your direct testimony?

18

A: Yes, it does.

1 BY MR. WRIGHT:

2 Q Mr. Vaden, have you prepared a summary of
3 your testimony for the Commissioners?

4 A Yes, I have.

5 Q Would you present your summary, please?

6 A Yes. Madam Chairman, Commissioners, it's a
7 pleasure to be here this morning and have the
8 opportunity to present the position of New Smyrna
9 Beach and Duke Energy in relationship to the 500
10 megawatt combined cycle plant that we're planning on
11 building in New Smyrna Beach.

12 The testimony, my testimony covers several
13 areas. And I know it's going to be a long couple of
14 days, so I'm going to hold it down into the areas that
15 I think are vital to get my points across to the
16 Commission, those points being the Participation
17 Agreement between the Utilities Commission of the City
18 of New Smyrna and Duke Energy New Smyrna Beach, the
19 needs for the plant for New Smyrna Beach and on a
20 statewide level, and just a quick summary of the added
21 reliability that the unit will bring to New Smyrna
22 Beach and to the state.

23 The Participation Agreement between the
24 Utilities Commission and Duke New Smyrna Beach has two
25 areas, what the New Smyrna Beach Utilities Commission

1 is bringing to the table and what Duke New Smyrna
2 Beach is bringing to the table, and then from those
3 two, the benefits of the project to the Utilities
4 Commission and the City of New Smyrna Beach.

5 The site for the project is furnished by
6 the Utilities Commission of New Smyrna Beach. It's
7 approximately a 30-acre site. It is bounded on four
8 sides, one by I-95, the second side by a wastewater
9 treatment plant which is currently under construction
10 by the Utilities Commission of New Smyrna Beach. It's
11 probably in the neighborhood of around 80% complete.
12 The third side is bounded by the substation that
13 currently exists on the site, and also by a Florida
14 Power & Light power line corridor which has three
15 transmission lines and a couple of distribution lines
16 that run through it. And the fourth side is buffered
17 by a wooded area, and the planned development on that
18 side would be industrial also.

19 So the site itself for the plant is just an
20 excellent location, and it's in a location that the
21 plant will not bother any residential customers in the
22 future. So it's an industrial site. We have just an
23 excellent location for it.

24 The second thing that New Smyrna Beach, the
25 Utilities Commission of New Smyrna Beach brings to the

1 table is the substation and the transmission
2 facilities for the project. And the reason I'm going
3 through a lot of this process is just to show why this
4 site was selected by Duke New Smyrna Beach and the
5 Utilities Commission. The site for the project also
6 has a substation and could also be referred to as
7 maybe a switching yard that's owned by the Utilities
8 Commission, and the transmission grid, part of the
9 transmission grid that's also owned by the Utilities
10 Commission.

11 This substation connects to the Florida
12 Power & Light and the Florida Power Corp. transmission
13 lines in the state, and that is a very important
14 purpose for choosing this site. The Utilities
15 Commission has the only -- is the only utility on the
16 East Coast that's connected to Florida Power & Light
17 and Florida Power Corp. That's important, because
18 the facility at this point could transmit electricity
19 to any utility in the state using only one
20 transmission provider and not using duplication, cost
21 duplication of the transmission of electric energy.

22 The third -- or fourth thing that the
23 Utilities Commission brings to the table, which again
24 is important to the Utilities Commission not only in
25 this power plant project, but also in some mandates

1 that we have for disposing of reuse water. As I
2 mentioned a moment ago, we're building a wastewater
3 treatment plant at this facility. It's a 7-million
4 gallon plant. We're, as I say, 75 to 80% complete
5 with the project. And from this project, we have
6 excess reuse water that we're currently dumping into
7 the Indian River. We have been mandated by DEP to
8 quit dumping the water into the Indian River, which we
9 agree upon. We're very conservative for the
10 environment of New Smyrna Beach, and we also want to
11 meet this mandate. So the reuse water for this
12 project is going to the electric generation plant.

13 The environmental concerns that we've
14 discussed this project with think it's real
15 innovative. They think this is one of the best ways
16 in the world to get this --

17 MR. GUYTON: Commissioners, I want to
18 object. This goes well beyond the scope of this
19 witness's prefiled direct testimony. He's giving you
20 a detailed site description he didn't give in his
21 testimony. He's now giving you an account of the
22 environmental benefits that he didn't give in his
23 testimony. He is now attempting to provide hearsay as
24 to what the environmental regulators of the State have
25 responded to. It goes beyond the scope of his

1 testimony, and I would ask that he be instructed to
2 limit his summary to just that, a summary of his
3 prefiled testimony.

4 MR. SASSO: We join in that objection.

5 CHAIRMAN JOHNSON: You do need to limit the
6 scope of your summary to what you prepared in your
7 prefiled.

8 WITNESS VADEN: I'll be glad to, Madam
9 Chairman. This is such a good project, it's kind of
10 hard to get out of the scope, but I understand, and I
11 will fully try to hold it within the scope of my
12 testimony. I apologize for that.

13 I'll move on to then the second part of it,
14 and it's what Duke New Smyrna Beach brings to the
15 table with the project.

16 Duke is going to design, build, and
17 essentially fully fund this project. So this project
18 will be built at New Smyrna Beach with Duke New Smyrna
19 Beach funds, and none of these monies will be rolled
20 into the rate base of New Smyrna Beach's customers.
21 It is fully borne by New Smyrna Beach, so there's just
22 absolutely no risk to the ratepayers.

23 The project, the ownership of the project,
24 the facility that's actually doing the generation will
25 be owned by Duke New Smyrna Beach, but the substation

1 and the existing transmission facilities is owned by
2 the Utilities Commission of New Smyrna Beach. So you
3 have to have both to produce and export energy from
4 this point. So in essence, we're saying we're a joint
5 ownership of this project.

6 With that, I'll move on to the benefits of
7 the project for the Utilities Commission ratepayers
8 and also for the taxpayers of the area too.

9 The first is jobs. As most of you probably
10 know, New Smyrna Beach is a little retirement
11 community. There's essentially no industry in the
12 area. And this is more than just a generation plant.
13 It's an economic development project for the City of
14 New Smyrna Beach. It will furnish jobs for local
15 people, and it is in the Participation Agreement that
16 the jobs will be from local people if local people are
17 trained to be able to do these jobs. And we're
18 willing to retrain people to fill these positions. So
19 it's very important for jobs for the City of New
20 Smyrna Beach.

21 The second --

22 MR. GUYTON: Commissioners, I'm sorry, but
23 once again, we have an elaboration upon a one-line
24 sentence that it will employ approximately 250
25 persons. Now we're talking about the economic

1 development value of this. It wasn't in his direct
2 testimony. He is elaborating upon his testimony
3 rather than summarizing what he has filed, and he is
4 consistently doing it throughout his entire
5 presentation.

6 CHAIRMAN JOHNSON: Let me caution the
7 witness, you have to stay within what was prefiled.

8 WITNESS VADEN: Yes. I believe that was
9 filed, but I'll narrow it down further.

10 CHAIRMAN JOHNSON: How much more do you
11 have?

12 WITNESS VADEN: I'm sorry, ma'am?

13 CHAIRMAN JOHNSON: How much more do you
14 have?

15 WITNESS VADEN: I'm 50% complete, halfway
16 through it. About four more minutes.

17 MR. WRIGHT: Madam Chairman, I would point
18 out to you that at page 18 of Mr. Vaden's testimony,
19 he does discuss that additional economic activity is
20 created, as well as construction and employment jobs.

21 CHAIRMAN JOHNSON: Thank you. And I
22 understand that perhaps it was mentioned, but to the
23 extent that it was mentioned, you're limited by that.
24 You can't -- you know, you can't add to your prefiled
25 testimony at this time.

1 WITNESS VADEN: Yes, Madam Chairman.

2 CHAIRMAN JOHNSON: If you get questions
3 from the Commissioners, that's something different.
4 But for the purposes of getting through this process,
5 we need to limit, and I caution you to be brief.

6 WITNESS VADEN: Yes, ma'am.

7 The second benefit is to the taxpayers of
8 New Smyrna Beach. Duke New Smyrna will pay \$750,000
9 into the tax base of New Smyrna Beach, which is a
10 value that's greater than the amount of monies if it
11 come into the tax base.

12 The third is the benefits, direct benefits
13 to the ratepayers of New Smyrna Beach, the rate --

14 MR. GUYTON: I'm sorry. I want to object,
15 and I want to move to strike. He just said that the
16 payments would be in excess of what they otherwise
17 would achieve. That's not in his testimony. All
18 that's in his testimony is that they would receive
19 \$750,000 in payments in lieu of taxes each year. He
20 is once again, despite your instruction, elaborating
21 and adding additional facts to his testimony that he
22 hadn't put in the record in his direct, and I would
23 ask that that last remark be struck.

24 CHAIRMAN JOHNSON: Mr. Wright?

25 MR. WRIGHT: We have no objection.

1 CHAIRMAN JOHNSON: We'll strike.

2 MR. WRIGHT: We have no objection to --

3 CHAIRMAN JOHNSON: The last sentence is
4 stricken.

5 MR. WRIGHT: -- striking the last
6 statement.

7 WITNESS VADEN: The third benefit is \$3
8 million savings to the ratepayers of New Smyrna Beach
9 per year for the first ten years. The second ten
10 years or for the life of the project thereafter is a
11 minimum of \$2 million savings to the ratepayers of New
12 Smyrna Beach. From that perspective, the total power
13 supply that's shown in my exhibits are around \$12
14 million a year, so this would knock 3 of the \$12
15 million off for this plant.

16 Also shown in my exhibits is the price for
17 the year 2000, which is our base case of what we would
18 pay different suppliers. Florida Power Corporation,
19 which is one of our largest purchasers, we pay in
20 average numbers around 45 to \$48 per megawatt-hour.
21 From Tampa Electric, which the contracts are expiring
22 in 1999, we pay in the neighborhood of \$25 per
23 megawatt-hour. The Duke New Smyrna Beach project is
24 \$18.50 per megawatt-hour, so you can see the magnitude
25 of the savings for this project to New Smyrna Beach.

1 That covers the Participation Agreement and
2 the savings to New Smyrna Beach.

3 The second area that I was going to cover
4 is the need for the plant. The contracts with the
5 Florida Power Corporation are mostly expiring at the
6 end of 1999 and ramping down for the next three to
7 four years to a zero level. The Tampa Electric
8 contracts, which is probably our largest supplier in
9 forms of energy, is expiring at the end of 1999, and
10 we have been unable to secure contracts from Tampa to
11 extend it to the same price level. They've indicated
12 that if we do extend, they will be at a higher price.
13 The third one is our Enron contract, which also
14 expires at the end of 1999.

15 So basically all our contracts expire at
16 the end 1999 except for our local generation that we
17 own and some nuclear units that we own. So,
18 obviously, for reliability process, we need -- or our
19 needs process, we need this generation.

20 The second portion that we show needs, just
21 real briefly, is the state needs. And we have a
22 summary of the Florida Reliability Coordinating
23 Council Land and Resource Planning, 1998. It shows
24 the first year the plant comes on line, the reserve
25 margin for the State of Florida with load management

1 is 17%. Without load management, it's 5.7%. And with
2 the plant, the reserves go up without load management
3 to 7% and with load management to 18.7%. In other
4 words, this plant adds 1-1/2% reserve margin to the
5 state, which I think is fully needed.

6 The third portion of my summary, and last,
7 is the added reliability of the project. First, it's
8 obvious, the added reliability to the City of New
9 Smyrna Beach. It's sitting at the City. It doesn't
10 require a transmission grid, so it takes the
11 reliability of a transmission line going down and
12 still having the reliability. And again, it adds to
13 the reliability in the state, just as mentioned. And
14 the second portion, the reserve margin in the state,
15 it increases that.

16 With that, that concludes my summary.

17 MR. GUYTON: Madam Chairman, I'm going to
18 move to strike the remark that Mr. Vaden made, "which
19 I think is fully needed," as to Peninsular Florida.
20 That goes beyond the scope of his direct testimony.

21 MR. SASSO: We join in that.

22 MR. WRIGHT: (Inaudible.)

23 CHAIRMAN JOHNSON: You need to turn it on.

24 MR. WRIGHT: He was explaining the meaning
25 of his exhibit for the Commissioners.

1 CHAIRMAN JOHNSON: Show the phrase
2 stricken. Did you get that? I'm going to grant the
3 motion and strike the phrase. Do you need to repeat
4 it, Mr. Guyton? You said -- go ahead and state it.

5 MR. GUYTON: I think the phrase was, "which
6 I think is needed," or something to that effect. It
7 was after he noted that it would add to the reserve
8 margin 1-1/2%.

9 CHAIRMAN JOHNSON: Mr. Wright?

10 MR. WRIGHT: Mr. Vaden is available for
11 cross examination, Madam Chairman.

12 CHAIRMAN JOHNSON: Mr. Guyton?

13 MR. GUYTON: Madam Chairman, we would ask
14 that the parties that are more likely to engage in
15 friendly cross go first and that we have an
16 opportunity to cross after that.

17 CHAIRMAN JOHNSON: Are you all going to
18 have any questions? Mr. Moyle?

19 MR. MOYLE: I have couple. I'm just
20 unclear as to --

21 CHAIRMAN JOHNSON: Oh, you don't see
22 yourself as a friendly cross?

23 MR. MOYLE: I'm just an intervenor in the
24 matter, and I don't know how you normally decide who
25 goes first.

1 CHAIRMAN JOHNSON: Generally if there's
2 indication that there's general agreement on the
3 positions, then those individuals would go first,
4 those being less adversarial. So I think it would
5 be --

6 COMMISSIONER CLARK: That's an interesting
7 way to put it, less adversarial.

8 CHAIRMAN JOHNSON: I think it would be
9 proper for you to go first.

10 MR. MOYLE: Okay.

11 CROSS EXAMINATION

12 BY MR. MOYLE:

13 Q Mr. Vaden, I have a couple of questions.
14 You talk in your testimony that was filed about
15 meeting the need of Peninsular Florida for system
16 reliability and integrity on page 18. I was going to
17 ask you, you presented testimony and exhibits
18 regarding Peninsular Florida's projected load margins
19 and reserve margins; isn't that correct?

20 A That's correct.

21 Q And is it your understanding that the FRCC
22 has adopted a 15% reserve margin criterion as being
23 adequate?

24 A That is correct.

25 Q Do you believe that the 15% reserve margin,

1 including its generating plant and load management
2 components, is adequate or provides for adequate
3 reliability?

4 A No, I do not.

5 MR. GUYTON: Unless this witness -- this is
6 not this party's witness. He's attempting to use him
7 as his own witness, and we think that's inappropriate.
8 It certainly goes beyond the scope of his testimony.
9 This witness has not testified as to what is an
10 appropriate reserve margin for the State of Florida in
11 his direct testimony.

12 CHAIRMAN JOHNSON: Mr. Moyle?

13 MR. MOYLE: I just have a couple of
14 questions, Madam Chairman, in terms of getting stuff
15 out. He talks in his direct testimony here about the
16 need of Peninsular Florida and whatnot, and has
17 exhibits. He has testified that the exhibits speak to
18 that, and I was just going to ask him a little bit
19 about that. I think it's wholly within what his
20 prefiled testimony relates to. And they were kind
21 enough to let me go first and ask my questions. I
22 hope they --

23 CHAIRMAN JOHNSON: I'll allow the
24 question.

25 BY MR. MOYLE: .

1 Q I asked you if you believe that the 15%
2 reserve margin was adequate or provided for adequate
3 reliability, and you told me no; isn't that correct?

4 A That's correct.

5 Q And why does it not?

6 A Well, I guess it may depend upon the
7 situation he's in, but I'll just give an example for
8 New Smyrna Beach. In 1989, we had above a 15% reserve
9 margin, and we had planned, as all utilities in the
10 state, to have about a 15% reserve margin. But our
11 purchases -- the way we met our load was our small
12 amount of local generation and purchases from the
13 investor-owned utilities in the state. So when the
14 cold streak in Christmas of '89 came through, we had
15 planned with the 15% reserve margin, but yet we had to
16 shed load from our customers because the
17 investor-owned utilities that we had purchased our
18 resources from had shed the load from us, and they
19 were under the 15% reserve margin criteria.

20 So therefore, it's pretty obvious to me
21 that the 15% reserve margin does not meet the state's
22 needs in severe weather conditions. Under normal
23 conditions, maybe yes, but other than that, no.

24 COMMISSIONER CLARK: Mr. Vaden, your answer
25 just confused me.

1 WITNESS VADEN: Yes, ma'am.

2 COMMISSIONER CLARK: You said you were at a
3 15% reserve margin. And I take it that was based on
4 firm capacity commitments to you.

5 WITNESS VADEN: Firm purchased power
6 contracts from investor-owned utilities, yes, that's
7 correct, Commissioner.

8 COMMISSIONER CLARK: And then you said that
9 the investor-owned utilities that you were purchasing
10 from were under 15% reserve margin?

11 WITNESS VADEN: No. They were under the
12 same planning criteria and had the 15% reserve margin,
13 but yet they cut my purchases back. I had planned
14 under the 15% reserve margin. I had all my resources
15 there. But when I called on them, from the
16 investor-owned utility, they weren't available.

17 COMMISSIONER CLARK: But you aren't saying
18 that their resources were under 15%?

19 WITNESS VADEN: No, I'm saying they were
20 above it, but this is an example to show that it was
21 not adequate.

22 COMMISSIONER GARCIA: That brings an
23 interesting question to mind that FPL has brought up
24 in this case, as well as Florida Power Corp. They say
25 that we let this power come into the state, but nobody

1 can rely on it. And I want to ask you, from your
2 perspective, clearly, your job is the reliability of
3 your city and the ability to acquire power out there.
4 This obviously is going to take care of that need.
5 But could you explain that process to me? What
6 happened to your ability to get power from the IOUs,
7 and how did that work?

8 WITNESS VADEN: Yes. As I understand your
9 question, I explained how the reliability under the
10 investor-owned utilities now where I'm able to
11 purchase from and the reliability under the merchant
12 plant, the difference between those two, how they'll
13 play together.

14 Obviously -- and I think Commissioner
15 Deason stated it yesterday. When an investor-owned
16 utility builds a power plant, obviously, the first
17 thing they're building that power plant for is to
18 serve their retail load. I mean, it's an obvious
19 statement.

20 When a merchant plant builds a power plant,
21 they're going to build it for market. They're going
22 to sell it to the market, and they can have contracts
23 out of this.

24 So if I purchase, which I do, from the
25 investor-owned utilities, and it comes to a situation

1 where they have to start shedding load, they're not
2 going to furnish New Smyrna Beach and keep their
3 retail customers going. As with Florida Power &
4 Light, if they shed 10% of their retail customers,
5 they shed 10% of New Smyrna Beach.

6 COMMISSIONER GARCIA: Isn't it worthwhile
7 for you to enter into a contract with Florida Power
8 Corp. or FPL to guarantee you a certain amount of that
9 need?

10 WITNESS VADEN: Okay. As I understand --
11 and I'll just take Florida Power & Light as an
12 example. Their PR, their partial requirements tariff
13 which is filed, that in my understanding is the most
14 reliable resource that I can buy from Florida Power &
15 Light, and that is the resource that was curtailed to
16 New Smyrna Beach and caused me to shed load.

17 Now, on the other side, if Duke New Smyrna
18 Beach builds this plant and we go into the purchase of
19 the 30 megawatts and they come into the same situation
20 where they have to -- where the state really needs
21 energy and people start shedding load, they don't have
22 a retail base that they have to cover that load for.
23 They're strictly wholesale. So if they have this
24 commitment of the 30 megawatts to New Smyrna Beach,
25 they can't curtail me.

1 COMMISSIONER DEASON: Mr. Vaden, what price
2 are they going to charge for that? Do we know what
3 price that's going to be when the state is in a
4 capacity emergency and they're the only source there
5 with any capacity?

6 WITNESS VADEN: If you have a prior
7 contract to that, yes, you do, Commissioner.

8 COMMISSIONER DEASON: Okay. New Smyrna
9 Beach may have an agreement, or if you want to call it
10 a contract or an understanding or whatever. What
11 about other customers in the state that don't have --
12 that are just going to be served by the market at that
13 time? What's the price going to be?

14 WITNESS VADEN: That's probably not a
15 question to ask me, but in my opinion, it would follow
16 the market price of energy.

17 COMMISSIONER GARCIA: Which is precisely
18 the problem that you find yourself in. They curtail
19 you. So if your interest is to -- your interest is
20 exactly the same as Florida Power & Light and Florida
21 Power Corp. You want to have the cheapest power
22 available at the time for your residents, but first
23 your residents.

24 WITNESS VADEN: First to residents. And to
25 Commissioner Deason's question --

1 COMMISSIONER GARCIA: So if you had 470
2 megawatts, if you owned 470 megawatts, half of which
3 you could sell on the grid, and your citizens needed
4 it or FPL's citizens or ratepayers needed it, your
5 ratepayers would get it first, and then --

6 WITNESS VADEN: Absolutely.

7 COMMISSIONER: And then you would dispatch
8 it on the grid at whatever price the market would
9 bear.

10 WITNESS VADEN: Exactly. And as an example
11 of that, last summer when we had a lot of energy needs
12 in the State of Florida which exceeded what we thought
13 they were, the IOUs followed the market also. The
14 price went up. If I had -- three years ago, I could
15 have went out and bought energy on the market at maybe
16 30, \$35. This June, July, and August, I found myself
17 -- if I go to the market, I was paying 60, 70, \$80 for
18 it. So it's already driven by the market. It's not
19 coming down.

20 COMMISSIONER GARCIA: And to some degree,
21 that market is controlled by whatever excess or margin
22 these companies can sell. So you buy off that market
23 just like everyone else buys off that market. You
24 obviously have less market power than they do, because
25 you don't control as much as what's bumped into that

1 grid.

2 WITNESS VADEN: Absolutely.

3 COMMISSIONER CLARK: Mr. Vaden, I just
4 wanted to be clear on something. You indicated that
5 -- what I heard you say is they required you to shed
6 as much retail load, or they curtailed you as much as
7 they curtailed their retail load.

8 WITNESS VADEN: That is correct. They put
9 me -- that contract, as I understand, is the most firm
10 that I could actually buy from Florida Power & Light,
11 and it puts me on even parity with their retail
12 customers.

13 COMMISSIONER CLARK: Right. So you were
14 treated no different than FP&L treated its retail
15 customers.

16 WITNESS VADEN: Their retail customers,
17 that is correct.

18 COMMISSIONER CLARK: So it was pretty firm
19 capacity.

20 WITNESS VADEN: Well, it's firm, but it
21 wasn't firm enough to keep me from shedding my
22 customers. And under the contract with Duke, I would
23 not.

24 COMMISSIONER DEASON: Mr. Vaden, do I
25 interpret your testimony then that we should adopt a

1 reserve margin that guarantees 100%, under any
2 circumstances, there's going to be no load shed,
3 regardless of the temperature or any event outside the
4 control of the management of the utility companies?

5 WITNESS VADEN: Absolutely not. You can't
6 put a set of rules in place that covers everything.
7 It's just the reserve margin -- what I'm testifying
8 to, the reserve margin is nowhere close to adequate.

9 COMMISSIONER CLARK: You're saying a 15%
10 reserve margin is nowhere close to adequate?

11 WITNESS VADEN: That is absolutely correct.
12 I think the 15% reserve margin is good in normal
13 weather years. I feel if we had an '89 freeze right
14 now, there would be a lot of load shed in the State of
15 Florida.

16 COMMISSIONER CLARK: What else was
17 occurring when the freeze occurred? Were there plants
18 off line that weren't expected to be off line?

19 WITNESS VADEN: I couldn't tell you. I
20 don't think there were any major plants off line.

21 COMMISSIONER CLARK: It's your testimony
22 that it was entirely weather related?

23 WITNESS VADEN: To my recollection right
24 now. It's been a while. I would have to research
25 that.

1 COMMISSIONER CLARK: So then it sounds like
2 in answer to Commissioner Deason's question, we should
3 plan for those extremes in weather.

4 WITNESS VADEN: Especially if you have
5 someone that's getting ready to build a generation
6 plant for you and not putting it into the rate base of
7 Florida. That is really to me the crux of this whole
8 thing. If you're coming in and someone is going to
9 build you a plant and you're not putting it into the
10 rate base, you're going to get those added reserves,
11 and the customers of New Smyrna Beach, the ratepayers
12 of the State of Florida, it's not going to cost me any
13 additional monies.

14 If you put the requirements on the
15 investor-owned utilities to build a 25% reserve
16 margin, they're going to roll it right into the rate
17 base, and the customers are going to start paying for
18 it whether they need it or not. If the merchant
19 plants come in and build it and put this additional
20 reserve margin, the ratepayers are not paying any
21 additional monies, and we'll get fuel savings, energy
22 savings from the plant and competition.

23 COMMISSIONER CLARK: So you're saying
24 anything -- you're suggesting perhaps that utilities
25 should be required to carry a certain reserve margin,

1 but in terms of determining the need for a merchant
2 plant, that a higher reserve margin statewide should
3 be looked at in deciding whether that plant is --

4 WITNESS VADEN: Yes. I think it's two
5 different sides. I don't think you should come in and
6 require the investor-owned utilities to build plant to
7 put 25% reserve margins, because it's putting an undue
8 burden on the ratepayers of those investor-owned
9 utilities, and probably the bottom line of the
10 investor-owned utilities.

11 But on the other hand, if you've got
12 someone that's coming in and wanting to build a plant
13 and it's not going to go into the rate base, no one in
14 the State of Florida is going to pay any additional
15 monies, and ultimately you're going to save, I would
16 allow those people to build those plants up to maybe a
17 25% reserve margin level, something that needs to be
18 researched as to what level it should be.

19 COMMISSIONER CLARK: So you do think there
20 is a line at which you wouldn't allow any more
21 merchant plants?

22 WITNESS VADEN: Yes, but I don't think that
23 line will ever be -- no one will ever get to that
24 line, because the economics of the whole situation is
25 going to drive it. The free enterprise system works.

1 COMMISSIONER CLARK: Okay. Thank you.

2 COMMISSIONER GARCIA: Before you get off,
3 since we've got you and we've already interrupted
4 Mr. Moyle, let me ask you about the fear that FPL
5 asked us to address, which is -- I'm sorry, Mr. Sasso
6 for Florida Power Corp. I don't recall which one.
7 About, you know, we're polluting your part of the
8 state by allowing this plant which has no -- well, now
9 we're going to find out if there's a need or not.

10 But the plant gets built, and let's say
11 Mr. Sasso and FPC and FPL build, and they don't buy
12 from you. They just don't need your power. Your
13 power is too expensive. And lo and behold, the poor
14 ratepayers of New Smyrna Beach have this huge power
15 plant sitting there with many of its employees working
16 in it, but it's not doing anything, it's not selling
17 its power, and it closes up.

18 Is that a possibility that you see, the
19 negative impact of having a power plant in such a
20 pretty part of our state that sort of is a blight on
21 the community? Is that a possibility?

22 WITNESS VADEN: I don't think that -- and
23 I'll put a --

24 COMMISSIONER GARCIA: I'm giving you a lot
25 of leeway on this, so you can tell me what you think.

1 WITNESS VADEN: I live in this retirement
2 community of New Smyrna Beach on the East Coast, and
3 I'm therefore not just the director of the Utilities
4 Commission, but as a citizen of New Smyrna Beach
5 also.

6 COMMISSIONER GARCIA: Right. That's why
7 I'm asking.

8 WITNESS VADEN: And based on both sides.
9 We went through a description of the site.
10 Where we're putting the plant at is just an excellent
11 industrial site. You'll come into the city of New
12 Smyrna Beach, that plant will be running, and you'll
13 never even know anything is happening. First, that's
14 the site.

15 But second, that plant is not going to be
16 built if it wasn't economical. We've got Duke Energy
17 Corporation behind this, and they're not just going to
18 come down and flop 150, \$200 million on the table. I
19 mean, it's just common sense. It's just not going to
20 sit there idle.

21 I don't know if I've answered your
22 question, Commissioner.

23 COMMISSIONER GARCIA: Thank you.

24 Thank you, Mr. Moyle. I'm sorry for
25 interrupting.

1 MR. MOYLE: That's quite all right. I just
2 have a couple of follow-ups to some of that
3 discussion.

4 BY MR. MOYLE:

5 Q If I understood you correctly, you talked
6 about this historical event where you were forced to
7 shed load to your customers. How did your customers
8 react to that?

9 A It was -- I didn't go out to any evening
10 functions for about two years after that that someone
11 wouldn't mention that, and I still have customers
12 mentioning that. They don't understand it. They say,
13 you know, "We pay a fair rate for your product, and
14 you quit giving that product to us when I was cooking
15 my Christmas dinner, and I don't understand it. And
16 there's no explanation that you're going to give
17 behind me that's going to make me feel warm and fuzzy
18 again." It's been a large hole we've been digging out
19 of.

20 Q And is it your testimony that you believe
21 that if you were permitted to go forward with the
22 arrangement with Duke that you would have more
23 reliability for your customers?

24 A I would have a lot more reliability without
25 having to go out and pay another 20% more for my power

1 supply than I'm paying at this point. I guess that's
2 the whole point of it. Right now I could purchase
3 enough energy and capacity, enough capacity that I
4 would not ever have my lights go out again, but I
5 would have to increase my rates by 30%. I'm getting
6 ready to increase my reliability and lower my cost.
7 And I think this will be the same situation with a lot
8 of other utilities if merchant plants are allowed into
9 the state.

10 Q It will probably help your social calendar
11 around the Christmas holidays.

12 A Yes.

13 Q I have a couple of other questions.
14 Commissioner Garcia asked you a little bit about some
15 environmental issues. What type of environmental
16 support do you have for the project?

17 A One of the very first things when I started
18 discussing this project with Duke Energy, we sat down,
19 and the very first thing I said, you know, "We won't
20 get to square one if this is not just an extremely
21 environmental friendly project. First off, I would
22 not endorse it, and I would not take it to my
23 Commissioners. I wouldn't get it through the citizens
24 of New Smyrna Beach. So let's discuss that up front,
25 number one." I --

1 COMMISSIONER GARCIA: I'm sorry. What did
2 you say? You wouldn't what?

3 WITNESS VADEN: I wouldn't even consider
4 the plant. I wouldn't even consider building a plant
5 at New Smyrna Beach if we didn't first look at the
6 environmental concerns and be sure that it --

7 COMMISSIONER GARCIA: That's a two-step
8 process, though, because I'm sure you first need to
9 get it through your people there, and now you've got
10 another environmental hurdle coming up in a few
11 months; right?

12 WITNESS VADEN: Absolutely. We're in the
13 middle of that process with the site certification
14 application now.

15 So we sat down and went through this
16 project and the pollutants that this is putting into
17 the environment. We contacted local environmental
18 groups in New Smyrna Beach and asked them to come in
19 and sit down with us and go through the project, and
20 they did. We asked them to get in the car with us and
21 ride out to the site. "Let's look where we're
22 building this project. Let's look at what we're
23 doing." We come back, and we have just got tremendous
24 support from the environmentalists.

25 We have a local columnist that writes an

1 article at least once a month on the benefits of this
2 plant for New Smyrna Beach and how it's going to --
3 this type of plant, this plant and other plants in
4 the future in the state is going to lower the
5 pollution and lower the energy, which, obviously, if
6 you lower the gallons of fuel burned, you lower the
7 pollution in the state.

8 BY MR. MOYLE:

9 Q In your prefiled testimony, you've talked
10 about additional economic activity due to the
11 multiplier effect of the newly created jobs. Could
12 you explain that, please?

13 A Yes. Just the people in the area that will
14 work at the plant, and then from that, obviously, the
15 lowering of the electric rates, and from the lowering
16 of our electric rates, the better the area looks for
17 more growth in an industrial area to give us some
18 industrial base to again come back and help in the tax
19 base areas of the city to keep the retired cus -- the
20 retired people in the community that don't have --
21 need a lower tax base, so it helps them out. It's
22 just a circle. It's just totally positive.

23 And again, the Utilities Commission and the
24 City of New Smyrna Beach is two separate entities.

25 So I bring the project to my

1 Commissioners. They approve it. And with something
2 that has the scope of this project, I take it to the
3 City of New Smyrna Beach. Now, we've had public
4 hearings at the Utilities Commission. We've also had
5 them at the City. So this thing has been bounced
6 around in front of the public, and there's just no
7 opposition. The City endorses this project just as
8 much as the Utilities Commission. So we're looking at
9 not just the ratepayer side of this. We're also
10 looking at the citizens of New Smyrna Beach, the
11 voters.

12 Q You had mentioned a little bit about
13 taxes. Do you believe this will have a positive
14 impact on the City with respect to taxes, and if so,
15 how?

16 A Yes. I cannot -- I'm afraid I cannot sit
17 and calculate the numbers out for you, but we met,
18 myself and one of the tax experts from Duke Energy,
19 with the Volusia County Tax Assessor's Office, which
20 the City doesn't assess taxes. All the taxes in the
21 City are assessed by the County. We sat down and went
22 through a calculation with the Tax Assessor's Office.
23 They came up that the taxes for this project were less
24 than the \$750,000 per year.

25 Duke said, "We will go" -- it was a

1 negotiated thing. They would give us \$750,000 a year.
2 But one of the reasons they did that is, they wanted
3 to identify the costs for this unit. Now, in the tax
4 agreement, they'll pay the City of New Smyrna Beach --
5 they're giving us additional monies, but also within
6 that provision, the City cannot come in and levy any
7 other taxes on this project for the ten years. So
8 they're paying a little bit more, but they're also
9 getting a guarantee that the City doesn't get creative
10 and come up and put a second burden on them somewhere
11 in the middle of this process.

12 So it's not just -- I shouldn't say out
13 of the goodness of their heart they're paying more
14 monies. They're paying more monies to get some
15 guarantees on the other side.

16 In addition -- now, that's the New Smyrna
17 Beach tax portion. They're paying the full tax burden
18 to Volusia County, so there's no tax agreement with
19 Volusia County. They're going fully on the county tax
20 rolls.

21 Q So the schools and whatnot would be
22 benefited, because they are going --

23 A Absolutely. The schools will be benefited
24 from this.

25 MR. MOYLE: Thank you. I don't have

1 anything further at this time, Madam Chairman.

2 CHAIRMAN JOHNSON: Mr. Guyton?

3 CROSS EXAMINATION

4 BY MR. GUYTON:

5 Q Good morning, Mr. Vaden.

6 A Good morning.

7 Q I'll ask a little follow-up from your
8 testimony from some of the questions that the
9 Commissioners posed to you.

10 I think you testified that a 15% reserve
11 margin for Peninsular Florida is nowhere close to
12 adequate and that you would allow up to a 25% reserve
13 margin; correct?

14 A I stated that I would allow up to a 25%
15 reserve margin, or maybe as I stated, a reserve margin
16 somewhere in that area that needs to be determined if
17 this satisfaction -- this 25% could be achieved by
18 merchant plants that would not go into the rate base
19 of investor-owned utilities. I did not testify that
20 it should be raised to 25% and go into the rate base
21 of investor-owned utilities.

22 Q What is the Utility Commission of New
23 Smyrna Beach's minimum reserve margin criteria?

24 A 15% with load management.

25 Q Have you ever performed a statewide

1 reliability assessment?

2 A No, I have not.

3 Q Have you ever developed a statewide
4 generation expansion plan?

5 A No, I have not.

6 Q Have you ever been asked by the FRCC to
7 conduct either type of study?

8 A No, I have not.

9 Q Do you serve on the FRCC's working group
10 that developed the statewide load and resource plan
11 and the '98 reliability assessment?

12 A No.

13 Q But the Utilities Commission of New Smyrna
14 Beach is a member of the FRCC, is it not?

15 A Yes, that's correct.

16 Q Mr. Vaden, I would like to ask you --

17 COMMISSIONER CLARK: Let me just ask a
18 follow-up. When you said with load management, I take
19 that to mean that you treat load management as if it
20 were a dispatchable plant.

21 WITNESS VADEN: To some extent. I treat it
22 as a resource, just as, say, a peaking generator, as
23 long as I don't get to a situation where I'm using
24 that resource to where it adversely affects the
25 customers' comfort level in their homes and so forth.

1 So we do use it as a resource, but we do not use it
2 very often.

3 COMMISSIONER CLARK: Well, if you excluded
4 that, what is your reserve margin?

5 WITNESS VADEN: If I excluded that, I
6 couldn't -- it would probably go down in the
7 neighborhood of 10%, just off the top of my head.

8 COMMISSIONER CLARK: Okay.

9 BY MR. GUYTON:

10 Q Mr. Vaden, don't you count on your load
11 management for a 10% reduction of your load, sir?

12 A Yes, I do.

13 Q Wouldn't that take your reserve margin down
14 to 5% rather than 10%?

15 A Probably closer to it, yes.

16 COMMISSIONER GARCIA: I'm sorry,
17 Mr. Guyton. I missed the question. Could you ask the
18 question again?

19 MR. GUYTON: I asked if it would take his
20 minimum reserve margin down.

21 COMMISSIONER GARCIA: If what would? I
22 didn't hear the --

23 MR. GUYTON: If he removed load management
24 from the reserve margin he calculated, if it wouldn't
25 take it from 15 down to 5% as opposed to 15 to 10% as

1 he responded.

2 COMMISSIONER GARCIA: Great. Thank you,
3 Mr. Guyton. I got your response, Mr. Vaden. Thank
4 you.

5 BY MR. GUYTON:

6 Q Mr. Vaden, I would like to ask you some
7 questions about the Participation Agreement, so would
8 you turn to your Exhibit RLV-1, please, sir?

9 A Okay.

10 Q Now, this agreement is the entire agreement
11 between Duke New Smyrna and the Utilities Commission,
12 is it not?

13 A The Participation Agreement and the
14 attached Amendment 1.

15 Q But it is envisioned that there will be a
16 subsequent agreement between those two entities, a
17 final power sales contract that will be filed with the
18 Federal Energy Regulatory Commission?

19 A That's correct.

20 Q How will that agreement differ from the
21 Participation Agreement?

22 A Well, the Participation Agreement was put
23 together in more of a business arrangement. I brought
24 something to the table, and Duke brought something to
25 the table. We negotiated a contract from that.

1 Within that, we had a 30-megawatt entitlement to the
2 plant. But instead of ironing out every last little
3 detail that we'll need to get FERC approval for that
4 30 megawatts, we just included in the Participation
5 Agreement that we would later go to FERC and satisfy
6 all the requirements of that 30 megawatts, which
7 obviously we fully intend to do.

8 Q So you can't say here today how that final
9 agreement will differ from the Participation
10 Agreement?

11 A It will be very little difference. We will
12 -- the basic agreement which is in the Participation
13 Agreement will hold. Duke New Smyrna will furnish New
14 Smyrna Beach 30 megawatts of firm capacity from the
15 plant. The basic will be intact at the price agreed
16 upon within the agreement.

17 Q And the amount of capacity out of the Duke
18 New Smyrna unit that the Utilities Commission is
19 entitled to is 30 megawatts?

20 A Yes, that's correct.

21 Q And what's the basis for your conclusion?

22 A The Participation Agreement.

23 Q All right. What's the amount of energy per
24 hour that Duke New Smyrna is required to provide to
25 the Utilities Commission of New Smyrna Beach?

1 A I believe out of the 30 megawatts, we have
2 a minimum take of 27 megawatts, if that's your
3 question, if I understood it correctly.

4 Q Yes. And is your answer based upon your
5 understanding of the contract, the Participation
6 Agreement?

7 A That is correct.

8 Q If the Duke New Smyrna unit is available,
9 but Duke chooses not to dispatch the unit, what is
10 Duke New Smyrna's obligation to you?

11 A As long as the unit is available -- I'll
12 repeat it just to be sure we have a clear
13 understanding. As long as the plant is available and
14 it's available to dispatch and they choose not to run
15 the plant for some reason, then they are required to
16 furnish me those megawatts at the same agreed-upon
17 price, the 18.50 per megawatt-hour.

18 Q And once again, your answer is premised
19 upon the Participation Agreement; correct?

20 A That is correct.

21 Q If the Duke New Smyrna unit's or facility's
22 commitments are below the minimum capacity of the
23 facility, what are Duke's obligations to the Utilities
24 Commission of New Smyrna Beach?

25 A Well, again, they're required to furnish

1 the megawatts in the agreement.

2 Q And that's pursuant to the agreement?

3 A That's correct.

4 Q If the Duke New Smyrna facility is
5 unavailable because of a scheduled or unscheduled
6 outage, what is Duke New Smyrna's obligation to the
7 Utilities Commission regarding providing capacity and
8 energy?

9 A This is just like any generation facility
10 that operates in the state. If the facility goes down
11 for a maintenance problem, if it throws a turbine out
12 or it's scheduled maintenance, then New Smyrna Beach
13 is maintaining its spinning and nonspinning reserves,
14 so therefore we would be able to purchase from a
15 Schedule A or a Schedule B, and Duke would not have
16 an obligation to serve. It's built into the state
17 system.

18 Q So if there's a scheduled or unscheduled
19 outage of this unit, there is no replacement power
20 obligation on the part of Duke New Smyrna?

21 A That's correct.

22 Q And what's the basis of that answer? The
23 Participation Agreement?

24 A Yes.

25 Q Now, what's the price at which the

1 Utilities Commission may purchase associated energy
2 from the Duke New Smyrna facility?

3 A Okay. The price for the first ten years
4 is \$18.50 per megawatt-hour, and it's tied to an
5 indicator that if the price in the state goes up, the
6 price on the 18.50 on a yearly basis can be increased
7 a maximum of 3-1/2%. If the price goes down, the
8 18.50 can be decreased by a maximum of 3-1/2%.

9 Q And once again, the source of that
10 information is your contract with Duke New Smyrna;
11 correct?

12 A That's correct.

13 Q When you assessed the cost-effectiveness of
14 the Duke New Smyrna option to the Utilities
15 Commission, you used a price that was derived from
16 your contract, did you not?

17 A Yes. We used the 18.50.

18 Q And absent your contract with Duke New
19 Smyrna, you wouldn't have been entitled to energy at
20 18.50 per megawatt-hour, would you?

21 A Would you repeat that, please?

22 Q Absent your contract with Duke New Smyrna,
23 the Utilities Commission wouldn't have been entitled
24 to energy at \$18.50 a megawatt-hour from the Duke New
25 Smyrna unit, would it?

1 A That's kind of fuzzy. Could you run that
2 by me one more time, please?

3 Q If you didn't have your contract with Duke
4 New Smyrna, the Utilities Commission wouldn't be
5 entitled to energy from that unit at \$18.50 per
6 megawatt-hour, would it?

7 A No. If I didn't enter into the agreement,
8 they're not going to give me energy.

9 Q So you needed to have a contract for you to
10 be able to know your contract price of energy to be
11 able to assess the cost-effectiveness of the unit?

12 A Yes, that's correct.

13 Q Now, the contract term that requires Duke
14 New Smyrna to provide replacement power to the
15 Utilities Commission when Duke New Smyrna chooses not
16 to dispatch the unit, is that a provision that affects
17 the reliability of this resource to the Utilities
18 Commission?

19 A Again, the contract is centered around the
20 way the reliability in the state works. The state is
21 fixed such that if someone has a unit and it's
22 operating and it goes down for a maintenance problem,
23 then the system in the state backs it up, because each
24 utility maintains spinning and nonspinning reserves.
25 So again, that's what it's centered around.

1 Q I think you may have mistaken me. I wasn't
2 asking about when it was on scheduled or unscheduled
3 outage. What I was asking about was the contract
4 provision that you have where Duke New Smyrna provides
5 you replacement power when Duke New Smyrna chooses not
6 to dispatch, not when it's out, but when it chooses
7 not to dispatch. Do you recall that contract
8 provision?

9 A Yes, I do. I think I've answered that
10 three times now.

11 Q That position affects the reliability of
12 that resource to the Utilities Commission of New
13 Smyrna Beach, does it not?

14 A Yes, that's correct.

15 Q And without such a contract term, Duke New
16 Smyrna would not have any obligation to provide
17 replacement power to the Utilities Commission, would
18 it?

19 A That's correct.

20 Q Now, without the Participation Agreement,
21 the Utilities Commission wouldn't have any entitlement
22 to the capacity from the Duke New Smyrna unit, would
23 it?

24 A Without the agreement, that's correct.

25 Q And you wouldn't have any entitlement to

1 energy from the Duke New Smyrna unit without the
2 Participation Agreement, would you?

3 A That's correct.

4 Q And without the Participation Agreement,
5 the Utilities Commission wouldn't have any assurance
6 that the power from the unit would be available to it,
7 would it?

8 A That's correct.

9 Q Absent your agreement with Duke New Smyrna,
10 you wouldn't have any claim on any of the capacity and
11 energy from the Duke New Smyrna unit, would you?

12 A Absent the Participation Agreement, there
13 would be no unit.

14 Q There may still not.

15 Under what conditions would Duke New Smyrna
16 be excused from having to provide capacity and energy
17 to the Utilities Commission of New Smyrna Beach?

18 A Could you be more specific, please?

19 Q Well, no, sir, I'm not. I'm trying to get
20 you to tell the Commission under what conditions Duke
21 New Smyrna would be excused under the contract from
22 having to provide capacity and energy to the Utilities
23 Commission.

24 A You mean prior to the construction or after
25 the construction of the plant?

1 Q Both.

2 A Okay. Prior to the construction of the
3 plant, Duke has to be able to obtain, obviously, the
4 need for the plant from the Public Service Commission.
5 It also has to receive all the environmental
6 permitting for the plant. But up to that point or 60
7 days after that point, Duke -- if this plant becomes
8 uneconomical for any reason, they can walk away from
9 the deal. If something -- if they hit something in
10 this process, pull something out of the air here
11 that's going to cost them an additional \$50 million
12 and this plant is not economical, they can walk away
13 from the deal, and they have no obligation to New
14 Smyrna Beach.

15 Up to after 60 days that Duke obtains the
16 permits and, I guess to put it in simple terms, they
17 can actually take a shovel out and turn dirt and go to
18 work on this project, within 60 days, they have to go
19 to the Duke Energy Corporation Board of Directors and
20 get funding for this project and start the project.
21 They just can't put it on the shelf and hold it for
22 three years, because New Smyrna Beach needs to start
23 planning the process for other energy capacity.

24 Does that answer your question?

25 Q Well, sir, part of it. Let me ask you to

1 take a look at Paragraph 1.1 of the agreement.

2 Now, under this paragraph, Duke New Smyrna
3 would be excused if the unit becomes incapable of
4 producing electric energy at a cost that results in a
5 reasonable profit and cash flow to the owner of the
6 facility, would it not?

7 A Yes. Okay. What I had explained was prior
8 to construction, and what you're alluding to now is
9 after the construction, and what we're looking at
10 actually is the life of the facility.

11 If they build this plant and it's very
12 economical, has a very good heat rate, and it's
13 dispatching in the state, and I'm getting my 30
14 megawatts and Duke is selling the excess in the state
15 or having contracts with other utilities, ever how
16 they go into the business arrangement, now, we're
17 trucking along, and let's say 15 years down the road
18 from now, new technology comes out, and when new
19 technology comes out, that puts this plant into a
20 position where it's not economical. As an example, if
21 the investor-owned utilities in the state 15 years
22 down the road, they build plants much more economical
23 than this, and this plant turn into one of the dogs
24 then, they shut the plant down, and they have no more
25 obligation to me.

1 So they're not forced to sit there and run
2 a plant that's uneconomical to supply my 30 megawatts.
3 In other words, that's the economic life of the plant,
4 as I would call it.

5 Q Is it fair to say that the Utilities
6 Commission of New Smyrna Beach and its ratepayers have
7 assumed the risk of the potential evolution of this
8 plant not being economic under this contract
9 provision?

10 A No.

11 Q Why not, sir?

12 A Well, again, I mean, it's -- maybe I'm
13 misunderstanding your question. I don't see a risk if
14 we're going year from year with this plant and New
15 Smyrna Beach is sitting here looking at the process of
16 this plant. If newer plants in the state are coming
17 on line that are more economical and the market price
18 for energy out there is going down, it's going to be
19 pretty obvious where the economical life of this plant
20 is going to cease to exist, and I should start
21 planning resources to replace that or start
22 negotiating with them to replace this plant.

23 Q But you've committed to a 20-year contract
24 with these people; correct?

25 A I've committed to a 20-year -- well, it's

1 not a 20-year contract. I think it's the life of the
2 project. I've committed to it, and they will satisfy
3 that requirement as long as the project is economical.

4 Q But you don't know if that's going to be
5 three years, five years, 15 years, 30 years down the
6 road, do you?

7 A This is getting pretty farfetched. I can't
8 tell you exactly what the life of the plant would be,
9 but it's the latest technology out there, and I don't
10 think I would go out on a limb and say that this plant
11 is not going to be economical to dispatch at least for
12 15 years to 20 years in the future.

13 If we get to 25 years, you know, if at that
14 point newer technology is out there and it's less --
15 better for the environment than this project, it needs
16 replacing.

17 Q Mr. Vaden, do you know within the meaning
18 of this contract term what a reasonable profit and
19 cash flow is?

20 A No, I do not.

21 Q Is that something that is left solely to
22 the judgment of Duke New Smyrna?

23 A Yes, it is.

24 Q And they haven't shared that with you, have
25 they?

1 A I wouldn't even want to know that
2 information.

3 Q Now, the Utilities Commission of New Smyrna
4 Beach performs an assessment of system reliability in
5 your planning process, don't you?

6 A It's a relatively simple process for us.
7 We plan our load out, and then we plan our resources,
8 which is mostly again purchased power up to this point
9 to cover our load and a minimum of 15% reserves.

10 Q Mr. Vaden, I would like to ask you to look
11 at the section of your testimony which regards the
12 alternatives that you considered.

13 A Do you have a page for that?

14 Q No, sir, I don't. I was kind of hoping
15 that you would be familiar enough with your testimony
16 that you could take us there.

17 MR. WRIGHT: To help out, I think the page
18 is 16 and 17, and then Exhibit RLV-6.

19 WITNESS VADEN: Thank you.

20 MR. GUYTON: Thank you, Schef.

21 MR. WRIGHT: You're welcome.

22 BY MR. GUYTON:

23 Q When the Utilities Commission analyzed the
24 Duke New Smyrna purchase, the only option you
25 directly compared to the Duke New Smyrna purchase was

1 a continued purchase from Florida Power Corporation,
2 TECO, and Enron; correct?

3 A That is correct.

4 Q That's the analysis that's shown on your
5 RLV-6; correct?

6 A That is correct.

7 Q You did not perform a calculation comparing
8 Duke New Smyrna directly to any self-build option, did
9 you?

10 A Well, I didn't sit and calculate this out.
11 When you go back to a self-build option, we're getting
12 30 megawatts at \$18.50 per megawatt-hour fully
13 included in, so it would be just a useless process to
14 go through to look at a self-build option if you're
15 getting it at \$18.50.

16 Q Just to make sure that you've answered the
17 question, sir, you didn't perform a calculation that
18 compared Duke New Smyrna directly to any self-build
19 option, did you?

20 A No. That is correct.

21 Q In fact, the only self-build option that
22 the Utilities Commission of New Smyrna Beach has
23 analyzed over the last five years, other than if you
24 want to characterize Duke New Smyrna as a self-build
25 option, was the construction of a gas turbine by GE;

1 correct?

2 A That's correct.

3 Q And that analysis was performed by GE for
4 the Utilities Commission in 1993; correct?

5 A That's correct.

6 Q The Utilities Commission of New Smyrna
7 Beach did not issue a request for proposal for new
8 generating capacity, did it?

9 A That is correct.

10 Q You didn't issue a request for proposal for
11 capacity purchases, did you?

12 A For capacity purchases?

13 Q Yes, sir.

14 A Not an RFP. We had discussions with Tampa
15 about energy, but we did not do an RFP, that's
16 correct. And again, the reason for all this, if
17 you've got an offer for \$18.50 per megawatt-hour, you
18 would just be going through a useless process.

19 Q The Utilities Commission did not consider
20 building a plant larger than it needed for its own use
21 and selling the excess wholesale, did it?

22 A No. We have no desire to go into the
23 wholesale market.

24 Q Once you had negotiated your arrangement
25 with Duke New Smyrna, the Utilities Commission made no

1 attempt to solicit other proposals from other
2 developers to see if they could beat that price, did
3 it?

4 A That is correct.

5 COMMISSIONER GARCIA: Tell me how you
6 decided that that was a good price, then, the price
7 that you got.

8 WITNESS VADEN: Well, we stay relatively
9 abreast of what the prices are in the state, and in
10 all the publications within the United States, what
11 the energy prices are. Right now a good base load
12 resource, which we have with Tampa Electric, which has
13 been an excellent resource with us, is \$25 per
14 megawatt-hour. There's no purchases out there, Light,
15 Corp., Tampa, no one is going to give me any resource
16 \$25 or less.

17 BY MR. GUYTON:

18 Q Look at Exhibit RLV-1, please, sir.

19 WITNESS VADEN: It's just the market price,
20 just being in the industry --

21 COMMISSIONER GARCIA: You got a real
22 sweetheart deal, didn't you?

23 WITNESS VADEN: Oh, absolutely, 18.50. And
24 all the RFPs and negotiations and other suppliers,
25 when I got to the point that I had someone like Duke

1 Energy wanting to build a plant at New Smyrna Beach,
2 and I had the desire to --

3 COMMISSIONER GARCIA: You didn't look a
4 gift horse in the mouth; right?

5 WITNESS VADEN: No. I didn't spend much
6 more time. I started putting my efforts into this
7 project. It's a no-brainer, as I call it.

8 COMMISSIONER GARCIA: Excuse me,
9 Mr. Guyton.

10 MR. GUYTON: That's fine.

11 BY MR. GUYTON:

12 Q You didn't look to see if there were any
13 other gift horses that might be able to give you a
14 gift better than 18.50?

15 A I would say yes to that.

16 Q Now, if you'll turn to your RLV-7, that's a
17 calculation of summer and winter reserve margins with
18 and without the Duke New Smyrna Unit; correct?

19 A Yes, which has been compiled from the 1998
20 load and resource planning for Peninsular Florida for
21 the Florida Reliability Coordinating Council; that's
22 correct.

23 Q And page 1 shows the summer reserve margin?

24 A That's correct.

25 Q And that's -- the table at the top would be

1 the table with the summer reserve margin without the
2 Duke New Smyrna unit; correct?

3 A That's correct.

4 Q If you would look at the last column on
5 that table, it shows in the years 2002 beyond -- and
6 those are the years after which the project will be on
7 line; correct?

8 A That's correct.

9 Q And without the Duke New Smyrna unit, your
10 exhibit shows that Peninsular Florida is projected to
11 achieve a reserve margin of between 18.7 and 20.47%;
12 correct?

13 A Now you're in the summer table?

14 Q Yes, sir.

15 A And you're in with or without the New
16 Smyrna Beach plant?

17 Q I'm without the New Smyrna Beach plant.

18 A And with or without load management?

19 Q With exercising load management.

20 A Yes.

21 Q So without the Duke New Smyrna unit,
22 Peninsular Florida is projected to achieve summer
23 reserve margins in excess of 15%?

24 A That is correct.

25 Q Now, Peninsular Florida is similar to the

1 Utilities Commission of New Smyrna Beach, in that it
2 relies upon load management and interruptable load to
3 reduce its load by almost 10% too, doesn't it?

4 A That's correct.

5 Q Now, I think you said this. All this data
6 on the top table of this page was taken from the 1998
7 FRCC Load and Resource Plan; correct?

8 A That's correct.

9 Q Except you chose not to round off the
10 reserve margin numbers as they did?

11 A That's correct. That's the only
12 difference.

13 Q Now, the table on the bottom of RLV-7 that
14 includes Duke New Smyrna, that's not a table out of
15 the FRCC '98 Load and Resource Plan, is it?

16 A No. That's the top table with the addition
17 of the 500 megawatts added to it.

18 Q Would you turn over to page 2, please, sir?

19 A Yes.

20 Q Now, the Duke New Smyrna unit is scheduled
21 to come on line in November of 2001; correct?

22 A Correct.

23 Q So it will be available for the winter peak
24 in 2001-2002?

25 A Correct.

1 Q Now, your table on top of RLV-7 shows that
2 without the Duke New Smyrna unit, for every winter
3 from 2001 through 2002, through the winter of
4 2006-2007, Peninsular Florida is projected to meet or
5 exceed a reserve margin of 17%; correct?

6 A For what years was that again?

7 Q 2001-2002 winter, through 2006-2007.

8 A Yes, through 2006-7, yes.

9 Q Now, the bottom table here assumes that the
10 Duke New Smyrna unit is added to the table up above;
11 correct?

12 A That's correct.

13 Q What utility do you assume that Duke New
14 Smyrna has a contract with?

15 A None besides New Smyrna Beach at this time.

16 Q Mr. Vaden, earlier you told me that the
17 Utilities Commission could not rely upon the Duke New
18 Smyrna unit for its electric system and reliability
19 without a contract. How can Peninsular Florida
20 utilities rely upon Duke New Smyrna without a
21 contract?

22 A Well, when I answered without a contract, I
23 also added to that that the plant won't be built
24 without the contract.

25 Q All right, sir. And if the plant is built,

1 you still can't rely upon that plant for any capacity
2 absent a contract, can you?

3 A A contract or some arrangement for
4 purchase; that's correct.

5 Q None of the megawatts of this plant other
6 than the 30 megawatts are now committed by contract,
7 are they?

8 A At this point, that's correct.

9 Q If they're not committed, how can any
10 Peninsular Florida utility rely upon them?

11 A Well, I believe this question is better to
12 Duke, but the megawatts are -- if we come into an area
13 just as I described a few moments ago in 1989 when
14 they had the blackouts, if there had been an
15 additional 500 megawatts in the state, it would have
16 been sold to utilities in the State of Florida. They
17 wouldn't -- Duke wouldn't sit there and say, "Well,
18 people are blacking their lights out out there, so I'm
19 not going to sell." It will be sold on the open
20 market.

21 Q And that open market extends beyond
22 Florida, doesn't it, sir?

23 A Well, if you had the freeze of '89 in the
24 State of Florida, they sure wouldn't be shipping it to
25 Georgia at half the price they could get in the State

1 of Florida.

2 Q Would you answer the question, please, sir?
3 The market for the power extends beyond the State of
4 Florida, doesn't it?

5 A With certain restrictions of the
6 transmission grid.

7 Q And the transmission grid is not restricted
8 such that it could not move the capacity of this
9 entire power plant out of the State of Florida, is it?

10 A I could not testify to that. I've heard
11 testimony that there's 1,900 megawatts available, but
12 I do not --

13 COMMISSIONER GARCIA: Let's say his
14 premise is right.

15 WITNESS VADEN: Yes, if the premise is
16 right, I would agree with you.

17 BY MR. GUYTON:

18 Q Could you turn on over to your RLV-8?

19 A Yes.

20 Q Now, that's a comparison of planned and
21 proposed generating units in Peninsular Florida;
22 correct?

23 A That's correct.

24 Q And it compares megawatt ratings, fuels,
25 heat rate, availability, installed, and direct

1 construction costs; correct?

2 A That's correct.

3 Q Mr. Vaden, do you consider this analysis or
4 this sheet to be a comprehensive comparison of the
5 relative cost-effectiveness of these planned and
6 proposed units?

7 A Yes, I think the data is here. I think the
8 units are going to dispatch off of the heat rates, so,
9 yes, I think that is a good comparison.

10 Q And you think it's a comprehensive
11 evaluation of cost-effectiveness?

12 A Comprehensive? I don't know every
13 underlying piece of data in here, but I would rely
14 again -- if the unit is built with this construction
15 cost and this heat rate, it will dispatch in the
16 state.

17 Q And saying that you think this is a
18 comprehensive comparison of cost-effectiveness,
19 comprehensive or cost-effective to whom?

20 A To the people that would be purchasing, the
21 utilities that would be purchasing the capacity and
22 energy from the unit.

23 Q Well, sir, what is the cost of generation
24 out of the each of the units shown from your RLV-8?

25 A It does not have -- if you're looking for a

1 megawatt-hour price, it's not included. It's got the
2 construction cost on the right-hand column, which
3 compares the units that are planned to be built, and
4 you can see that the construction cost is as low or
5 lower than all the other units that are planned in the
6 state. And then you look at the heat rate column, and
7 you see the heat rate is better, or at least very
8 comparable to all the other units planned in the
9 state. And I think those two alone would show you
10 that the unit is going to dispatch in the State of
11 Florida.

12 Q This is a comprehensive comparison, and you
13 don't know the relative cost of generation out of the
14 units shown here?

15 A No, I've not sat down and calculated the
16 actual cost of what the energy is going to come out of
17 the plant. I think that would be getting more into
18 Duke's business that I would care to go. I would rely
19 on these two, this data.

20 Q What additional information that is not
21 shown on this exhibit would you need to calculate a
22 unit's relative cost of production?

23 A More than likely, I think the largest
24 missing component here would be the fuel cost
25 delivered to the project.

1 Q And you've not included a gas cost on this
2 comparison, have you?

3 A I would not want to know what Duke's gas
4 contracts are for this project.

5 Q And you've not included a gas
6 transportation cost or a gas cost for any of these
7 projects, have you?

8 A That's right. That's exactly right.

9 Q Do you agree that the delivered price of
10 gas in Florida is different to different utilities?

11 A I am not an expert in the gas area. I do
12 know that Duke Energy is a major player in the gas
13 market in the United States, and I would rely on their
14 expertise to be able to secure gas for this project at
15 a reasonable price.

16 Q Sir, that wasn't the question. I asked you
17 would you agree that the cost of delivered gas in
18 Florida is different to different utilities.

19 A It could be. Again, I'm not an expert
20 whatsoever in the gas industry.

21 Q Would you agree that the cost of
22 transportation to different utilities in Florida could
23 be different?

24 A It could be. Again, I'm not an expert in
25 this area.

1 Q Those different costs, if they exist,
2 aren't considered on this sheet, are they?

3 A No, they're not.

4 Q You don't compare the variable O&M costs
5 for these units, do you?

6 A That is correct.

7 Q That would be a cost of production,
8 wouldn't it?

9 A Yes, each of these units would incur that
10 cost.

11 Q You don't compare fixed O&M costs for these
12 various units, do you?

13 A Fixed O&M, that is correct.

14 Q That would be a cost of production too,
15 wouldn't it?

16 A Yes. But again, I rely on the expertise,
17 and the type facilities that I know is going in would
18 have a low O&M. And all these little different parts
19 that you're adding to this for this plant will be as
20 economical, if not more economical than the other
21 plants that's shown on the sheet.

22 Q The direct construction costs -- how can
23 you make a conclusion if you don't know what the costs
24 are, Mr. Vaden?

25 A Well, again, this is the direct

1 construction cost of the project, and --

2 Q No, sir, I was asking --

3 A And what you're --

4 Q I was asking you about the fixed O&M costs.
5 How can you conclude that this particular project is
6 going to have as low or lower cost than the other
7 projects shown there without having that information
8 available to you?

9 A Okay. I could not without each of the
10 utilities building those plants furnishing that
11 information to me, and they're not going to furnish
12 that information to me.

13 Q Now, the direct construction costs that you
14 report on your RLV-8, those are in different years'
15 dollars, aren't they?

16 A Yes, I believe so.

17 Q Now, the total installed cost that you
18 report on RLV-8, they're all in different years'
19 dollars too, aren't they?

20 A I could not answer that.

21 Q So you don't even know, but you've
22 nonetheless drawn a comparison; correct?

23 A I do not know. I would assume that they're
24 the dollars in the years that the plant is going to be
25 built.

1 Q Mr. Vaden, you took your data on RLV-8 from
2 various ten-year site plans from utilities, didn't
3 you?

4 A That's correct.

5 Q And actually, you used Appendix 9 for the
6 individual utilities. I'm sorry.

7 A Schedule 9.

8 Q Schedule 9 in the appendix to the ten-year
9 site plan, didn't you?

10 A That's correct.

11 Q The capacity that's shown for Florida
12 Power & Light Company's repowering projects, that's
13 incremental capacity; correct?

14 A I believe so, that's correct.

15 Q It doesn't reflect the repowering of the
16 existing capacity at those sites, does it?

17 A I do not believe so.

18 MR. GUYTON: Commissioners, we've handed
19 out Schedule 9 from Florida Power & Light Company's
20 appendix to its 1998 Ten-Year Site Plan. We would ask
21 that this be identified as the next exhibit.

22 CHAIRMAN JOHNSON: We'll identify it as
23 Exhibit 8. And could you give me a short title?

24 MR. GUYTON: FPL TYSP, Appendix A, Schedule
25 9. Is that too long?

1 CHAIRMAN JOHNSON: No, that's not too long.
2 I just didn't hear the first part. I got the Schedule
3 9.

4 MR. GUYTON: TYSP, for Ten-Year Site Plan,
5 Appendix A.

6 CHAIRMAN JOHNSON: Okay. That works.

7 MR. GUYTON: Schedule 9.

8 CHAIRMAN JOHNSON: Okay.

9 (Exhibit 8 was marked for identification.)

10 BY MR. GUYTON:

11 Q Now, this is the schedule from -- what has
12 been identified as Exhibit 8 is the schedule from
13 which you pulled the information on the FPL units for
14 your RLV-8, is it not?

15 A I don't have a copy of it.

16 Q I'm sorry. We gave everybody one but the
17 witness.

18 A I have one. Thank you.

19 Q Do you have it now, Mr. Vaden?

20 A Yes, I do.

21 Q This is the schedule that you pulled the
22 information on FPL units from, is it not?

23 A Yes.

24 Q Now, when you were removing the FPL unit
25 data from Schedule 9, you were looking at the data

1 under the heading "Projected Unit Financial Data,"
2 weren't you?

3 A I would assume that to be correct.

4 Q Do you see down there at the bottom of the
5 page item 13 where the total and direct construction
6 costs are shown?

7 A Yes.

8 Q All right, sir.

9 A Yes, I'm with you now.

10 Q Now, you see the heading for that,
11 "Projected Unit Financial Data," has several footnote
12 asterisks on it?

13 A Yes.

14 Q Would you read those footnotes, please?

15 A The dollars per KW value are based on the
16 incremental capacity values only. Note that cost
17 values shown do not reflect FP&L system benefits which
18 result from efficient improvements in the existing
19 steam capacity at the site, and variable O&M is
20 included as part of the fixed O&M.

21 Q So you had the variable O&M. You just
22 didn't put it on your schedule.

23 A Evidently, yes.

24 Q Now, FPL indicated in the footnote that the
25 financial data didn't reflect the system benefits, all

1 the system benefits of repowering, didn't it?

2 A That's correct.

3 Q Nonetheless, you used that data without
4 regard to the footnote, didn't you?

5 A Yes.

6 Q If one were attempting to compare the
7 relative cost-effectiveness of all these units to the
8 end use customers, would one need the relative fuel
9 displacement benefits of each unit?

10 A The displacement fuel from other units?
11 Ask the question again, please.

12 Q If one were attempting to compare the
13 relative cost-effectiveness of all these units on your
14 RLV-9 to end use customers, would one also need in
15 addition to what you've shown here the relative fuel
16 displacement benefits of each unit?

17 A And that -- I believe we went through a
18 lengthy discussion in our depositions on this. I
19 couldn't say yes to that. I think it depends upon the
20 utility that's building the plant and the utility
21 that's doing the purchasing.

22 Q So it might or it might not, depending upon
23 the utility that you're analyzing?

24 A That's correct.

25 Q Previously you testified that the

1 Utilities Commission of New Smyrna Beach is
2 represented on the FRCC; correct?

3 A That's correct.

4 Q The FRCC board voted to approve a 15%
5 reserve margin on September 8th, did it not?

6 A I'm not sure of the date, but, yes, I agree
7 with that.

8 Q Mr. Vaden, you relied upon the FRCC's 1998
9 Load and Resource Plan in putting your testimony
10 together, did you not?

11 A Yes.

12 Q And the FRCC also prepared a companion
13 document to that, the 1998 Reliability Assessment;
14 correct?

15 A Yes, that's correct.

16 Q And what, as you understand it, was the
17 purpose of the FRCC's 1998 Reliability Assessment?

18 A It's to see if the units in the state are
19 adequate to cover the projected load in the state on a
20 reliable basis.

21 Q Now, you've been asked -- or you've been
22 provided a copy of Exhibit 4, the 1998 Reliability
23 Assessment, have you not?

24 A Yes.

25 Q Would you turn to page 11 of that

1 assessment?

2 A Okay.

3 Q Would you read for the Commission the
4 conclusion of the report on page 11?

5 A The reserve margin analysis indicates that
6 if Peninsular Florida maintains summer and winter
7 reserve levels at an excess of 15% throughout the
8 entire ten-year planning period, this level is
9 considered to provide adequate levels of reserve
10 margin for reliable service. Furthermore --

11 Q If you would slow down a little bit for the
12 benefit of the court reporter, please.

13 A Okay. Sorry.

14 Furthermore, with the mostly likely
15 assumptions, the peninsular electric system does not
16 exceed the .1 days per year loss load probability
17 criteria in any year of the ten-year planning horizon.
18 Some sensitivity analysis run indicates loss load
19 probability violations. However, the cases examined
20 either repeated an unlikely scenario of occurrences,
21 or either utilities have existing processes in place
22 to effectively deal with them. Therefore, based on
23 the results of the 1998 reliability assessment, the
24 FRCC concludes that the Peninsular Florida electric
25 system is reliable through the ten-year site planning

1 period and that the FRCC 1998 load and resource
2 planning is suitable.

3 Q Now, that's the conclusion of the FRCC, of
4 which the Utilities Commission of New Smyrna Beach is
5 a party; correct?

6 A That is correct.

7 Q Would you turn to -- well, before we turn
8 to it, as part of this reliability assessment, the
9 FRCC working group also assessed the propriety of the
10 use of a 15% reserve margin for Peninsular Florida,
11 didn't they?

12 A They used the 15% reserve margin? Is that
13 your question?

14 Q No. The working group assessed the
15 propriety of whether a 15% reserve margin should be
16 used, didn't they?

17 A That is correct.

18 Q And their conclusion as to that is on the
19 last page of the exhibit, is it not, the summary?

20 A Yes, that's correct.

21 Q What's their last recommendation on that
22 summary, sir?

23 A The RWG recommends that the 15% reserve
24 margin criteria be retained for reliability analysis
25 of Peninsular Florida.

1 MR. GUYTON: Mr. Vaden, thank you.

2 COMMISSIONER DEASON: Mr. Sasso?

3 MR. SASSO: Yes, thank you.

4 CROSS EXAMINATION

5 BY MR. SASSO:

6 Q Mr. Vaden, we've talked a little bit this
7 morning about the Participation Agreement that you
8 have with Duke, which is an exhibit to your testimony.
9 Do I understand it that you do not have at this time a
10 final power purchase agreement in place with Duke?

11 A That is correct.

12 Q And it is your expectation that the final
13 agreement will have little difference with the
14 Participation Agreement that we have before us; is
15 that right?

16 A I'm not sure what you mean by difference.

17 Q Well, it's your expectation that the final
18 agreement will be very similar or close to the
19 Participation Agreement in substance?

20 A That is correct.

21 Q And is it fair to say that that is your
22 expectation?

23 A My expectation, yes.

24 Q Yes. And when it actually comes time to
25 negotiate the agreement, you would expect that Duke

1 would bargain hard to protect its own economic
2 interest; correct?

3 MR. WRIGHT: Object to the form.
4 Speculative.

5 COMMISSIONER DEASON: Restate your
6 objection.

7 MR. WRIGHT: I object to the form. It
8 speculates as to Duke's intent and behavior,
9 Mr. Chairman.

10 COMMISSIONER DEASON: There has been an
11 objection to the question, Mr. Sasso. There has been
12 an objection.

13 MR. SASSO: Yes, sir. I think it's a fair
14 question. It's pointing out that we have a tentative
15 agreement and that this witness has expressed --

16 COMMISSIONER GARCIA: Your question is
17 whether there's a guarantee to any --

18 MR. WRIGHT: I object to the --

19 MR. SASSO: Yes.

20 COMMISSIONER GARCIA: To getting these
21 prices that we're talking about.

22 MR. SASSO: Yes.

23 MR. WRIGHT: I object to Mr. Sasso's
24 characterization of the agreement. It's a signed
25 agreement. You can read that yourselves. He

1 characterized it as tentative.

2 COMMISSIONER DEASON: I'm going to allow
3 the question. This witness can amplify on his
4 understanding to the extent he has an understanding.

5 A I fully believe that Duke has an obligation
6 to negotiate a purchased power agreement with the
7 Utilities Commission of New Smyrna Beach that will
8 withstand the provisions of the Participation
9 Agreement which we both signed, yes.

10 Q All right. Now, it's a fact that you have
11 not even commenced negotiations for a final agreement
12 with Duke at this time; is that right?

13 A I don't see what you mean by negotiations.
14 We just need to put this in proper form to file it
15 adequately with FERC. But there's not a lot of
16 negotiations. The negotiations are concluded.
17 They're in the Participation Agreement.

18 Q Just to be clear, you have the
19 Participation Agreement, but you haven't actually
20 drafted or exchanged drafts of a final power purchase
21 agreement as of this date; correct?

22 A That is correct.

23 Q And in fact, the price term that you
24 discussed with Mr. Guyton at Section 1.3 of the
25 Participation Agreement refers to a fair market value

1 that will be used in the future to determine price; is
2 that right?

3 A No. The price is 18.50 the first year the
4 project comes on line, and this indicator will be
5 visited on a yearly basis to allow this 18.50 to flow
6 to whatever the difference in the market is. So if
7 the market increases -- with a maximum of 3-1/2%. So
8 if the market increases by 5%, this contract will
9 increase by 5% (verbatim). If it decreases by 5%,
10 this contract will decrease by 3-1/2%.

11 Q And you haven't determined finally with
12 Duke what the measurement of market value will be; is
13 that right?

14 MR. WRIGHT: Object to the form.

15 A And again, we're not looking at the market
16 value.

17 MR. WRIGHT: Excuse me. As to time frame.
18 I would like to Mr. Sasso to clarify his question as
19 to the time frame with respect to which he is asking
20 his question.

21 MR. SASSO: Yes, sir.

22 BY MR. SASSO:

23 Q At such point as this provisions applies,
24 after the tenth anniversary of the date of service
25 when a fair market value measure becomes important.

1 Currently you haven't negotiated or established with
2 Duke what that measurement will be; is that correct?

3 A I believe what -- I'm going to try to
4 clarify. What you're asking is what that indicator
5 will be?

6 Q Yes, sir.

7 A That's correct. And the reason is that we
8 feel ten years from now there will be a lot more
9 indicators that shows what the price of the commodity
10 of electricity is worth than there are today. So I
11 don't think we can identify an indicator that's going
12 to exist ten years into the future.

13 Q All right. Now, we've already discussed
14 this morning that under Section 1.1 of the
15 Participation Agreement, Duke is entitled not to honor
16 its commitment to you of 30 megawatts in the event
17 that some circumstances arise where it is not earning
18 a reasonable profit and cash flow; is that right?

19 A Well, again, I would restate that. When
20 the useful economic life of this plant, when it
21 reaches that point, then they can shut the plant down
22 and have no other obligation to New Smyrna Beach
23 except for cleaning the site up.

24 Q Well, could you turn to that exhibit,
25 please?

1 A Yes, I'm there.

2 Q Section 1.1?

3 A Right.

4 Q The term that's actually used is at the
5 time when the plant is not technically capable of
6 producing electric energy at a cost that results in a
7 reasonable profit and cash flow to the owner of
8 facility; is that right?

9 A That's correct.

10 Q And as I understand it, Duke has not
11 advised you what its belief is about a reasonable
12 profit and cash flow; is that right?

13 A That is correct.

14 Q And you said you wouldn't want to know that
15 information?

16 A That's correct.

17 Q All right. Now, would you agree that,
18 let's say, if five years from now we have an addition
19 of merchant plants to the state, that might have an
20 impact on the profitability of this plant?

21 A Yes, it could.

22 Q All right. And you would agree that there
23 may come a time, it may be 15 years, it may be ten
24 years, or it may even be sooner, when Duke may come to
25 you and say, "We've reached a point, Mr. Vaden, where

1 in my judgment we're no longer earning a reasonable
2 profit, we may have to curtail our entitlement to you,
3 or alternatively perhaps we can renegotiate this
4 contract"; isn't that right?

5 A I'm not sure renegotiate. They might want
6 to replace or repower the plant. When the plant turns
7 into a dog, it should be retired.

8 Q Well, you have no control over that moment
9 in time when they come to you and say, "We're not
10 earning a reasonable profit or cash flow, and so we're
11 faced with a choice of cutting off our entitlement or
12 perhaps renegotiating this agreement"; is that right?
13 You have no control over that?

14 A No. The market will take care of that.

15 Q Now, as I understand it, you have some
16 concern that you may not have been getting fully
17 reliable service under your agreement with an
18 investor-owned utility. But let's suppose that you
19 have a contract in place with, say, Florida Power
20 Corporation or Tampa Electric Company, and one of
21 their plants goes out of service. Would you agree
22 that they would be able to meet their obligation to
23 you with other facilities on their fleet?

24 A Again, it's back to the nature of the
25 contract that you have signed.

1 Q But certainly Florida Power Corporation or
2 Tampa Electric Company would be in a position to back
3 up their contract with multiple units on their fleet;
4 correct?

5 A Again, that's contract specific.

6 COMMISSIONER CLARK: Mr. Vaden, do your
7 contracts with FPC, TECO, or Enron indicate it's tied
8 to a specific unit?

9 WITNESS VADEN: They're different. I can
10 really quickly do three contracts and give you three
11 different examples.

12 The Florida Power & Light contract, which I
13 do not have now -- we've cancelled the contract -- was
14 a partial requirements. That was the one we discussed
15 earlier. If they have to shed part of their retail
16 customers, they shed me in like amount.

17 The Tampa contract --

18 COMMISSIONER CLARK: I'm just asking you,
19 does the contract give you a right to power out of a
20 certain plant, and your getting the power is dependent
21 on that plant running?

22 WITNESS VADEN: My Florida Power & Light
23 contract, no. My Tampa Electric contract is tied to
24 two units, I believe. So it's contract specific.

25 COMMISSIONER CLARK: Okay.

1 WITNESS VADEN: If that answers your
2 question.

3 COMMISSIONER GARCIA: You're trying to --
4 what you're trying to answer the question is that
5 that's how all the contracts are, that they're tied to
6 a unit or some specific --

7 COMMISSIONER CLARK: No.

8 WITNESS VADEN: Some are and some are not.

9 COMMISSIONER CLARK: Some are and some are
10 not.

11 WITNESS VADEN: My Tampa contract is tied
12 to specific units. The contract I did have with
13 Florida Power & Light I think is tied to every unit.
14 It's a system average. And I think that's my current
15 Florida Power Corporation contract.

16 BY MR. SASSO:

17 Q All right. In looking at this specific
18 contract, or at least this Participation Agreement, as
19 you've called it, at Provision 1.2, you have agreed
20 that the entitlement shall be made available to UCNSB
21 for all hours during which the facility is available;
22 correct?

23 A That's correct.

24 Q And you've agreed also that Duke shall have
25 no responsibility to provide for replacement capacity

1 to UCNSB if the facility is unavailable; is that
2 right?

3 A Well, if it's -- yes. If it's unavailable
4 because of a maintenance problem or in a scheduled
5 outage, that is correct.

6 Q Now, as I understand it, you have a quarrel
7 with a 15% reserve margin in the state; is that right?

8 A I don't have a quarrel whatsoever.

9 Q Well, in fact, you would agree that it's an
10 appropriate reserve margin for Florida utilities; is
11 that right?

12 A Well, again, this is not a yes or no or a
13 simple answer. It's back to the answer, if I was --
14 if it was my decision, I don't think I would force the
15 investor-owned utilities to build plants to bring the
16 reserve margin up to 20, 25% and put it into the rate
17 base. But yet again, if I had merchant facilities
18 getting ready to come to the plate in the state, build
19 the plants and not put any monies into the rate base,
20 and therefore -- and increase my reserve margin 25%, I
21 had be, "Hey, let's do it, guys."

22 Q Now, you've relied in RLV-7 on reserve
23 margin data from the FRCC; is that right?

24 A That is correct.

25 Q And that data aggregates the reserve

1 margins of individual utilities in the state; is that
2 right?

3 A That is correct.

4 Q And you would agree that Florida utilities
5 aren't able to base their reserve margins on nonfirm
6 resources?

7 A That's correct.

8 Q And it is your contention, as I understand
9 it, that merchant plants should be permitted to come
10 into the state based on some idea of a 25% excess
11 capacity; is that right?

12 A Well, again, I didn't say -- when I threw
13 the number 25% out, I stated that I feel that merchant
14 plants should be allowed in the state. They're
15 bearing the cost. They're coming into the state.
16 They're increasing the reserve margin.

17 I still believe they should come in front
18 of this Commission and get a needs determination, and
19 there should be some cutoff, and that cutoff may be
20 25%. But I think the economics of the plants are
21 going to dictate that far before you'll get to 25%
22 reserve margin in the state.

23 Q All right. Now, the basis for your I guess
24 seat-of-the-pants number of 25% is your experience
25 with extreme weather conditions; is that right?

1 MR. WRIGHT: I object to the form,
2 characterizing it as seat-of-the-pants.

3 COMMISSIONER DEASON: Mr. Sasso, there's an
4 objection.

5 MR. SASSO: Well, I'll ask it this way.

6 BY MR. SASSO:

7 Q You don't purport to tell this Commission
8 that that 25% number is based on any careful, rigorous
9 analysis on your part; is that right?

10 A As I said, the number 25 was just pulled
11 up. What I've stated and what I believe is that the
12 15% reserve margin is not adequate enough to keep the
13 lights on in the State of Florida in severe weather
14 situations.

15 Q But that 25% is not based on any careful
16 system analysis on your part?

17 A That's absolutely correct. I think that's
18 a number that needs to be determined if it ever
19 approaches that point because of merchant plants,
20 which I don't think it will, because the economies of
21 it will take care of it before that point.

22 Q Now, as I understand it, you were
23 influenced in arriving at that conclusion, at least
24 in part, by your experience with extreme weather
25 conditions; is that right?

1 A I guess more than just extreme weather. I
2 think I had two examples, the extreme weather in '89
3 when our lights went out, and last summer when there
4 was a shortage of capacity in the state at a
5 reasonable price because of the hotter weather. It
6 wasn't -- I don't think last summer could be called an
7 extreme weather condition, but it was a high load area
8 or high load for about three to four months in the
9 state. There were no severe peaks. It was just heavy
10 loads. And at that time, a plant like this would have
11 been welcomed in the state.

12 Q All right. Now, let's suppose that
13 merchant plants were allowed to come into the state on
14 that basis. If we were somehow able to determine what
15 25% means, let's suppose they were able to come into
16 the state on that basis. Would it be your expectation
17 that they would remain idle, poised to operate and
18 dispatch only in the event of extreme weather
19 conditions or tight reserves?

20 A A plant like Duke Energy or any other
21 company as credible as that is not going to come in
22 and build a merchant plant at their cost in the state
23 and sit idle just to hit those peaks. The free
24 enterprise system works.

25 Q You would expect that those new merchant

1 plants would seek to operate and displace existing
2 investor-owned facilities; is that right?

3 A Yes. At some point they would start
4 displacing them, yes.

5 Q And an impact of that may be that the
6 investor-owned utility units may be forced to retire
7 from service; correct?

8 A At some point that could happen, yes.

9 Q And if that occurred, then we might be back
10 again to a 15% level of excess capacity; correct?

11 A I don't see that. I can't match those two
12 up.

13 Q And if the investor-owned utility
14 facilities retired from service, they would not be
15 available to meet load in extreme weather conditions;
16 is that right?

17 A I still can't follow your logic here.

18 Q Well, let's suppose that some units were
19 retired from service and we have merchant plants
20 instead and no firm contracts. Now we would have
21 fewer investor-owned utility units, but no firm
22 resources on which to base reserve margins; correct?

23 A No, I don't think it will ever get to that
24 point.

25 MR. SASSO: Nothing further.

1 MR. BEASLEY: Commissioners, Tampa
2 Electric's positions and concerns regarding the
3 proposed project are set forth in detail in our
4 prehearing filings, and we will revisit those in
5 detail in our post-hearing submissions. In an effort
6 to keep the hearing moving along and avoid
7 duplication, we will refrain from cross examination to
8 the extent that areas where we have concern are
9 covered by the other utility intervenors. In keeping
10 with that approach, we have no additional questions
11 for Mr. Vaden.

12 COMMISSIONER DEASON: That's appreciated,
13 Mr. Beasley.

14 MR. WRIGHT: Commissioner Deason?

15 COMMISSIONER DEASON: Yes.

16 MR. WRIGHT: As my attorney said to the
17 Chairman at the time the first time I ever testified
18 before the Commission, my witness has been on the
19 stand for about an hour and a half, and his lawyer
20 could use a break.

21 COMMISSIONER DEASON: Ms. Hershel, do you
22 have questions?

23 MS. HERSHEL: No, sir.

24 COMMISSIONER DEASON: Okay. We'll take a
25 ten-minute recess.

1 MR. WRIGHT: Thank you.

2 COMMISSIONER DEASON: Ten, ten minutes.
3 Let's try to make it ten too, in reality ten, not a
4 20-minute break.

5 (Short recess.)

6 CHAIRMAN JOHNSON: We're going to go back
7 on the record.

8 Staff?

9 MS. PAUGH: Thank you, Madam Chairman. In
10 the interest of administrative efficiency, Staff has
11 requested that four depositions be moved into the
12 record. One of those depositions is the Staff
13 deposition of Mr. Vaden. That will negate the need to
14 reask the questions. We would request that this
15 deposition be marked as our next exhibit.

16 CHAIRMAN JOHNSON: It will be marked as 9.

17 MS. PAUGH: The deposition is being handed
18 out now.

19 In addition, Staff would request that
20 Mr. Vaden's late-filed to that deposition be marked as
21 an exhibit, and that is also being handed out.

22 CHAIRMAN JOHNSON: It will be marked as 10.

23 MS. PAUGH: Staff requests these exhibits
24 be moved into the record.

25 MR. GUYTON: Commissioners, I would just

1 ask an opportunity to look at the late-filed exhibits.
2 I think this is the first opportunity I've had.

3 CHAIRMAN JOHNSON: Let's just mark them
4 now, 9 and 10.

5 MR. WRIGHT: Madam Chairman?

6 CHAIRMAN JOHNSON: And there's another
7 one? I'm still marking. I'm not admitting. There's
8 another one, Staff?

9 MS. PAUGH: Yes, there is, Madam Chairman.
10 Staff requests that our next exhibit -- it's a
11 document I believe has also been handed out. It's the
12 Response to Staff's First Set of Interrogatories, Item
13 9, pages 10 through 11.

14 (Exhibits 9, 10 and 11 were marked for
15 identification.)

16 CHAIRMAN JOHNSON: Okay. That's marked as
17 11.

18 CROSS EXAMINATION

19 BY MS. PAUGH:

20 Q Mr. Vaden, do you have a copy of the item
21 that has been identified as Exhibit 11 in front of
22 you?

23 A Is 11 -- let me make sure I've marked this
24 correctly. Nine was my deposition, 10 was the late
25 filing, and 11 was the -- I'm not sure what you call

1 it.

2 Q The Response to Staff's First Set of
3 Interrogatories, Item 9, pages 10 through 11.

4 A Yes, I do.

5 Q Thank you, sir. Will you please turn to
6 the last page of that exhibit?

7 A Yes.

8 Q Would you agree, Mr. Vaden, that the
9 escalation rate for the fuel pricing forecast for
10 Florida Power Corporation -- I assume that's the
11 partial requirements, the PR -- is 3.4%, sir?

12 A Yes, I do.

13 Q Thank you. Mr. Vaden, do you have a copy
14 of your responses to Staff's Request for Production of
15 Documents, Nos. 1 through 23, with you?

16 A I have the Duke Energy New Smyrna Beach
17 response for documents 1 through 23.

18 Q This document is dated October 16th; is
19 that correct?

20 A That's correct.

21 Q Please turn to the response to the
22 Production of Documents No. 21.

23 MS. PAUGH: One moment, Madam Chairman.
24 We're going to hand out copies of this response.

25 WITNESS VADEN: Is there a page number for

1 that?

2 MS. PAUGH: Page 24, Mr. Vaden.

3 While Staff is handing out this document, I
4 would request that it be marked as an exhibit.

5 CHAIRMAN JOHNSON: Okay. Which one of
6 them?

7 MS. PAUGH: I'm sorry?

8 CHAIRMAN JOHNSON: Which of the three?

9 MS. PAUGH: It's titled "UCNSB History and
10 Forecast of Net Energy for Load and Load Factor."

11 CHAIRMAN JOHNSON: That will be identified
12 as -- marked as 12 and identified as stated.

13 (Exhibit 12 was marked for identification.)

14 BY MS. PAUGH:

15 Q Mr. Vaden, did UCNSB file the response to
16 this discovery?

17 A I have some confusion again. I believe
18 this is the discovery for Duke Energy New Smyrna
19 Beach, not the Utilities Commission of New Smyrna
20 Beach.

21 Q On page 24, if you refer to that page, does
22 it appear that UCNSB filed the response to this
23 discovery?

24 A Okay. I'm sorry, but I don't think I've
25 found the correct page 24. What is the document I'm

1 looking for?

2 Q Staff is going to bring you my copy of the
3 discovery response.

4 A Thank you.

5 I have it. Thank you.

6 Q Are you with us, Mr. Vaden?

7 A Yes, ma'am, finally.

8 Q Okay. Please turn to the schedule that's
9 behind page 24 titled "Forecast Net Energy for Load
10 and Load Factor."

11 A Yes.

12 Q Are you familiar with this schedule?

13 A Yes, I am.

14 Q Please describe what this schedule
15 reflects.

16 A This schedule reflects the actual up
17 through -- I guess 1997, and forecasted from that
18 point through the year 2004 the net energy for load
19 for New Smyrna Beach, the retail energy for load for
20 New Smyrna Beach, which in New Smyrna Beach's case is
21 the same number, and then the peak demand, and then
22 the load factor calculated from those numbers.

23 Q Do you recall calculating the projected
24 growth rates for the years 1995 through the year 2005
25 during your deposition, sir?

1 A Yes, I do.

2 Q Do you recall what those growth rates were?

3 A I'm thinking in the first two to three
4 years, it was around 2.5%, and then it dropped off to
5 around 1-1/2% for the remainder.

6 Q Would you characterize this forecast as a
7 conservative forecast?

8 A After reviewing it, I characterized it as
9 extremely conservative.

10 Q Thank you, sir.

11 MR. WRIGHT: Madam Chairman, I just don't
12 want to get lost logistically. Has this exhibit been
13 marked for identification at this point?

14 MS. PAUGH: The Staff Net Energy for Load
15 was marked as Exhibit 12, according to my notes.

16 CHAIRMAN JOHNSON: The History --

17 MR. WRIGHT: Does that correspond to --

18 CHAIRMAN JOHNSON: Let me make sure I have
19 the right one. The History and Forecast of Net Energy
20 for Load?

21 MS. PAUGH: That's correct, Madam
22 Chairman.

23 CHAIRMAN JOHNSON: Yes, it's 12.

24 MR. WRIGHT: Thank you.

25 MS. PAUGH: Staff next requests that an

1 exhibit be marked as Exhibit 13. It is titled "UCNSB
2 Summer Peak Demand History and Forecast."

3 CHAIRMAN JOHNSON: That will be marked as
4 13 and identified as stated.

5 (Exhibit 13 was marked for identification.)

6 BY MS. PAUGH:

7 Q Please turn to the exhibit that has been
8 marked 13, Mr. Vaden.

9 A Yes, I have it in front of me.

10 Q Did UCNSB respond to this discovery?

11 A Yes, we did.

12 Q Please turn to the schedule titled "Summer
13 Peak Demand."

14 A I have it in front of me.

15 Q Are you familiar with this schedule?

16 A Yes, I am.

17 Q What does this schedule reflect, please?

18 A This is the historical, again up through
19 '87, and then projected through 2017, the summer peak
20 demand of the Utilities Commission, and the retail
21 demand, which again is the same numbers in this case.
22 It also has historical and projections for the same
23 years for the residential load management of the
24 Utilities Commission, and then the summer demand,
25 which would be the differential.

1 Q Did you say historical through 1987 or '97?

2 A '97. I'm sorry.

3 Q Thank you. Do you know what the projected
4 growth rates for the summer peak demand for the period
5 1999 through 2005 are, Mr. Vaden, based on this
6 schedule?

7 A Again, I think they're around the same
8 percentages that we had mentioned earlier, the 2-1/2%
9 and the 1-1/2% in the out years. I would have to
10 calculate it to give exact numbers.

11 Q Thank you, sir. Would you characterize
12 your summer peak demand forecast as conservative?

13 A Yes. Again, as in the other case, it would
14 be extremely conservative.

15 Q Thank you.

16 MS. PAUGH: Staff requests that the
17 document that has been handed titled "UCNSB Winter
18 Peak Demand History and Forecast" be marked as our
19 next exhibit.

20 CHAIRMAN JOHNSON: It will be marked as 14
21 and identified as stated.

22 (Exhibit 14 was marked for identification.)

23 BY MS. PAUGH:

24 Q Referring to the exhibit that has been
25 marked No. 14, Mr. Vaden, did UCNSB respond to this

1 discovery?

2 A Yes, we did.

3 Q Are you familiar with the schedule titled
4 "Winter Peak Demand"?

5 A Yes.

6 Q And what does this schedule reflect?

7 A This schedule reflects the same information
8 as in the one I just described, except it is the
9 winter peak demand. Would you like me to go through
10 that?

11 Q I'm sorry?

12 A Would you like me to go through the
13 schedule? It's identical, except it has the winter
14 demand instead of the summer demand.

15 Q What we're interested in is your testimony
16 regarding the projected growth rate for winter peak
17 demand, sir. Do you know what that is?

18 A Yes. And again, it's the same percentages,
19 around 2-1/2% for the short years and lowered to
20 1-1/2% in the future years, I believe.

21 Q Is this a conservative growth rate,
22 Mr. Vaden?

23 A Again, it's very conservative.

24 Q Thank you, sir.

25 MS. PAUGH: Staff requests that the exhibit

1 that's being handed out be marked for identification.
2 It is titled "Duke Energy New Smyrna Beach Power
3 Company Ltd., L.L.P.'s Response to Staff's Request for
4 Production of Documents No. 3."

5 CHAIRMAN JOHNSON: It will be marked as
6 Exhibit 15 and identified as stated.

7 (Exhibit 15 was marked for identification.)

8 BY MS. PAUGH:

9 Q Mr. Vaden, do you have a copy of the
10 exhibit that has been marked as No. 15?

11 A Yes, I do.

12 Q Referring to that exhibit, my question is,
13 did you evaluate the cost-effectiveness of the
14 purchase from the proposed plant against any other
15 alternatives?

16 A Yes, I did.

17 Q And what were those alternatives, sir?

18 A Those alternatives were our current
19 contracts that we have with Florida Power Corporation
20 and Enron and a peaking resource that would replace
21 our current Enron resource.

22 Q Please turn to Exhibit RLV-6 of your
23 testimony, Mr. Vaden.

24 A I have it in front of me.

25 Q Do the three pages of this exhibit show the

1 cost-effectiveness of the purchase from the proposed
2 plant?

3 A Yes, they do.

4 Q Did you assume that TECO and the FPC
5 contracts would continue with the current rate
6 structure that's in effect at this time?

7 A With the same capacity and demand charges
8 in place at this time, yes, that's correct.

9 Q Does page 1 of 3 of RLV-6 estimate the
10 electricity cost for the year 2000 assuming the UCNSB
11 purchases under the existing contracts?

12 A That is correct.

13 Q Please refer to page 2 of 3 of RLV-6. Does
14 this page estimate the electricity costs for the year
15 2000 assuming UCNSB replaces its existing purchases
16 with the 30 megawatts from the proposed plant and
17 additional peaking purchases?

18 A That is correct.

19 Q Please turn now to page 3 of 3 of RLV-6,
20 sir.

21 Please explain how the exhibit marked No.
22 15 that Staff just handed out relates to this page, if
23 you would.

24 A This exhibit takes the projections with the
25 Duke plant for the future years, and in comparison

1 with the base case year 2000 with the new fuel prices
2 that you handed me a moment ago added to it, and then
3 they're present-valued back at 6% to get a net present
4 value for the year 2002 to 2021. And then the last
5 column shows the cumulative net present value at 6%.

6 Q Mr. Vaden, could the reliability of UCNSB's
7 system be maintained by continuing to purchase from
8 TECO, Power Corp., and Enron?

9 A The system reliability could be maintained
10 by continuing those purchases if we were able to
11 extend those contracts, which at this point we don't
12 feel we would be able to extend the contract. We're
13 currently in negotiation with Tampa.

14 Q Why do you feel you won't be able to extend
15 the contract, sir?

16 A As I understand it, the Tampa resource that
17 we have been purchasing will be needed more for the
18 retail load of the Tampa Electric customers, so
19 therefore they don't have as much availability in the
20 wholesale markets from the units that we've been
21 purchasing from.

22 Q And what about with respect to FPC and
23 Enron, sir?

24 A Florida Power Corp. purchases under their
25 PR contract is just far in excess of the market value

1 that we should be paying. So even if we were able to
2 extend those contracts, we would not.

3 Q Is the capacity to be provided pursuant to
4 the Participation Agreement needed because it is
5 expected to be a more economic source of power than
6 purchasing other power?

7 A For two reasons, first to be more
8 economical, and -- and I guess they both tie
9 together. And the second reason is because the
10 existing contracts with Tampa are expiring. So it's
11 needed for the two purposes.

12 Q So would you say that UCNSB has an economic
13 need for the proposed plant as opposed to a
14 reliability need?

15 A I think the economic need is needed, and I
16 also think that the reliability aspect is needed too.

17 Q Thank you, sir. Will the proposed power
18 plant have a backup fuel supply?

19 A No, it does not.

20 Q Are the ratepayers of UCNSB protected in
21 the event of a gas supply interruption at the proposed
22 plant if it's built?

23 A Yes, they are. And if you would like me to
24 explain that --

25 Q I would, sir.

1 A Again, as we went through the discussion
2 this morning, the state is situated in such a manner
3 if a unit goes off line because of an unforeseen
4 outage, which a gas line interruption would be an
5 unforeseen outage, then New Smyrna Beach would be
6 eligible to take energy and capacity under a Schedule
7 A. The reason we're able to do that is because we, as
8 the rest of the utilities in the state, we maintain a
9 Schedule A -- I mean spinning reserves and nonspinning
10 reserves. And all the utilities assist each other in
11 emergency situations, so we would be able to purchase
12 under a Schedule A in that event.

13 Q Okay. Thank you. Did UCNSB analyze the
14 risk of the interruption of natural gas to the site in
15 its analysis of the reliability of the proposed
16 project?

17 A I myself did not sit and go through a
18 detailed analysis of this. We had discussions with
19 Duke Energy of the reliability of the gas supply, and
20 they assured me that they had firm delivery of this,
21 and at a level that would be the unit available, so I
22 just relied on the information from Duke.

23 MS. PAUGH: Okay. Thank you, sir.

24 At this point, Staff would request that
25 Exhibits 9 through 15 be moved into the record.

1 CHAIRMAN JOHNSON: Any objection?
2 Show 9 through 15 admitted without
3 objection, please.

4 (Exhibits 9 through 15 were received in
5 evidence.)

6 MS. PAUGH: We have no further questions of
7 this witness, Madam Chairman.

8 CHAIRMAN JOHNSON: Commissioners?

9 COMMISSIONER JACOBS: One brief question.
10 When you gave the commitment that New Smyrna Beach has
11 from the plant, you said 27?

12 WITNESS VADEN: There is a commitment of
13 the plant for 30 megawatts, but New Smyrna Beach is
14 required to take 27.

15 COMMISSIONER JACOBS: And that's by the --
16 I see 20 plus the percentage of that when they
17 increase the overall plant capacity. Is that how that
18 works?

19 WITNESS VADEN: Yes, the first 20, and
20 we're required -- 18 of the 20, and the additional 10,
21 we're required to take it I think at a 90% capacity.

22 COMMISSIONER JACOBS: Thank you.

23 COMMISSIONER CLARK: I wasn't clear on page
24 14 of your testimony when you talked about doing your
25 load forecasts, and you refined those load forecasts

1 based on projected weather conditions, for example, an
2 El Nino year. It wasn't clear to me if you normalized
3 for weather or if you took into account exceptional
4 weather.

5 WITNESS VADEN: The load forecast is
6 actually done off of years and net energy for load,
7 which is our load to our customers, so that's what we
8 actually project out. We do not take a weather
9 forecast as a third variable. We feel that our
10 historical data takes into the consideration the
11 weather itself. In other words, if we had a hot
12 summer, our loads would be higher, and therefore it's
13 included within the forecast in that manner.

14 COMMISSIONER CLARK: Then what do you mean
15 on page 14? It sounds like what you just said
16 contradicts what's in the testimony.

17 WITNESS VADEN: Okay. Just to run through
18 it real quick, we do the forecast on the historical.

19 COMMISSIONER CLARK: Right.

20 WITNESS VADEN: Then we do the customers on
21 the regressional analysis, we do the loads on the
22 regressional analysis, and then we take the forecasted
23 energy for the future years, and then we take the
24 forecasted customers into the future years, and we
25 divide those together to see if we're getting a

1 reasonable use per customer, just to check for the
2 reasonability of it.

3 But I believe the statement that you're
4 saying, the final load forecasts are refined based on
5 projected weather conditions and the El Nino year.
6 And we really would look at it, but we did not do any
7 adjustments. If we felt that if something was coming
8 come down the pike that we needed to increase it or
9 decrease it, we would. But it's just a general
10 statement that we would look at conditions. But we
11 did not modify our load forecasts for an El Nino year.

12 COMMISSIONER CLARK: Okay. So you didn't
13 -- for this particular load forecast, you didn't
14 modify for an El Nino year, for projected weather
15 conditions, future economic considerations?

16 WITNESS VADEN: Well, I think the -- as I
17 stated, I think the projected weather conditions are
18 included in the forecast. I guess future economic
19 conditions -- as an example, New Smyrna Beach is a
20 small city. If we had an industrial customer that was
21 going to come in and add 10 megawatts to our load, we
22 would be able to identify that. So it doesn't take a
23 lot of complicated models to identify projects and so
24 forth that are going to move into the city. So this
25 is just a statement that if we did see something that

1 was going to happen in the future, we would add it
2 into it. But these forecasts did not include any
3 unusual circumstances for those years.

4 COMMISSIONER CLARK: Those are things that
5 you might do, but you didn't do it in this --

6 WITNESS VADEN: Right. That's exactly
7 right, Commissioner. If we could identify something,
8 we would include it.

9 COMMISSIONER CLARK: Thank you.

10 CHAIRMAN JOHNSON: Redirect?

11 MR. WRIGHT: Thank you, Madam Chairman.

12 REDIRECT EXAMINATION

13 BY MR. WRIGHT:

14 Q Mr. Vaden, at the outset of your testimony,
15 Commissioner Deason asked a question, and I'm not sure
16 the answer was clear. I thought Commissioner Deason
17 asked you if you knew how much UCNSB would pay for
18 power. Do you know how much UCNSB would pay for power
19 under the Participation Agreement?

20 A Yes, I do.

21 Q Do you know at this time how much you would
22 pay for power from other utilities?

23 A From other utilities, no. I know it would
24 be in excess of the base 2000 that we have in our
25 testimony.

1 Q Would it be at market prices?

2 A No, it would be at negotiated prices. I
3 don't think it would be at market prices.

4 Q Do you anticipate being able to buy
5 additional power either at negotiated or market prices
6 from the New Smyrna Beach power project?

7 A We possibly could. We have the agreement
8 with Duke Energy for 30 megawatts, and in the time
9 frame when the plant comes on line, we'll have an
10 additional need of approximately 40 megawatts. So we
11 could very well have further purchases from the plant,
12 but at this time we have no contracts, and we have not
13 negotiated them.

14 Q Well, if the plant is there and it's not
15 otherwise committed, you would have an opportunity to
16 buy from it, wouldn't you?

17 A I would think so, yes.

18 Q Would you have that opportunity if the
19 plant wasn't there?

20 A That is correct.

21 Q You were asked some questions both by
22 Commissioner Clark and by Mr. Guyton relating to a 25%
23 reserve margin. I think that you were in the room
24 yesterday when during oral argument Commissioner Clark
25 and I had a colloquy that kind of focused around the

1 issue of how much is too much. Do you think that if
2 a 25% reserve margin or a large portion of that is
3 comprised of merchant capacity, it's too much for
4 Florida?

5 A No, I do not.

6 Q And in your testimony today, are you
7 testifying as a director of a municipal electrical
8 utility system in Florida?

9 A Yes, I am.

10 Q You were asked a series of questions by
11 Mr. Guyton relating to the need to have a contract to
12 rely on power from the New Smyrna Beach power project,
13 and I believe you indicated that to rely on it, you
14 would need a contract. Is that an accurate
15 characterization of your previous testimony?

16 A To rely on it? I'm not --

17 Q Well, I thought that was the word you used,
18 and I'm trying to understand.

19 If the New Smyrna Beach power project were
20 there and you didn't have the power sales contract,
21 could you rely on the output of the project to serve
22 your customers?

23 A I wouldn't use it as a resource to count
24 and to add up to meet my 100% load and my reserves,
25 but it would increase my reliability by simply being

1 there and dispatching on the market.

2 Q So you would consider -- maybe it's a
3 semantic question, the different between consider and
4 rely on. Would you consider its availability?

5 A Yes, I would.

6 Q Would you consider the availability from
7 other merchant power plants that might exist in
8 Florida?

9 A Yes, absolutely.

10 Q For example, there has been some trade --
11 are you familiar with the recent trade press regarding
12 a proposal to build some 850 megawatts of peaking
13 capacity in Brevard County?

14 A I had glanced at it. I don't know any
15 details about the project.

16 Q If that plant were built, would its
17 availability, assuming that it were not otherwise
18 committed, be something that you would consider in
19 your planning processes?

20 A Yes, it would.

21 Q You were asked some questions regarding
22 load -- I'm worry, regarding winter reserve margins
23 with load management and interruptable service by
24 Mr. Guyton. The question I have for you is, is the
25 reliability -- in your opinion, as a director of a

1 municipal electric utility system in Florida, is the
2 reliability of Peninsular Florida's power supply
3 system going to be greater with the project or without
4 the project?

5 A Absolutely greater with the project.

6 Q Mr. Guyton asked you some questions
7 regarding the possibility of power being sold beyond
8 Florida or into a market beyond Florida. My question
9 for you is, based on your knowledge as a director of a
10 municipal electrical utility system in Florida, do you
11 think that it's reasonable to expect that the
12 project's output would be sold outside Florida?

13 A No. And if I could elaborate on that one
14 second, the reason why, if you wanted to sell the
15 output to Georgia, you wouldn't build it here in
16 Florida, pay gas transportation into Florida, pay
17 electric transmission back out. You would go to
18 Georgia to build the plant to start with. They're
19 trying to build the plant where the market's at.

20 Q Well, considering that, assume -- you gave
21 me kind of a futuristic answer. Assume that the plant
22 was built in Florida. Again I ask you, based on your
23 knowledge of the power supply system in this region,
24 do you think it's realistic to expect that the power
25 output of the project would be sold outside Peninsular

1 Florida?

2 A No, I do not.

3 Q Mr. Guyton asked you a series of questions
4 regarding the cost-effectiveness information that you
5 presented in your Exhibit RLV-8. Do you recall those
6 questions?

7 A Yes.

8 Q And he asked you whether it would be
9 appropriate for a cost-effectiveness evaluation to
10 take into account actual energy costs. Do you recall
11 that?

12 A Yes, I do.

13 Q Will future energy costs depend on future
14 gas prices?

15 A Yes.

16 Q For new power plants, and I think your
17 table indicates similar technologies, is it reasonable
18 to expect, based on your experience and knowledge as a
19 participant in this industry, that fuel costs, gas
20 costs and gas transportation costs would be similar
21 for such new plants?

22 MR. GUYTON: I'm going to object. This
23 witness's prior testimony in response to my questions
24 about that was that he didn't consider himself an
25 expert as to gas transportation and gas delivery costs

1 as to Florida utilities.

2 MR. WRIGHT: Madam Chairman --

3 MR. GUYTON: I don't see how with his prior
4 statement to that effect he can answer this question.

5 MR. WRIGHT: Madam Chairman, I'm not asking
6 him as an expert. I'm asking him as a director of a
7 municipal electric utility system in Florida who buys
8 and sells power from utilities on a routine basis.

9 CHAIRMAN JOHNSON: I'm going to allow it.

10 A I can't answer that a yes or no question,
11 Again, as I indicated, I think I lack some expertise
12 in this. But based on my knowledge as a utility
13 director and the IOUs and Duke Energy coming into the
14 market, I would think that they would have comparable
15 gas prices and there wouldn't be a large differential
16 between the different companies in the gas prices.

17 Q Would you expect then that heat rate would
18 be a good indicator of relative energy production
19 costs for power plants?

20 A Yes, I would.

21 Q Fired by the same fuel, I should say.

22 A Yes.

23 Q For new power plants of the type listed in
24 your Exhibit RLV-8, would you expect, based on your
25 knowledge as who you are, the variable and fixed O&M

1 costs for similar units to be similar?

2 A Yes, I do.

3 Q Mr. Guyton asked you some questions
4 regarding the costs -- I'm sorry, the direct
5 construction costs of the plants listed in that table
6 being in different years' dollars. Do you recall
7 those questions?

8 A Yes.

9 Q Are most of the units listed there
10 scheduled to come in service between 1999 and 2004?

11 A It looks to be 2007.

12 Q I asked most, not all.

13 A Most, yes.

14 Q Do you think any adjustments you might make
15 for different years' dollars would significantly
16 affect the data shown in the right-hand column of your
17 table?

18 A No. If you present-value those dollars
19 back to those years, it would be insignificant.

20 Q You were asked some questions regarding the
21 reliability criterion that has been approved by the
22 board of the Florida Reliability Coordinating
23 Council. Do you recall those questions?

24 A Yes, I do.

25 Q Do I have it right that there was a

1 predecessor organization to the FRCC, that the current
2 activities were formerly undertaken by an entity known
3 as the Florida Electric Power Coordinating Group?

4 A Yes, that is correct.

5 Q Did the Florida Electric Power Coordinating
6 Group think they had adequate reserves in 1989?

7 A Yes. As I remember, yes, they did.

8 Q Do you recall whether the planning
9 criterion was 15% at that time?

10 A Yes, I believe it was also the same
11 criteria as we have today.

12 COMMISSIONER CLARK: In 1989, the planning
13 criteria was 15%? You're sure of that?

14 WITNESS VADEN: I'm not sure. I believe it
15 was 15%.

16 COMMISSIONER CLARK: How much margin was
17 there at that time?

18 MR. WRIGHT: Do you mean as projected
19 before the event? You mean as projected --

20 COMMISSIONER CLARK: How much did we have
21 -- how much reserve margin for that particular year
22 was there?

23 WITNESS VADEN: I don't have the data in
24 front of me, so I might not give an incorrect answer,
25 but I -- a correct answer, but I believe that the

1 reserve margin in 1989 was greater than it is today,
2 the actual reserve margin.

3 COMMISSIONER CLARK: And it was? It was
4 what percentage?

5 WITNESS VADEN: I do not know.

6 MR. WRIGHT: Madam Chairman, if you like, I
7 think Mr. Vaden could probably consult public
8 documents, summaries of ten-year site plans, and
9 furnish that as a late-filed, or we could ask for
10 official recognition and furnish that information to
11 you.

12 COMMISSIONER CLARK: Just let me know. Ask
13 another witness.

14 MR. WRIGHT: Okay.

15 BY MR. WRIGHT:

16 Q Mr. Sasso asked you some questions
17 regarding displacement of power plants and potential
18 retirements of power plants. Do you recall those
19 questions?

20 A Yes, I do.

21 Q Is displacement of generation output from
22 certain power plants the same thing as retiring those
23 power plants?

24 A Would you repeat that one more time,
25 please?

1 Q Is displacing the generation output of
2 certain power plants necessarily the same thing as or
3 equivalent to retiring them or taking them out of
4 service?

5 A No, it's not, and that's why I was having
6 trouble with his line of questioning.

7 Q I would like to ask you to look at page 84
8 of your deposition that has been marked and admitted
9 as Exhibit No. 9.

10 A Page 84 of what?

11 Q I'm sorry. Page 84 of your deposition
12 taken by the Commission Staff that was marked as
13 Exhibit No. 9. I'm going to ask you a follow-up to a
14 question that the Staff Attorney, Ms. Paugh, asked
15 you.

16 A All right.

17 Q Ms. Paugh asked you whether the facility
18 would have backup fuel. You answered no.

19 What I would like you to read is the
20 question beginning at line 12 and continuing through
21 line 15, and then your answer beginning at line 18 and
22 continuing at page 21.

23 MR. GUYTON: Is that the question you
24 objected to, Schef?

25 MR. WRIGHT: I object to the form.

1 MR. GUYTON: Okay. I just wanted to make
2 sure I had the reference.

3 A "In terms of number of days, what would you
4 consider to be a prudent backup supply of fuel for a
5 natural gas fired plant of the nature that we're
6 discussing in this docket?"

7 Q And your answer, please?

8 A Answer, "I wouldn't. If I were to build a
9 plant and New Smyrna Beach was putting money into the
10 plant, I myself would not put a backup fuel source for
11 the natural gas unit."

12 Q And why not?

13 A I think the expense of it and the
14 probability of a situation where a gas line explodes
15 and restricts the flow into the plant coincidental
16 with peak loads in Florida is not worth the
17 investment.

18 Q I have just a clarifying question. I think
19 in your direct testimony you indicate that
20 approximately 90% of your customer base is
21 residential. I think at one point in your deposition
22 you indicated it was about 80%. Can you tell me which
23 figure is correct?

24 A Well, I'm going to have to go back. I
25 think the confusion is that around 90% of our

1 customers are residential, but a lower portion of that
2 is the energy use. They don't use 90% of the energy.
3 It's a lower number.

4 MR. WRIGHT: Thank you. I just wanted to
5 clarify that.

6 That's all I have, Madam Chairman.

7 COMMISSIONER DEASON: Are you willing to
8 risk your social engagements for two years that
9 there's not going to be a natural gas curtailment at
10 peak?

11 WITNESS VADEN: Based on some of the ones
12 in the past, that would be a difficult one to answer.

13 COMMISSIONER CLARK: Mr. Vaden, I have a
14 question for you, and I'm sorry I didn't ask it
15 before, relating to how much -- how many power plants
16 should we allow in Florida in terms of the margin of
17 reserve, and you indicated maybe somewhere around 25%,
18 you could require the utilities to do 15% and then
19 allow merchant plants up to 25%.

20 WITNESS VADEN: Yes. And again, the 25%
21 number may need to be modified up and down. It's just
22 something that from my experience I pulled out. But,
23 yes, I think that would be an excellent way of doing
24 it, is keeping the requirements on the utilities that
25 they maintain the 15%, and allow merchant plants to

1 come in to a point that maybe the 25% is the correct
2 number, where the ratepayers have nothing to lose in
3 the situation. The utilities I believe would --

4 COMMISSIONER CLARK: You've answered my
5 question.

6 WITNESS VADEN: Okay. I'm sorry.

7 COMMISSIONER CLARK: Let me ask, you also
8 indicated in a question to Mr. Sasso that you didn't
9 expect Duke to come in here and just wait around until
10 there was an extreme day like Christmas --

11 WITNESS VADEN: Exactly.

12 COMMISSIONER CLARK: -- 1989 to sell their
13 power, that they would, in effect, be pursuing to be a
14 low-cost power provider and in fact provide power all
15 the time.

16 WITNESS VADEN: Yes, I do.

17 COMMISSIONER CLARK: It would seem to me
18 then that that's going to displace some power, and
19 whoever owns that power is going to say it's no longer
20 economic for them to maintain it. So in fact, we
21 won't reach a 25% margin of reserve, that it will
22 really remain somewhere around 15%.

23 WITNESS VADEN: Well, that was --

24 COMMISSIONER CLARK: And we won't have
25 solved that extra reliability problem you address.

1 WITNESS VADEN: That was -- excuse me.
2 That was the confusion I was having with the line of
3 questions. If investor-owned utilities are sitting
4 here and they have these units and they're meeting 15%
5 their criteria, then Duke or other merchant plants
6 come in and they build plants that are not in that 15%
7 reserve margin and are more economical to run, simply
8 what the investor-owned utilities would do is, they
9 would just not start their units up. They would power
10 them down and buy from the merchant plants.

11 Now, when they buy from the merchant
12 plants, they still have the reserves, and the savings
13 that they have from the merchant plant flows through
14 the fuel adjustment rate straight back to their retail
15 customers. And they've not taken those plants -- they
16 still have the plants. They still have the 15%
17 reserves. They have not put any more capital
18 investment out to build a plant over and above the
19 15%, and yet their customers get the benefits from it.
20 So the plants would still maintain.

21 COMMISSIONER CLARK: And who will be
22 responsible for the costs of maintaining that plant?

23 WITNESS VADEN: The merchant plants would
24 be the -- the owners for the merchant plant, and the
25 IOUs for maintaining that plant. But again, they're

1 still saving money. I mean, they're maintaining that
2 plant. It's sitting there. They're maintaining it,
3 but they're buying cheaper energy than that plant will
4 produce off the merchant plants, and it flows right
5 straight back to the customers. So in essence, the
6 customers are going to make out.

7 Now, I just can't see a hole in that.

8 COMMISSIONER CLARK: Well, who will be
9 responsible for maintaining the investment? Are you
10 saying the shareholders of the investor-owned will
11 pay for those plants, or will it be in rate base such
12 that the ratepayers have to --

13 WITNESS VADEN: Well, it would be in the
14 rate base for the customers. And the customers have
15 that in the rate base, but they also have the benefits
16 of the merchant plants, the cheaper energy, so they
17 make out on both sides.

18 COMMISSIONER CLARK: Well, wouldn't we be
19 asking the question why should it be maintained in
20 rate base when it's not being used? So then do you
21 get to the issue of you're stranding the investment?

22 WITNESS VADEN: Well, myself, I don't think
23 you would ever get to the point that you're going to
24 have a lot of excess generators out there. The
25 merchant people are going to come in the state, and

1 they're going to build plants as long as there's
2 market out there, and their energy is going to
3 dispatch.

4 As you'll see later on in the testimony,
5 they went through some rigorous analysis to find out
6 where this plant is going to dispatch in the state.
7 And anyone that's going to come into the state and
8 build a merchant plant is going to go through the same
9 analysis. When so many plants get out here, there
10 will be a point that it's not going to be economical
11 and they're not going to build them. And that's back
12 to the 25% reserve margin. I doubt that those plants
13 will ever be built up to that point. The economics of
14 the free enterprise system will drive it.

15 COMMISSIONER CLARK: But I thought what you
16 were saying is what the uneconomic plant will be is
17 the existing plant, and that plant will come in and,
18 in effect, substitute for that.

19 WITNESS VADEN: And that's where I think we
20 still -- in the discussion, it's not a substitute. It
21 doesn't get rid of that plant at that point. At some
22 point, obviously, those plants will retire. But what
23 it's doing, it's just displacing the energy out of
24 that plant when it's not economical. All the plants
25 might be running at one time, and some of the times

1 those plants are displaced out.

2 COMMISSIONER CLARK: All right. So you're
3 saying it wouldn't be economical to run those plants,
4 but they should nonetheless be maintained in rate base
5 to meet the contingency of a severe temperature, like
6 what happened in '89.

7 WITNESS VADEN: Well, I don't think it
8 would be running just during severe winter. I don't
9 think -- again, I don't think you're going to get that
10 many plants in the state. I think we're looking at
11 the picture, everybody is going to build merchant
12 plants, and I don't think that's going to happen. I
13 think the merchant plant is going to be built until
14 it's economical, but at some point they're not going
15 to build any. They're not going to shut all the
16 investor-owned utilities' power plants down.

17 COMMISSIONER CLARK: But I thought you were
18 saying that this plant is economical and in fact will
19 displace a number of existing plants.

20 WITNESS VADEN: Well, at this point it
21 will.

22 COMMISSIONER CLARK: Okay.

23 MR. WRIGHT: A follow-up clarification
24 with two questions.

25 BY MR. WRIGHT:

1 Q The existing plants are already in the
2 utilities' rate bases, are they not?

3 A That's correct.

4 Q And the cost thereof are already in base
5 rates?

6 A Yes, they are.

7 Q And will they continue charging -- absent
8 some hypothetical future rate case, will they continue
9 charging the same base rates?

10 A Yes, they will.

11 Q Again, just to be clear as to what
12 displacement means, Commissioner Clark used the phrase
13 "displacement of plants." Do you expect there to be
14 displacement of power plants or displacement of the
15 energy output?

16 A Displacement of the energy output, and the
17 savings rolls back in to the customer.

18 CHAIRMAN JOHNSON: Is that it, Mr. Wright?

19 MR. WRIGHT: That's all the questions I
20 have, Madam Chairman.

21 CHAIRMAN JOHNSON: Do you have a couple of
22 exhibits?

23 MR. WRIGHT: I would move, if I may -- and
24 I apologize for an oversight on my part. I would move
25 Exhibit 7, plus as listed in Mr. Vaden's prefiled

1 direct testimony, those portions of the filing
2 exhibits that accompanied our petition that he is
3 sponsoring as exhibits, into evidence at this time.

4 MR. GUYTON: It hasn't been identified yet.

5 MR. WRIGHT: I would suggest that it be
6 identified -- either identify the petition exhibit as
7 its own exhibit, and we'll move parts in as we go, or
8 we can just identify -- that's probably the better
9 thing to do, actually. Can we identify our filing
10 exhibits that were filed on August 19th as Exhibit 16?

11 CHAIRMAN JOHNSON: We'll identify those as
12 Exhibit 16, or mark it 16 and identify it as stated.

13 (Deposition Exhibit 16 identified.)

14 MR. WRIGHT: Thank you. And accordingly, I
15 would move the admission of Exhibit 7, which is
16 Mr. Vaden's composite exhibit consisting of RLV-1
17 through RLV-8, plus those portions of Exhibit 16
18 identified in Mr. Vaden's prefiled direct testimony
19 that's in the record.

20 CHAIRMAN JOHNSON: Okay. Show that as
21 admitted without objection.

22 (Exhibits 7 and 16 were received in
23 evidence.)

24 MR. GUYTON: We move Exhibit 8.

25 CHAIRMAN JOHNSON: Show that admitted

1 without objection.

2 (Exhibit 8 was received in evidence.)

3 CHAIRMAN JOHNSON: Thank you, sir. You're
4 excused.

5 I understand that we do have a witness with
6 a scheduling problem. However, we're going to need to
7 break until 1:30. At that time we'll take the
8 witness. Is it --

9 MR. WRIGHT: Mr. John C. L'Engle, Madam
10 Chairman.

11 CHAIRMAN JOHNSON: Mr. L'Engle. We'll take
12 him at 1:30.

13 MR. WRIGHT: Thank you very much.

14 (Thereupon, the hearing was adjourned at
15 1:05 p.m., to reconvene at 1:30 p.m.)

16 (Transcript continues in sequence in
17 Volume 4.)

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