

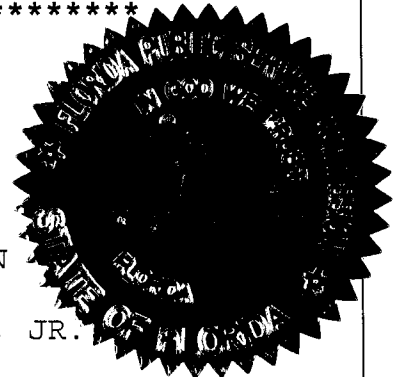
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of : UNDOCKETED
Regional transmission :
organizations and related :
issues. :

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PROCEEDINGS: WORKSHOP

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



DATE: Tuesday, September 28, 1999

TIME: Commenced at 10:40 a.m.
Concluded at 4:40 p.m.

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

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Official Commission Reporter

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FPSC-REPORTS/REPORTING

1 **IN ATTENDANCE:**

2 **ROBERT ELIAS**, FPSC Division of Legal
3 Services.

4 **JOE JENKINS**, Director, and **ROLAND FLOYD**,
5 FPSC Division of Electric & Gas.

6 **GREG RAMON**, Tampa Electric Company

7 **TIM WOODBURY**, Seminole Electric Co-op

8 **JOHN SIMPSON**, Florida Power Corporation

9 **BILL LOCKE**, Florida Power & Light

10 **TOM DELANEY**, Enron

11 **JOE McGLOTHLIN**, Reliant Energy Power Generation

12 **DAVE McMILLAN**, Reliant Energy Power Generation

13 **TRACY DENISE**, Jacksonville Electric Authority

14 **ED REAGAN**, Gainesville Regional Utilities

15 **TOM WASHBURN**, FRCC rep

16 **FRED BRYANT**, FMPA

17 **SUSAN KELLY**

18 **CYNTHIA BOGORAD**

19 **ED TWOMEY**

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P R O C E E D I N G S

(Workshop convened at 10:40.m.)

CHAIRMAN GARCIA: Good morning. We are here on the regional transmission organizations workshop, and on behalf of all of the Commissioners, I'd like to thank you for participating in today's workshop.

As most of you know, we have been having these workshops since January, and Commissioner Clark has been kind enough to participate in all of them and we thank her for her service in that. This, however, is the first chance that all of the Commissioners are going to get to sit through one of these. And I hope that it will be as educational for us and illustrative for us as it has been for Commissioner Clark and issues that she handles on a national basis.

As outlined in the workshop Notice, each presenter is asked to address ten issues, and in that process I think we're going to allow -- Mr. Greg Ramon from Tampa Electric Company has been asked to provide a neutral presentation. And we're going to begin with them, if I'm not mistaken, in their presentation, correct? And then the Commissioners are going to sit out here in the audience. And Joe, are you going to be running this or is Bob going to be running this?

MR. JENKINS: We'll do it as a tandem.

1 **CHAIRMAN GARCIA:** Okay. I'm sure that
2 pleases many of you. So Joe is going to be running
3 this. And we're part of the audience.

4 Thank you much for coming here and we're
5 looking forward to the presentation.

6 **MR. JENKINS:** One more housekeeping matter.
7 Tom Delaney with Enron has a 1:00 flight so I thought
8 we might accommodate him by taking him second.

9 **MR. ELIAS:** And I have two housekeeping
10 matters. For the benefit of the Court Reporter, if
11 you choose to ask a question, please identify yourself
12 before you speak because this proceeding is being
13 transcribed. And if you're interested in obtaining a
14 transcript, you can work through the clerk's office.
15 And then over here on the bench on my immediate left
16 there will be a sign-up sheet. We ask that everybody
17 in attendance, as time permits, when they get the
18 opportunity, to please let us know you were here.
19 Thank you.

20 **MR. RAMON:** Good morning. This will be an
21 overview type of a presentation to help set the stage
22 for, hopefully, a lot of effective discussion and
23 options and moving forward on a Florida Transmission
24 Organization.

25 It's not a proposal. It's an overview.

1 You'll hear detailed proposals addressing the issue
2 areas that we have identified in the workshop process.

3 I want to particularly focus on the NERC
4 restructuring impact on regional organizations, and
5 end by setting up the four issue areas.

6 I'm going to show a whole litany of
7 significant changes quickly at the federal and at the
8 state level. But before I begin scrolling through a
9 lot of the activities, I think the perspective that
10 I'd like to throw out there to think about is in this
11 era of people's choice, what makes that even
12 achievable or possible is the great technology changes
13 on the generation side and on the information side.
14 And that's not standing still. So the institutions
15 that have to reconcile with those technical realities
16 have to change also.

17 But anyway, actually going back to the '70s
18 during the energy crisis, it took a decade on debate,
19 which culminated in the '92 Energy Policy Act, which
20 put into play the new market players that are here
21 with us today and in the market, creation of power
22 marketers and giving FERC more explicit authority over
23 transmission.

24 Back home in Florida things weren't standing
25 still. As a result of the '92 Energy Policy Act and

1 the new players -- at that time it was called the FCG
2 which is still here today, dealing with environmental
3 issues and transportation issues, but back at that
4 time the FCG membership and structure was electric
5 utility oriented. And so to best accommodate new
6 market players in Florida and outside of Florida, the
7 energy broker network was created as a separate entity
8 spun out from the FCG.

9 The more explicit authority of FERC that
10 enabled the goal of the Energy Policy Act was FERC
11 Order 888 and 889, and a whole new vernacular was
12 created in terms of unbundling. Functional unbundling
13 which is the rule at FERC, and operational unbundling
14 are independent system operators. You can keep your
15 generation and transmission assets but give up control
16 of the transmission asset versus divestiture or
17 corporate unbundling.

18 And in 1996 we had the formation of a 10th
19 reliability region. The open access and its impact on
20 reliability systems, i.e. the new NERC rules, just
21 brought into real sharp focus our unique
22 characteristics in Peninsular Florida, and the
23 associated problems and then the resolution. Those
24 problems and resolutions weren't the same as SERC.
25 And it was more efficient we felt here in Florida to

1 create our own separate organization to deal with
2 those solutions.

3 The actual set of issues that we'll be
4 talking about at length later today were actually
5 addressed in an effort at the FRC in 1988; governance,
6 pricing, planning and operations. We came to no
7 resolution and a stalemate there, and ended up with
8 this workshop process to try again to see if we can't
9 get some resolution to these very important and
10 significant issues.

11 Another significant activity, it actually
12 was the beginning of our workshop process where the
13 FERC, in its recent acquisition of the 202(a)
14 authority that DOE delegated to FERC, which was to
15 establish regional boundaries, we provided input to
16 our own Commission here in Florida to enable our
17 Commission to be able to respond to FERC.

18 What was interesting is that even though
19 today you'll hear a lot of differences, all of the
20 parties agreed that a Florida solution is what was
21 needed here and not a multistate or SERC solution.
22 The correct or appropriate boundaries, at least for
23 sometime, from a market point of view and a
24 reliability point of view are the existing boundaries
25 of FRCC.

1 Another huge issue this year, as you all
2 know, is merchant plants' reserve margins. The new
3 market that was spawned by the Energy Policy Act of
4 1992 has landed squarely in Florida, and, of course,
5 the workshop process.

6 We also, in the midst of this, are dealing
7 with the FERC RTO. NOPR comments, all the parties
8 here were requested to provide input to the Florida
9 Commission in preparation for their own comments to
10 FERC. And I have a time line of other major elements
11 of that a little bit later on. And, of course, there
12 should be discussion of the RTO implications of the
13 CP&L and Florida Power Corp merger, and that's on the
14 agenda for later today.

15 Of all of the presentations I want to focus
16 on the reliability perspectives, to talk to you about
17 how there needs to be a new reliability system to
18 accommodate new markets and new technical realities.
19 And there's just nothing that's going on out there
20 that's under discussion from a restructuring point of
21 view that doesn't have a significant measurable impact
22 on reliability.

23 Our industry is different, much different,
24 and we understand from an economic point of view and a
25 competition point of view that worldwide -- not just

1 North America -- that the unbundling of G&T is the
2 basis for setting that up.

3 In terms of the law of physics, in terms of
4 the operability of the power, you can't separate it.
5 Don't walk away saying you can't restructure it. You
6 do but you do it with this very key factor in mind.

7 We have an unique industry, and generally it
8 has to be generated, electricity has to be generated
9 at the same time it's consumed. It moves at nearly
10 the speed of light, as, of course, actions are
11 automatic in many cases. And most importantly,
12 because the interconnectivity of the bulk power system
13 in North America, that changes anywhere on the system
14 have potential effect on all other points in the
15 system.

16 Back in the early '90s there was a lot of
17 concern from an industry point of view on the new
18 competitive models that were being contemplated.
19 Reliability was just being given a lot of lip service.
20 There are very significant factors that have to be
21 taken into account.

22 A new reliability infrastructure has got to
23 be put in place, and I'll talk about that. I made the
24 single machine point. Adequacy. Big, big time issue.
25 The reliability new rules have such commercial impact

1 that it's literally inseparable, the two issue areas
2 and the organizational solutions have to take into
3 account the need for convergence of reliability and
4 commercial interest.

5 Because of this restructuring, there's a
6 whole shift in reliability responsibility. It's a
7 very complex business that we have, and very little of
8 it understood by those that are in Congress. And we
9 must -- and I think we've made a lot of headway in
10 educating that -- these issue areas, the need to put
11 in this new reliability infrastructure.

12 So actually back at the -- when the FERC
13 NOPR came out on the open access, NERC created four
14 strategic initiatives to deal with this brave new
15 world. That was available transmission capability,
16 security, standards, and my career subject,
17 interconnected operation services.

18 Available transmission capability. That's
19 fine. But when FERC defined that as a requirement of
20 transmission providers to calculate it and to show the
21 methodology, it was an undefined term in the industry.
22 So there has been just a tremendous amount of work at
23 the NERC level to define that term and to create a
24 methodology, and as you all know, that's a
25 controversial area. But it's something in terms of

1 the reliability infrastructure that has to be ironed
2 out, has to be put into place. With the exponential
3 increase in the number of transactions, the security
4 process in all of the regions was deemed to be a
5 priority for NERC, and that work is completed, Policy
6 9. And now a NERC requirement is that a security
7 coordinator must be put in place in all of the
8 regions. In our region, Florida Power and Light is
9 our security coordinator.

10 Standards. Take a minute or two to talk
11 about that. In my opinion, the watershed event at
12 NERC was when the board, some years ago, said that the
13 decade-old voluntary peer pressure regime to adhere to
14 operating and planning rules won't suffice going
15 forward. The rules have to be mandatory. When you go
16 to that statement and you go to an organization at the
17 North American level that is mandatory, you're talking
18 compliance, you're talking penalties, and that's how
19 we've gotten into needed legislation; a force of law
20 to be able to actually have that happen, penalties and
21 compliance. And the government agency, the FERC, is
22 to have an overview over that. And we'll talk a
23 little bit about that.

24 And last but not least, as I said, my career
25 subject, ancillary services. We're really playing

1 with a critical reliability factor there and we'll
2 talk a little bit about that.

3 I'm not going to give a tutorial on what
4 these interconnected operation services are, but I
5 think if you read the words you can quickly tell
6 you're dealing with seconds and minutes in real-time
7 provision of these services to keep the
8 interconnection reliable.

9 One of the things I'll get into a little bit
10 later is -- and quickly -- is the reliability
11 legislation. And there's been a lot of concern on the
12 part of the states, the state role in the reliability
13 legislation. But just to illustrate why the states
14 have to have a role in that reliability legislation,
15 let's just take contingency reserve or operating
16 reserve.

17 What that sits on, what makes that possible
18 is installed or planning reserves, and we had a
19 workshop yesterday talking about that. And at the
20 NERC level, on the group that I participate in, we're
21 going to specify North American Standards for defining
22 reserves, coming up with certification standards. If
23 you're going to play in a ancillary services market as
24 a generator, you're going to have to become certified
25 in terms of having the capability to provide this

1 real-time type service, and there will be some
2 performance measures. But we will not get into the
3 amount of reserves that a region has to carry. We'll
4 not go into the reserve sharing arrangement. That is
5 clearly a regional and state prerogative. And so
6 we'll talk a little bit more about the state role as
7 we move on.

8 I know Bill Howell is in the audience, but
9 to date myself, you all remember this in the '60s, the
10 commercial about "it's not nice to fool mother
11 nature." When you talk about bundling these kind of
12 services you need to be careful because that's mother
13 nature.

14 But sort of a quick summary of what picture,
15 styles and words, what's happening, is that NERC, we
16 need to make sure that as the unbundling transpires
17 out in the future, that from a reliability perspective
18 we don't let anything fall through the crack.

19 In terms of taking this single machine and
20 putting it to the marketplace, when the market looks
21 at a power system they are looking at bricks and
22 mortar. They see power plants that they want to buy
23 energy and capacity from. They are looking at a
24 transportation system to get it from Point A to
25 Point B. But because of the uniqueness of the power

1 system that we have today -- this is what boots up the
2 system; this is what makes it work. So this is the
3 reliability infrastructure that has to be put in
4 place. It is being put in place as we talk.

5 These new rules have a tremendous impact on
6 the commercial world. If you have been to NERC -- I
7 call it being to the NERC wars. When we came out at
8 NERC with a TLR, transmission line load relief,
9 tagging constraints, just bombs going off in terms of
10 the impact on the commercial side and the controversy
11 and the dialogue that took place to try to reconcile
12 that. The two issues are just inseparable. (Shows new
13 slide.)

14 This is a dramatic slide but I use it to
15 make a point. This new set of rules that are in
16 place, it's not prospective; they are being put in
17 place, and there's terrible tensions between the new
18 rules to make for a reliable market and the commercial
19 interest that a lot of times are in opposition to
20 those new rules. There has to be a way -- both issues
21 are legitimate, but we have to have conversions
22 between the two.

23 In a summary kind of a fashion, I think it's
24 inescapable, looking at this from a reliability
25 perspective, that the new regional organizations are

1 needed for effective convergence between reliability
2 and commercial interests.

3 Critical elements in bringing about that
4 convergence are governance, pricing, planning and
5 operation. They just happen to be the same very
6 issues that we have evolved here during these series
7 of workshops.

8 Let's talk about the reliability
9 legislation. And I mentioned about the watershed
10 event of mandatory rule, and as a result of that the
11 need for legislation. Embedded in that legislation,
12 and currently as reflective of the organization at
13 NERC, NERC has had to deal with this convergence
14 issue.

15 The reliability legislation was approved by
16 the NERC board the first part of the year. It sets up
17 one electric reliability organization for
18 North America, and there's a lot of language regarding
19 the delegation of authority to the regions. And we
20 have a new four-letter acronym, for course: affiliated
21 regional reliability entity.

22 In terms of governance, the region has --
23 it's set up -- its organization has to ensure a fair
24 representation of its members. It has to ensure that
25 no two industry sectors have the ability to control

1 and no one industry sector has the ability to veto the
2 ERO's discharge of its responsibilities. The present
3 FRCC governance is inconsistent with that legislation.

4 In moving forward, the legislation,
5 immediate impact on our Reliability Council would be
6 to revise our governance structure and our funding
7 mechanism. Also, we will need to execute a Regional
8 Reliability Implementation Agreement, another four-
9 letter word, RRIA, with NAERO. NAERO will delegate
10 authority to implement and enforce compliance with
11 NAERO standards in a specific geographic area.

12 Let's talk quickly, setting up the next set
13 of presentations.

14 **COMMISSIONER CLARK:** Greg, can I just ask a
15 question with respect to the reliability legislation.
16 Has the FRCC taken a position on that legislation or
17 not?

18 **MR. RAMON:** Well, in the development of the
19 draft language we had a bunch of conference calls with
20 the executives of the companies. Ken Wiley and myself
21 and others participated on the drafting of that
22 language. And so the FRCC did support that.

23 **COMMISSIONER CLARK:** And in full knowledge
24 of what it means to the governance structure, the
25 funding mechanism and the need to execute that

1 agreement.

2 **MR. RAMON:** The funding you want to hear?

3 **COMMISSIONER CLARK:** No -- but the current
4 FRCC members are very much aware of what the new
5 requirements will be if the legislation passes.

6 **MR. RAMON:** I assume because the executives
7 of the companies know that -- because Ken Wiley made a
8 presentation sometime ago to the FRCC executive board
9 in great detail about the legislation and its impact.

10 The way this is -- the overall process -- I
11 wasn't going to get into it but just quickly, because
12 you do have a question -- when the legislation is
13 passed, in about nine months we would have to be
14 prepared to get -- to initiate and execute this
15 agreement with NAERO. Once the legislation is passed,
16 FERC has to produce a final rule on an electric
17 reliability organization within 180 days, and then
18 FERC approval for NAERO would be on the order of three
19 months. So if you add all of that up, it's about nine
20 months. (Changes slide.)

21 The workshop highlights. In March the
22 workshop process identified four categories of issue
23 areas. In dealing right on the heels of developing
24 the issue areas, there was a lot of discussion about
25 how to approach the issue areas. Tampa Electric

1 volunteered and agreed to participate with
2 stakeholders to put together a strawman comprehensive
3 proposal that addresses all issue areas. It felt that
4 it was more effective to deal with all of the issues
5 than just one at a time. And the word "strawman" is
6 very important. It's at a 80,000-foot level. It
7 doesn't have a lot of detail. It would have to be
8 ironed out. It was meant to throw it against the
9 wall, see if it stuck to try to get all of the parties
10 together to begin discussions on all of the issue
11 areas.

12 On the heels of the strawman proposal which
13 you'll hear later, Florida Power Corporation and
14 Florida Power and Light have put together an
15 alternative proposal. And at the last workshop we had
16 a third proposal presented by JEA with support from
17 Gainesville and Tallahassee on the concept of a
18 TRANSCO, publicly owned, not-for-profit.

19 Governance. You'll hear about that more
20 today, but quit simply it is the need to balance
21 reliability and commercial interest.

22 Pricing. We deal with the word "pancaking"
23 and incentives. And I'm not going to get into that.
24 It will be greatly covered in the next series of
25 presentations. But I want to say a few words about

1 planning and siting and operations.

2 Joe Jenkins had requested back in March for
3 our submittal on the issue areas to lay it out in this
4 fashion; to talk about the existing situation and then
5 to talk about complaints. So these are the FPSC Staff
6 format structure.

7 Historically, the Florida Commission has had
8 a different and separate emphasis in the planning of
9 transmission and generation, i.e. just look at
10 yesterday's event, the Ten Year Site Plan. In the
11 past they were used for annual workshops on the
12 generation side. And it's not that the Commission
13 wasn't interested in transmission -- they are and they
14 have been and they will be in the future, but it has
15 gotten a lot less attention.

16 The peninsular plan and the way we plan
17 today at the FRCC, we talk with the individual
18 transmission provider, individual utilities, put it
19 together, aggregate it and assess it to make sure it
20 meets FRCC and NERC planning criteria.

21 Going forward in the brave new world, there
22 needs to be a review of the planning process and the
23 Commission's role. I think I brought home the point
24 that G&T is -- has to be viewed as a single machine.
25 And when we look at how to put bricks and mortar in

1 the ground, concrete, whatever, to put in a
2 infrastructure that will provide for day-to-day
3 reliable operation, you have to look at it together.

4 And most importantly, the present day plans
5 are not developed with a, number one, Peninsular
6 Florida perspective from both a reliability and
7 competitive wholesale market perspective.

8 So, in going forward, what we don't have and
9 what we need is a pretty comprehensive process that
10 integrates loads, generation; assesses the
11 reliability -- that's both G&T -- facilitates
12 wholesale markets and, of course, addresses
13 transmission service requests.

14 From the operation end of things, we have a
15 reliable system here in Peninsular Florida. System
16 security is accomplished through the FRCC Operating
17 Committee in compliance with both the Florida
18 Commission and NERC's security process, policy and
19 standards. It is a quite comprehensive process. I'm
20 not going to go through all of these items. I'm sure
21 the Florida Commission recognizes all of this,
22 particularly the Florida Electrical Emergency
23 Coordination Plan.

24 A key complaint -- not the only issue in
25 operations but the biggest one that we've heard the

1 most in the workshop process is this word
2 "independence". Particularly independence of system
3 operator.

4 At a high level, what we're talking about is
5 the potential for discrimination existing for system
6 operation -- are also competitors to make operational
7 decisions that could affect commercial operations.

8 I want to end, just to benchmark ourselves
9 for the rest of the day, what the time line at FERC is
10 on looking at the formation of RTOs.

11 Sometime at the end of this year the final
12 rule is supposed to be out. Spring of 2000, FERC, it
13 will initiate regional workshops or collaborations to
14 facilitate RTO formation.

15 Jurisdiction of utilities. On October the
16 15th, on or before, would have to file either a
17 proposal to participate in an RTO, or a description of
18 efforts and reasons for nonparticipation and give your
19 future RTO plans.

20 Existing transmission organizations would
21 have to file January 15th a plan to conform to the
22 final rule. And December 15th, new RTOs that were
23 proposed in the October filings are to be operational.

24 That's the end of my slides. We have a full
25 day, but if anyone has any questions -- (No response)

1 -- if not, do you want to --

2 **MR. JENKINS:** Greg, I have just one
3 question. How can the security coordinator make
4 decisions that interfere with commercial operations
5 other than TLR or redispach events? What are some
6 other mechanisms for him to interfere or impact
7 commercial operations?

8 **MR. RAMON:** Redispatch.

9 **MR. JENKINS:** I mentioned that.

10 **MR. RAMON:** Yeah, which is then TLR. And,
11 you know, tagging and the whole litany of the NERC
12 rules that are coming out.

13 **MR. JENKINS:** Now, with tagging, he doesn't
14 change commercial operations per se; is that correct?

15 **MR. RAMON:** The whole set of rules that are
16 coming out from NERC, whether it's tagging, TLR,
17 interconnect operation services, those are very
18 involved. There's some interpretation that gets
19 involved with enacting those rules.

20 **UNIDENTIFIED SPEAKER:** The security
21 coordinator has nothing to do with tagging.

22 **COMMISSIONER CLARK:** Let me follow up on
23 Joe's question. I think Joe is asking you what are
24 the opportunities for affecting a commercial
25 transaction and Joe has identified the transmission

1 line relief and then a redispatch.

2 What I hear you identifying are other
3 activities that can affect transactions but not from a
4 security standpoint, maybe from a planning standpoint
5 and a longer term market standpoint. But on a sort of
6 instantaneous basis, what actions can the security
7 coordinator take that affect commercial aspects?

8 **MR. RAMON:** Well, the immediate one is TLR.

9 **COMMISSIONER CLARK:** And redispatch. Is
10 there any beyond that?

11 **MR. RAMON:** Forthcoming, you know, other new
12 NERC rules like ancillary services that are in, you
13 know, real-time and enacting those protocols.

14 **COMMISSIONER CLARK:** Yeah. But won't the
15 enactment of the protocols have to be something that
16 the ARRE have to agree on.

17 **MR. RAMON:** Correct. So, you know, TLR is a
18 policy too.

19 **COMMISSIONER CLARK:** Right.

20 **MR. RAMON:** The only point I'm trying to
21 make is you have these rules that get put in place and
22 the region adopts them and that's fine. But on a
23 real-time basis, you know, are they following the
24 rules? Are they adhering to them? It's the
25 perception issue.

1 Any other questions?

2 **MR. JENKINS:** Seeing none, I guess our next
3 presenter will be --

4 **COMMISSIONER CLARK:** Could I ask just one
5 question?

6 **MR. JENKINS:** Go ahead.

7 **COMMISSIONER CLARK:** I learned -- at least
8 at the NERC level -- that they have filed, I guess,
9 it's with FERC indicating that they expect regions to
10 have their own ways of calculating ATC and TLR. And
11 my question to you is do you agree that each region is
12 probably going to come up with their own methodology,
13 at least initially? And how far away is the FRCC with
14 coming up with a methodology?

15 **MR. RAMON:** Tom, you might want to help me
16 here. He's the FRCC representative on the NERC ATC
17 group.

18 **MR. JENKINS:** Tom, could you come to a
19 microphone, please?

20 **MR. WASHBURN:** Hi. My name is Tom Washburn,
21 and as was already mentioned, I'm the FRCC
22 representative on the NERC ATC working group.

23 The NERC ATC working group has proposed
24 standards and measures for calculation of the capacity
25 benefit margin and the transmission TRM margins.

1 Those are going through due process right now. Part
2 of those standards are for all of the regions to have
3 regional standards for TRM and CBM. FRCC has already
4 developed those. Those are planning to go before the
5 FRCC Engineering Committee in November for approval to
6 have regional standards for FRCC.

7 The ATC and TTC calculations. The ATC
8 working group is developing a White Paper on that.
9 That will be out for comment probably in January.
10 After that White Paper is out for comment, then
11 standards and measures will be developed from that.
12 And those will probably go through due process next
13 spring or early next summer.

14 The thought process is to have regional
15 standards, methodologies for ATC and TTC. Some people
16 are pushing to have one standard for the entire
17 country. And, of course, the country does have three
18 interconnections and there are some issues between
19 those interconnections that are different, so that's
20 kind of why it was settled at this point the agreement
21 probably under a region. For FRCC. We have a
22 development of a ATC TTC standard that will also be
23 going to the FRCC Engineering Committee. So FRCC is
24 already progressing on as far as a calculating
25 standard for both CBM, TRM, and the ATC and TTC.

1 **COMMISSIONER CLARK:** I appreciate that.
2 When is it going to be done for Florida? Would you
3 say by summer, next summer?

4 **MR. WASHBURN:** I'd say by the end of year
5 that we'll have a standard for ATC, TTC, TRM and CBM
6 by the end of the year for Florida.

7 **COMMISSIONER CLARK:** By the end of this
8 year?

9 **MR. WASHBURN:** For Florida, yes.

10 **COMMISSIONER CLARK:** Okay. And that would
11 go a long way to sort of getting agreement as to
12 what's available to make commercial transactions.

13 **MR. WASHBURN:** That will go a long ways in
14 having a standard calculation. There are issues that
15 some transmission customers have that there are
16 subjective assumptions that go into play because the
17 basic nature of ATC is you're calculating it in the
18 nature for tomorrow, for next month, for next summer.
19 Any time you do a calculation in the future, you're
20 making an assumption of what the future is going to
21 look like. Your crystal ball may be different than
22 the transmission customer thinks the crystal ball is.
23 So you have those types of issues that come into play
24 that even -- obviously, a regional calculation gets
25 rid of -- makes that a one less subjective piece of

1 the puzzle. And obviously the more objective you can
2 make the calculation, the better off it is from a
3 perception for both the transmission provider and the
4 transmission customer. As long as the transmission
5 customer feels that it's a black box that he doesn't
6 know what it goes into, then he has a mistrust of the
7 person doing the calculation. And if he feels the
8 person doing the calculation is influencing the
9 calculation by assumptions to benefit himself as
10 opposed to being independent, that's where issues come
11 into play.

12 But, right, the standards and measures being
13 developed are trying to go towards taking away as much
14 as possible subjectivity and make it as objective as
15 possible.

16 **COMMISSIONER CLARK:** I apologize. And maybe
17 it would be a good idea for you to indicate what TTC
18 is and ATC, what is it, TRM and CBM is, and how you
19 take each one of those and mathematically come up with
20 what's available.

21 **MR. WASHBURN:** TTC is the total transfer
22 capability. That number, in most areas of the
23 country, is determined using a contingency analysis to
24 determine how much power can flow over a certain
25 interface with contingencies coming into play. Single

1 contingencies are taken widely in certain areas of the
2 country and certain areas will look at double
3 contingency, will look at loss of right-of-ways, look
4 at different -- and the key thing there is to be
5 consistent with your planning criteria with how you
6 calculate our TTCs so that you're once again not
7 biasing your TTC calculations. You're consistent with
8 how you plan your system and how you operate your
9 system. If those are consistent, that's one piece.
10 You take TTC and the margins come off the top.

11 **COMMISSIONER CLARK:** What are the margins?

12 **MR. WASHBURN:** Beg your pardon?

13 **COMMISSIONER CLARK:** It's a reliability
14 margin, right?

15 **MR. WASHBURN:** There's the transmission
16 reliability margin and there's the CBM, which is the
17 capacity benefit margin. Both margins come off the
18 top. The capacity benefit margin is a localized
19 margin that benefits an identified group of users.
20 There's some thought in the future that those will
21 be -- may actually become reservations. Right now
22 they are called preservations. In other words, you're
23 preserving that. But it's preserved for a local
24 transmission provider. And what that is, to get
25 capacity into the area, and so that that transmission

1 provider, or the group of network customers that are
2 part of that transmission provider, doesn't have to
3 build as much generation within his area, but can
4 count on imports during emergencies. So they reserve
5 a certain amount of transmission. The transmission
6 reliability margin is a system-wide reliability margin
7 and those are more having to do with loop flows,
8 uncertainty in load forecast error, uncertainty in
9 system topography as you go through in the future. So
10 these are more to identify and address the
11 uncertainties in the transmission system that you're
12 making your forecast today for tomorrow or next month
13 or next summer. As you make that forecast, you don't
14 know exactly which transmission lines are going to be
15 in service. You don't know exactly what your load is.
16 You don't know exactly what generation is going to be
17 there. You don't know exactly what the dispatch is
18 going to be. You don't know exactly what transactions
19 are going to go on throughout the entire network. So
20 there is some uncertainty. To take that into account,
21 you develop a TRM process to have a margin taken off,
22 so you have those two margins; one is a localized and
23 one is more system-wide, grid-wide type margin. Then
24 you come down to -- and what's left over is then your
25 ATC.

1 **COMMISSIONER CLARK:** And that's what's
2 available for further transactions on the --

3 **MR. WASHBURN:** That's available for
4 transactions, right. Then you will have firm and
5 nonfirm ATCs. Because you can sell nonfirm into your
6 margin because you can then call that back if -- on a
7 nonfirm basis.

8 **COMMISSIONER CLARK:** Now, are you saying
9 that all of those sort -- there will be agreement on
10 how you calculate each one of those values by the end
11 of this year?

12 **MR. WASHBURN:** There will be agreement on
13 the process to calculate each one of those values.

14 **COMMISSIONER CLARK:** Okay.

15 (Inaudible comment from the audience.)

16 **MR. JENKINS:** Please come to the microphone,
17 whoever is speaking.

18 **MR. WASHBURN:** Marty was just saying if it's
19 of interest to describe further the nonfirm on the
20 margin, that you can sell nonfirm into TRM and CBM.
21 Different areas of country do that differently as far
22 as how much they are willing to sell into that because
23 it's got to be recallable on a certain period of time,
24 especially on the TRM side.

25 The CBM side is normally recalled for a CBM

1 event, which means that there is a capacity event that
2 you have to then import capacity. Well, then you need
3 to -- the other users of the transmission system, have
4 to get them off the transmission system so that you
5 can use it. So if you're selling nonfirm, you'd have
6 to go into that.

7 **COMMISSIONER CLARK:** Just so I'm clear, the
8 transmission owners will sell the CBM or the --

9 **MR. WASHBURN:** TRM.

10 **COMMISSIONER CLARK:** -- TRM on a nonfirm
11 basis.

12 **MR. WASHBURN:** -- sell on a nonfirm basis,
13 right. It's not a requirement. The standards and
14 measures that have been developed are encouraging that
15 transmission providers do that. But it's difficult to
16 make that requirement because of the diverse nature of
17 the transmission systems across the country, that in
18 some areas it may not be possible to sell that because
19 of the way the commercial practices are done, they may
20 not be able to get off the system quick enough to
21 allow the transmission system to be used in a reliable
22 manner. But it is strongly encouraged that
23 transmission providers make that TRM and CBM, those
24 two margins, available on a nonfirm basis for the
25 commercial use.

1 **COMMISSIONER CLARK:** I guess we would add to
2 that list the use of the CBM and TRM as ways in which,
3 I guess, the security coordinator could affect
4 commercial transactions by making it available or not
5 making it available.

6 **MR. WASHBURN:** Well, the security
7 coordinator doesn't make that decision at this point
8 in time. That decision is made by each transmission
9 provider.

10 **COMMISSIONER CLARK:** Okay. Thank you.

11 **MR. JENKINS:** Tom, before you leave, the --
12 you're going to have an ATC process agreed to by the
13 end of this year, and when will we have an ATC posting
14 to where the interface agrees on both sides of the
15 interface?

16 **MR. WASHBURN:** Okay. The interfaces won't
17 necessarily always agree. There are several issues
18 and there's a national task force now made up of three
19 representatives from the national NERC Market
20 Interface Committee; three representatives from the
21 Security Coordinator Committee and three
22 representatives from the ATC working group to address
23 coordination in the terms that you're talking about.

24 There are several issues. One big issue
25 that's really a big issue outside of Florida, because

1 Florida has very little CBM, is CBM. CBM is an import
2 quantity only. There's not an export quantity of CBM.
3 So when you make a reservation or preservation of CBM
4 on your system and do that calculation, you're making
5 it for the import into your system, but the exporting
6 utility on the other side is not making that
7 reservation. So if you start off -- first of all,
8 make the assumption starting off with the same TTC
9 value. While one side of the interface is attracting
10 CBM, the other side is not because there is no CBM
11 export, only the import. You can also have issues in
12 how you treat TRM. So TRM and CBM can be different on
13 each side of the interface. So right away you come up
14 with a different number there.

15 The other bigger issue that is a real big
16 issue is partial path. When I say partial path, if
17 Utility A is selling power up to Utility B, the
18 Utility A's marketers may only go on Utility's A OASIS
19 and reserve on that OASIS power -- transmission
20 capability just to get out of System A. He hasn't
21 gone to Utility B's OASIS and made reservations over
22 there. So you have partial path. You also could have
23 a partial path on different terms, durations or
24 firmness. You may get on the OASIS and have monthly
25 firm on OASIS A. On OASIS B he may go hourly nonfirm.

1 And so you don't match up there. If you look at your
2 firm ATC postings and your nonfirm ATC postings,
3 you're going to come up with differences even
4 regardless of the TRM and CBM. So your three biggest
5 issues are CBM, TRM and the partial path, which is a
6 commercial reality in today's market.

7 The other lesser issue is netting, having to
8 do with netting reservations and netting of schedules
9 as far as calculating your ATCs, what do you allow in
10 that.

11 So those four issues, the first three being
12 the biggest ones are being addressed by a national
13 working group right now to try to come up with
14 commercial issues and reliability issues that these
15 things affect.

16 So to answer your question, at this point
17 they will not be the same. The Florida ATC working
18 group is looking at trying to make sure those are the
19 only reasons that there are differences and make sure
20 that the reasons of assumption differences gets
21 minimized so that the only reasons that there are
22 differences on any side of the interface are TRM, CBM
23 and partial path.

24 **MR. JENKINS:** What would be wrong with the
25 FRCC making one calculation for all interfaces taking

1 these items that you speak of into account?

2 **MR. WASHBURN:** I don't see that as a right
3 or wrong issue. At this point in time that's -- FRCC
4 has chosen to have each transmission provider make
5 that calculation. There are other areas of the
6 country that do central calculations. There are other
7 areas of the country that do just like Florida and do
8 distributed calculations.

9 You'll hear arguments on both sides of the
10 fence on that. At this point, it has -- a right and
11 wrong answer to that has not been determined.

12 **MR. JENKINS:** What's the wrong answer to
13 that?

14 **MR. WASHBURN:** What's the wrong -- not doing
15 the calculation at all. As long as the calculation is
16 done and done correctly, it doesn't have to be done
17 centrally. There are advantages to doing it
18 centrally. But at this point there hasn't been
19 agreement in Florida to do a central calculation.
20 There are issues having to do with the staffing, of
21 how to do that and some of that. So there are issues
22 on both sides of the fence. So that's what I'm
23 saying, it's not a right or wrong decision to do it
24 centrally or disbursed by each transmission provider.

25 **MR. JENKINS:** Well, it sounds like as long

1 as you do it disbursed, you're always going to have
2 interfaced mismatches because of the items you speak
3 of.

4 **MR. WASHBURN:** No. You are always going to
5 have those mismatches, what I'm speaking of,
6 regardless of whether you do a central calculation or
7 not; that does not do away with it.

8 For example, the main -- the main region,
9 which is the Mid-American Interconnected Network,
10 which covers Wisconsin, Illinois, and parts of
11 Indiana, and parts -- in that area of the country --
12 does a central calculation. But they have, like we
13 have, multiple transmission providers, and the central
14 calculation does not do away with the mismatches that
15 you're talking about because they are still there.
16 You still have TRM and CBM differences and partial
17 path differences. Those do not go away with a central
18 calculation.

19 **MR. JENKINS:** I'm not suggesting they go
20 away but at least I'm suggesting that they coordinated
21 at one place and were taken into account at the
22 interfaces.

23 **MR. WASHBURN:** Those interfaces will still
24 be posted differently, if that's what your question
25 is.

1 **MR. JENKINS:** Even at the central --

2 **MR. WASHBURN:** Oh, absolutely. Just like I
3 said, you start off with a thousand. If you subtract
4 a hundred TRM and CBM on one side and zero on the
5 other side, you're going to have 900 posted and a
6 thousand posted. That's not going to change when you
7 do a central calculation.

8 **MR. JENKINS:** Okay. Okay, thank you.

9 Let's see, our next presenter will be Tom
10 Delaney from Enron. Tom, we've made copies of your
11 slide. I think they were distributed, at least I have
12 one.

13 **MR. DELANEY:** Can everybody hear me? No?
14 Yes? Okay, now is your chance to go.

15 Let me introduce myself. My name is Tom
16 Delaney. I work at Enron today. I used to work for
17 Bonneville Power. I originally spent -- was born and
18 raised in Portland, Oregon, and so I grew up very much
19 in a hydroland. Today I work for Enron. I'm based
20 out of Phoenix. Since probably none of you really
21 know me, I'd like to give you at least a little bit of
22 background on myself to go from.

23 I was on the boards of the California WEPEX
24 and the steering committees that created the
25 California ISO. In one breath I'm proud of it; in

1 another breath I usually apologize -- (microphone
2 system squeals.)

3 I usually apologize in some places when I
4 show up. (Microphone system squeals.) I think I'm
5 just too close to the mikes.

6 There are three RTGs in the west. RTGs are
7 regional transmission groups. They are something that
8 FERC asked a long time ago to create because they
9 wanted a region-wide tariff. Common commercial
10 practices, we have three of those in the west. I'm on
11 the three boards. I'm on the board of the Mountain
12 West ISA. That's basically an independent scheduling
13 administrator for Nevada, as well as an Arizona ISA,
14 and what's come to be a Desert Star proposal, which is
15 three states in the desert southwest: Arizona, New
16 Mexico and Southern Nevada. I was also on the groups
17 that went through the INDEGO process which was an
18 eight-state region attempt at an RTO.

19 Also, as Greg put it, the mandatory
20 compliance that NERC is looking at and trying to adopt
21 today through regional legislation came out of WSCC
22 and I was on a task force to help develop some of
23 those. So in essence, I have been doing transmission
24 and transmission wholesale issues for a while. And
25 what I find is that in one sense they can be very

1 interesting; in another sense they can very boring.
2 I'm sure to some of us here that electricity is as
3 interesting as switch on/switch off; does it work?
4 That's the reliability issue. Many things go behind
5 that.

6 There will be a lot of people presenting
7 different issues and different ideas here today. And
8 what I'd like to do is at least go over my thoughts
9 and my recollections and what I've seen in other parts
10 of the nation, which also include Texas.

11 So in essence I pretty much do all of the
12 transmission issues for Enron in the west, except
13 California. I walked away from that, which has been
14 kind of fun. And now I'm involved in Texas and it
15 seems a bit now here in Florida.

16 So I do appreciate coming here. And please,
17 if people have questions, I don't mind you stopping me
18 along the way rather than waiting to the end. Usually
19 good thoughts might get lost if you wait until that
20 final moment. So, anyway, please.

21 What do markets need? Let me grab my slides
22 here to make sure I'm following my own issues.

23 Basically independence. We hear about this.
24 And it's independence in fact and independence in
25 perception. That's what markets are made of. If

1 people think that it's independent, they will come in
2 and make business decisions that look like long-term
3 investments, or picking a service provider that makes
4 sense to them. And really what we're talking about
5 here is the business decision access-making functions
6 of the grid.

7 There are many of those things that FERC in
8 its NOPRs, notice of rulemaking, that it put out a few
9 months ago, nailed right on the key there in terms of
10 what ancillary services are needed? Who provides
11 them? Where are they provided? What are they? What
12 generators are basically used for these? And so on
13 and so forth. All of these things that come up to be
14 a secure operating plant for the day. These are
15 business access-making functions in the grid that
16 basically utilities have today, which makes
17 transmission a strategic asset. And I think -- it's
18 not hard -- I haven't heard anyone, frankly, yet tell
19 me that transmission in a utility is not a strategic
20 asset. And the whole goal here in making independence
21 of the grid is to make it a portfolio asset. And the
22 whole idea there is that the utility should not care
23 who uses their system as long as load is being served,
24 it is a secure plan and it's being paid for. But
25 that's, in essence, what FERC is trying to rid the

1 system of, because in essence you have pancake rates,
2 strategic asset with the utilities, and so you get
3 generator market concentration and you get utilities
4 who -- you know, I don't blame them, they are very
5 conservative in their ways -- will probably use that
6 system to benefit themselves more than they would
7 others. So in a sense that it's a strategic asset,
8 the independence rids markets of that and actually
9 makes it a common carrier service for everybody.

10 The model that basically, I think, FERC is
11 looking for is no pancakes. Again, if you have
12 pancakes, you have market concentration for
13 generation. Two pancakes -- and when I say "pancakes"
14 I'm talking about how many service territories do you
15 have to go through, how many rates do you have to pay
16 until you actually get to the end consumer? So if you
17 have to go through two utilities and pay their rates
18 to get to an end consumer, that's two pancakes. In
19 this market usually what I find is two pancakes and
20 you're out. That's one of the reasons FERC wants to
21 have large regional transmission organizations. The
22 whole idea there is to unpancake, and everyone gets
23 the benefits of system resources, and not just the
24 locational generators that strategic transmission
25 assets lock you up at.

1 Again, I think what they are looking for is
2 a simplified commercial model, one that everybody can
3 understand and use; one that's not strictly
4 operational-based that adds complexities to the
5 system. I'm not saying it should not be secure. In
6 the west we've come up with these models, and other
7 areas have come up with these models to make it simple
8 to where people can transact across those, and these
9 are very, very reliable systems.

10 What we do for the most part is try to keep
11 these two network systems, so that way you identify
12 the key interfaces that have commercial value that
13 people need. And at those areas of the grid you make
14 sure that there's competition for access in those
15 areas.

16 Usually the rights within the network --
17 well, as today, usually you use system redispatch or
18 something, and that gets socialized across the grid.
19 But within the zone common carrier, no need to worry
20 about that, it's network. From network to network I
21 think is usually where the commercial interfaces are
22 that are of great value. And that's where again the
23 business decision access-making functions of the grid
24 become important.

25 What are these access rights in terms of

1 interfaces? Well, we call those congested rights.
2 And for the most part, there are lot of opinions in
3 terms of what these rights should convey. But one
4 thing it should convey is financial certainty. And
5 also I call it an operational certainty, which is a
6 firmness of service. And what I'd like to give to the
7 Commission today is a report from NYMEX, who is the
8 futures people in New York, that basically has the
9 forward curves that a lot of services are based on --
10 yes, for the Commission. And it talks about these
11 firm rights. And really what it is, in essence, if
12 there's too many generators wanting to use a path, how
13 do you choose? Usually you need some kind of
14 tie-breaker effect, and that's really the difference
15 between a financial right and firm right. And I would
16 suggest that everybody get this document and read it.
17 And I believe it is Docket RM-99-2000. Is that
18 correct, Commissioner?

19 **COMMISSIONER JACOBS:** Yes.

20 **MR. DELANEY:** So what does FERC and markets
21 need today? Basically protocols to facilitate and
22 encourage the use of market mechanisms rather than
23 centralized processes.

24 Today we have "first come first serve", a
25 very inefficient market. Basically what you need is

1 something that allows people to choose on how much
2 they value the path of the other one rather than
3 queueing, as we have today.

4 Again, what you need is price certainty
5 before the fact; not after the fact. Ex ante pricing,
6 not ex post.

7 Transmission rights with scheduling
8 certainty, meaning the same kind of service you get
9 today, to where if I come in and I have a transmission
10 service, I schedule and I know that my generator on
11 the other end, barring TLR or some kind of curtailment
12 in the system, has some scheduling certainty to the
13 take-or-pay contracts people have on the other end.
14 That's very important.

15 Again, I would suggest reading the NYMEX
16 comments to FERC on the RTO. It makes it very plain.
17 I'd rather have you do that than me consume your time
18 with that.

19 The flow base models are good, but what
20 you're going to find for the most part is if you
21 impose a strict flow base model on markets, then you
22 are subject to the ever changing topography of the
23 grid. And what that means is get away from ex ante
24 pricing and it's ex post. And with that people will
25 just never know how to lock down their certainty and

1 transact with people.

2 Again, no mandatory resource pooling,
3 because if you do then, again, you're getting away
4 from bilateral markets and you're getting into what's
5 called "black box economics" that we've heard Tom talk
6 about a little bit up here, and I can talk more about
7 that if people would like. Transmission loss
8 obligations that are known in advance.

9 I'd like to talk a little bit about what I
10 said earlier, which is an ISA, independent scheduling
11 administrator, and what it is.

12 In the west and ERCOT these are very popular
13 entities. Basically, they are being designed -- ISOs
14 are being designed today and they cost a lot of money.
15 A good example is California. California basically
16 has been estimated and the costs so far are at a half
17 billion dollars, and some argue that with the
18 perimeter systems and internal and external with
19 California, with the dollars they have had to spend,
20 it's approaching a billion. Why did it go this way?

21 In my opinion, if you want to get the
22 competition, sometimes what you need to do in open
23 access is you need to find a crosswalk and walk across
24 the street. California decided to build greenfield
25 control centers. That means collapse the existing

1 ones even though their assets weren't depreciated and
2 start new ones; one up north, one down south and build
3 a PX. So in essence what they did, is they built a
4 rocket ship and blasted it up around the moon. It
5 circled a few times to see if it would crash on the
6 other side. Thank God they kept the lights on, but
7 they forgot -- you know, forget Gemini, forget Apollo.
8 You don't need to do that in between.

9 The ISA approach is more of a progressive
10 step in terms of getting there without necessarily
11 collapsing control areas until you need to.

12 For each of these reasons, basically, we
13 feel that the tight pool methodology that we see today
14 in the northeast and mid Atlantic is inefficient.
15 Again, under FERC 888 and some of the RTO proposals
16 they put out, the tight pools were -- it was easy for
17 them to restructure because the pool was there
18 forever.

19 Even in the context we believe that ISAs are
20 ultimately independent transmission corporations, if
21 they are done correctly, are far superior to strict
22 ISOs.

23 Again, ISAs are very popular in the west and
24 in the western interconnection, including ERCOT. In
25 fact, ERCOT today is an ISA.

1 A clear western message that no one wants to
2 do California-type ISOs have been put out there.
3 Again, there are lessons learned. And to California's
4 credit, they did this in a year's time. A
5 phenomenally short amount of time. But to do that
6 they had to spend a lot of money and they did it, I
7 think, in a cavalier sense because they didn't have
8 the time to spend on it. Lessons learned coming away
9 from their show: That you do not have to collapse
10 control areas until it's absolutely necessary. What
11 you need to do is take away the business decision
12 access-making functions of the grid and give it to
13 someone who is independent. At that point, married
14 with the regional security coordinator, you can give
15 that secure operating plant the control areas to
16 operate from.

17 It basically achieves the near-term
18 improvements and the operational efficiency that FERC
19 is looking for. It unvulcanizes the grid, as they put
20 it, and without developing these unwieldy governing
21 bodies. Again, California is a new bureaucracy. And
22 you have to be very careful when you build new
23 monopolies because in a way they can run away from
24 you, and is a sense that's what California has done.
25 It's forgotten who its customers are and it's kind of

1 recreated a mentality they know best. But they are
2 changing that because now there's competition at their
3 boarders, with Nevada and Desert Star, and they are
4 tending to call people "customers" again.

5 And I say as an independent coordinator of
6 the transmission service -- and unlike an ISO, it does
7 not necessarily have to have push-button operational
8 control, the same way that regional security
9 coordinators do not have push-button operational
10 control. They do have operational authority. And
11 what that means is they have the right to pick up the
12 phone and say, "Do this. Don't do that. This is what
13 I need you to do right now," and control areas must
14 respond.

15 The ISA married to the regional security
16 coordinator will have that same authority. That's
17 exactly what FERC is looking for. I think FERC would
18 like to eventually see the collapsing of control
19 areas, but they have not made that a prescriptive
20 device. But they have asked, I believe, that regional
21 security coordinators be integrated into these RTOs.

22 So who likes ISAs? Well, we have a list
23 here. I would like to add Florida. It's for you all
24 to decide. All's I can do is offer you my experiences
25 elsewhere. But it's Desert Star, a three-state

1 region. Right now Arizona and Nevada an interim ISAs.
2 When I say "interim" it's because they realize that
3 getting to an RTO will take more time. In the
4 meantime, they wanted to do something right now.
5 Nevada is by far, I think, the best interim ISA I have
6 been seen today. In fact, even the utilities like
7 what they see. Market participants. Everybody does.

8 And, again, the whole idea there is for it
9 to be there as an interim step until you can get to a
10 multistate organization that can be deemed by FERC as
11 an RTO.

12 Texas, this independent grid scheduler in
13 the northwest was the aftermath of the INDEGO crisis.
14 And the INDEGO crisis collapsed for a lot of reasons,
15 one of which they tried to go to a single control
16 area. They had a commercial model that was hostile.
17 It also had a lot of cost shifting. We decided not to
18 do that.

19 The other reason was nonjurisdictionals.
20 This is very important. In an ISA nonjurisdictionals
21 can play. In a lot of cases if you collapse control
22 areas, nonjurisdictionals may not be able to play
23 because you are taking something from them. You're
24 physically taking an asset. And their treasury status
25 might change from not-from-profit to for-profit.

1 That's harmful. In the west it's been agreed that
2 people that are nonjurisdictional and have industry
3 bonds can play in this organization, including PMAs
4 like Bonneville; like WAPA. Texas likes it. Texas is
5 asking itself whether or not it wants to go to a
6 single control area, but today Texas is an ISA. And
7 FERC seems to be very intrigued about this because
8 this is a way of getting to the next step, and also
9 getting nonjurisdictionals to play. And in the west,
10 since 50% of the grid is nonjurisdictionals, you have
11 to do something.

12 I think the other good thing about having
13 one of these interim steps, getting back to Nevada --
14 is Nevada has a solution for itself. Now, as other
15 RTOs or other states get together to form RTOs, Nevada
16 is in a position to be in a driver's seat. Its tariff
17 is at FERC. Its tariff will probably be adopted by
18 FERC, and with that standard set, it's going to be --
19 there will be a duty put on this new organization, an
20 RTO, to meet that minimum standard or be higher or
21 better.

22 It seems to me as Floridians you have a
23 chance here to set up a good ISA or an ISO; probably
24 you cannot be an RTO because it's a single-state
25 entity. But one of the things that's bottlenecking

1 the state are your neighbors to the north.

2 Now, eventually FERC will put pressure on
3 them to come to the table and have an RTO. And
4 wouldn't it be nice that there's something in
5 Florida's back pocket that you can use today at that
6 table if you set the standard your neighbors to the
7 north can only do better than that. They can't do any
8 worse than what you put forward to FERC and they
9 adopt.

10 Again, getting into characteristics of an
11 ISAs, you need independence. I cannot stress that
12 enough. Independence to the business decision
13 access-making functions of the grid that utilities
14 have today, that under perception or reality they use
15 to benefit themselves. And I've seen this a lot in
16 the west. I'm not going to speak too generously about
17 the state of Florida because I am new here. I'll let
18 others do that. I could talk about what the
19 discrimination issues are. But some of them look like
20 the calculation of TTC; the calculation of committed
21 uses, ATC; the development of the secure operating
22 plan.

23 A single OASIS. Who manages it? Who posts
24 it? Is there a hour-ahead mark?

25 Ancillary services. Who needs them? Where?

1 Curtailments. The list goes on. I have a list later
2 to show you that I think lays this out more.

3 Again, ISO single control areas are not
4 necessarily needed. I don't think you are forced to
5 choose on that one if the state deems to go there.
6 That's fine. The economics might be there but it
7 makes sense to a certain extent to let assets
8 depreciate, and as they depreciate, you replace them
9 in a collapsed way so you get there over time.

10 Again, you can do this -- as we're trying in
11 the west where you can build on some existing
12 structures, so it's evolutionary, not revolutionary:
13 Don't need to spend a half billion dollars like
14 California did. It's lower cost. It's very low cost.
15 And to give you an example is Nevada's ISA.

16 California came in and under testimony said,
17 "We can do this \$12 million and 45 cents -- 45 cents a
18 transaction." We had other vendors come in basically
19 that said, "We were thinking more like 3 million and
20 15 cents." And as other states are joining in, the
21 3 million gets spread across other states.

22 Now, this was to also implement open access
23 retail. If a vendor like that came in it would
24 actually cost a lot less for all megawatts across the
25 state. And what do you get? Independence, liquidity;

1 more people coming in; open access to the system.
2 It's a very small investment for a state that I think
3 -- and someone can correct me on this -- is somewhere
4 like the 11th or 13th biggest economy in the world.
5 It does not foreclose on other institutions, like
6 TRANSCOS, or for-profit TRANSCOs, which Enron does
7 like.

8 If you spend a half billion dollars like
9 California did, you can't say it's wrong. You can't
10 walk backwards from that. Once the egg is scrambled
11 you're done. With an ITA, I mean, even with a low
12 cost like that you can say it's easy to transform this
13 because we didn't overspend. And a lot of those
14 systems are adoptable as something else. It's
15 contractually driven, mostly, because you're not
16 collapsing control areas and it can address pancaking.
17 And, again, I make the issue that FERC has seen this;
18 FERC likes it, think it's a good interim step. Again,
19 it holds no transmission assets. It basically has a
20 staff that takes the business decision access-making
21 functions in the grid, makes that independent; has a
22 Regional Security Coordinator, injects operational
23 security into the grid that way. It operates a single
24 OASIS for the grid. It operates the market. It
25 facilitates the market; not a vulcanized system under

1 various control areas, under various utilities. It
2 accepts requests for transmission schedule,
3 coordinates the control area; handles all of those
4 requests. It develops the secure operating plant, not
5 the utilities. The Regional Security Coordinator
6 looks at the schedules, looks at the secure operating
7 plan, says "This is doable. This looks secure."
8 Hands it to control areas. They operate from it.
9 Control areas do have input into that. Obviously they
10 are not going to do something that puts out a harm to
11 its employees or burns the systems down. Basically it
12 comes from an independent entity. It coordinates
13 control areas under its supervision to ensure open
14 access; that the transmission is open, service is open
15 and provides the fullest extent of this service
16 possible to the grid users.

17 Again, turn to build upon existing entities.
18 Just a small graph here. You have market participants
19 and you have the long-term facet in the market, and
20 then you have day head, hour head, real-time, and
21 after-the-fact. This kind of gives you a breakdown in
22 terms of the different roles. The word "RTG" is a
23 regional transmission group. I know you don't have
24 any out here. If you created ISA or ITA or whatever
25 you choose to call it, it can be the facilitator of

1 RTG-type actions, which looks like regional planning,
2 which looks like some of the things you need to have
3 as public processes to go forward and have input from
4 stakeholders in terms of what these decision
5 access-making functions of grid should be. But,
6 nevertheless the independent part of this ISA or ITA,
7 or whatever you choose to call it, is still there but
8 they cannot do things in a vacuum. They should not do
9 things in a vacuum. What you see is everyone has a
10 role here, even the control areas.

11 The benefits of something like this to
12 Florida. It addresses all the important needs of the
13 marketplace and what FERC is looking for. Again, you
14 have to keep your eye on the ball here. What do users
15 of the grid need? If we had true separation of
16 vertically integrated utilities, again, you'd have a
17 TO over here, a transmission owner, who would care
18 about being paid, who would care about a secure
19 operating grid and would care that, basically, the
20 lights stayed on for everybody.

21 So, again, it addresses that issue. It also
22 addresses the independence of access, pricing, and
23 basically divesting this only in the decision-making
24 function of the grid from the owner. It can eliminate
25 pancaking. It's an efficient model of pricing of

1 scarce resources; a very valuable path that people
2 compete to use. And it's simple to put forward.

3 It focuses on facilitating commerce, also
4 reliability. Not on operating the markets but
5 facilitating the markets.

6 Again, the whole idea that FERC is trying to
7 do here, is, in essence, 888 is not working. It's not
8 working well enough. Have a NOPR, we're going to have
9 a rule. The whole idea here is, I think in my mind,
10 if I'm a user of the grid, a marketer, Enron --
11 anybody that's an ESP, in essence -- if I go to a
12 transmission owner, or even an ISO, and they are also
13 a power marketer -- meaning that they are selling
14 counterschedules that actually have a position in the
15 market -- I'm no longer going to them as a customer.
16 I'm crawling to them as a customer. And they are also
17 a power marketer. So what you really need to have is
18 a transmission-only type business. Someone who sells
19 a common carrier service and does not have a dog in
20 this race. Again, it's a more efficient -- you get
21 more efficient markets because there are fewer
22 centralized rules. You push that discipline out in
23 the markets. You keep the system reliable, and
24 independence at the grid, the scheduling, the
25 reservations, everything else. Again, competition is

1 enhanced. You don't reduce it. One of the things
2 that creates liquidity in the market again is the
3 perception and the reality that there's independence.
4 And a utility won't benefit their own generator
5 through a strategic asset, again, for its own
6 generators. And I'm not trying to be harmful to
7 utilities by saying that. It's true. It is a
8 strategic asset. You still have one CEO and he knows
9 that on both sides of the table he has goals to meet,
10 he has revenue requirements to meet and it's in their
11 interest to do this.

12 If this is achievable, it's evolutionary;
13 it's not revolutionary. Less institutional. Not as
14 much inertia to overcome by breaking control areas
15 down and seizing assets from people. More reliance on
16 existing institutions, I think, is good too. That way
17 you can take steps and figure out what makes sense to
18 people. There's no requirements for control area
19 operators to give up their roles or their assets.
20 Again, nonjurisdictionals can plan that. I don't
21 think you need to go to something that basically
22 usurps some cultures. I mean, because when you get in
23 a room and you start talking about pulling these
24 things apart, you want to make sure operators are
25 there; you want to make sure they are comfortable with

1 what's going on. It's been a very good process in the
2 west. It costs a lot, lot less. I mean, phenomenally
3 less. And when I say \$3 million for Nevada, Nevada is
4 doing this under the auspices, as well as facilitating
5 retail. And so if they came in just to do wholesale,
6 I would contend it's even cheaper. If they could do
7 this in Nevada, they could do this in any state, some
8 of these vendors come in -- in fact, they've even said
9 we could do this in Nevada and if someone in Georgia
10 or Florida wanted to do this, it's the same term key
11 service that could come in; economy of scale or costs
12 go down even further.

13 So, if you hear people say, "Oh, it's going
14 to cost too much," I can show you RFPs that say other.
15 Again, it does not create a megabureaucracy. The ISA
16 is a much smaller organization than any ISO ever
17 created. It's less centralized; less inertia.

18 Consistent with the, basically, evolution of
19 these TRANSCOs, again, it's smaller, it's leaner, it's
20 meaner and basically it can lead to other
21 organizations like RTOs. It has checks and balances.
22 I think that's important.

23 One of the problems with the California
24 entity is that, in essence, even FERC can't tell it
25 what to do. Whereas, before FERC could basically say,

1 "I want you to do this," and if a utility didn't do
2 it, it can mess around even with your rate of return.
3 It can do things basically to get you to do it. Over
4 and over California, as an ISO, has basically said, "I
5 don't think I want to. I think I'll get to it next
6 year." It's hardware and software. And basically
7 it's developed a culture because it's basically
8 rehired utility people at the VP level and below --
9 they still have a very much -- a strict operational
10 culture. They've hired nobody that basically worked
11 on commodity markets or had a background in finance or
12 had a background in regulations, or anything like
13 that. So, again, when you create one of these
14 institutions, I think you can do this without setting
15 up a culture that still dismisses the users of the
16 grid.

17 I have some suggested goals for the state of
18 Florida. And one thing I'd like to point out that we
19 saw earlier is FERC will be having its rule out by the
20 end of the year. It will be expecting people and
21 utilities to come up with solutions, basically, for
22 RTOs. Between now and that year, Greg -- and help me
23 to make sure I get it correctly -- it's the Year
24 2000 -- October? Someone might have to do the math
25 for me. It's not that far off. But I can tell you if

1 you start the discussions now, if the Commission
2 facilitates workshops for people to come in and have
3 these discussions now, it will take you very much that
4 length of time to come up with even an outline at
5 10,000 feet that the state can take to FERC to begin
6 the process. These things take time.

7 Again, you can transform a strategic asset
8 to a portfolio asset. I cannot say enough about it.
9 That's what FERC wants. I think that's what the users
10 of the grid need.

11 **COMMISSIONER CLARK:** Let me ask you a
12 question. Why would that be beneficial to Florida to
13 do that if we don't go to retail competition? Because
14 if it's a strategic asset of a utility that has an
15 obligation to serve its native load customers,
16 presumably they would use that strategic asset to
17 benefit those customers.

18 **MR. DELANEY:** It has nothing to do with
19 retail access. It has to do with access to the grid,
20 period.

21 A good example is OASIS. I can talk all day
22 about this, but OASIS is one issue. OASIS today is
23 used more as an act to frustrate markets than to
24 facilitate markets. We've heard differences in terms
25 of TTC, ATC. Different uses of the grid. And what

1 ends up happening is you chase the lowest common
2 denominator. You can have the same line, and down
3 here if ATC is this, and the same line over here they
4 say that ATC is higher, ATC is that.

5 You're able to rid the system of -- well,
6 I'll just say discrimination. It may not be
7 discrimination. It just could be in a lot of cases
8 that utilities today, it takes a long time to tag and
9 get out, especially with this time of year with air
10 conditioners being high and a lot of units being on
11 and committed. When you look at what schedulers do,
12 they're supposed to be out by about 5 o'clock. I
13 would guess in a lot of cases they are still working
14 until 8:00, 9:00. You're getting very close to the
15 ramp time for next day. Why? Well, they come up with
16 committed uses for their own system. How does a
17 utility do that? Well, the utilities are conservative
18 and they probably will overcommit on the system. They
19 will figure out what the worst possible condition ever
20 could be on their system and they'll say, "I need the
21 whole system pretty much." Now, how soon do they
22 release the ATC back to the market? It's up to them.
23 To a certain extent that they're still tagging, trying
24 to be done, operating the grid. Once they've served
25 their native load, that monopoly function -- there's

1 not a lot of inspiration for them to be posting ATC on
2 the market on a hour-head basis when it's available.
3 It is not uncommon to call up and say, "I see you have
4 room. Oh, it's not there anymore. Do you have room?
5 Well, don't bother me now. I'm doing this over here.
6 I have to tag and get out. We're T-minus-4 hours from
7 ramp." You need an independent organization to do
8 this. So, when you're talking about wheeling out or
9 wheeling in or wheeling across someone else's system
10 inside Florida to facilitate transactions -- because
11 there are people, including the merchant of utilities,
12 including FERC organizations that qualify to be in the
13 wholesale market -- it matters to them. It also
14 matters to generators in terms of where they locate.
15 If you have the pancake rates, if the system isn't
16 open, if ATC is all over the place -- even the margins
17 that were talked about here by Tom are all over the
18 place in the way that people don't have any faith in,
19 then you still have generation market concentration.
20 And you're not going to get away from the idea of
21 having system resources that benefit everybody.
22 You're going to get probably more generation in places
23 that you really don't need because, again, two
24 pancakes, the economics don't work.

25 You need a public process towards a FERC

1 filing, or, at least, a response to FERC. FERC is
2 going to want a response. These things take time.
3 Otherwise what you're going to have, as far as I'm
4 concerned, are three or four different responses at
5 FERC. I mean, you have to start the process then.
6 People are here. The slate is clean enough. It's
7 probably good to start now.

8 A Florida ISA will need to be basically a
9 Regional Security Coordinator too. It's better to
10 start earlier than later. The ISA will need -- must
11 have its own tariff. Again, this whole idea of
12 tariffs is another thing that FERC talks about in
13 terms of -- if people have tariffs and it's different
14 across the state, as a marketer use of the grid, I
15 need to know eight different tariffs. And each tariff
16 may have different ways of doing things. Each tariff
17 has a lot of discretion on whether or not I go left,
18 whether or not I go right. Whether or not I'll tell
19 you in real-time. If you have one tariff for the
20 state, one person that institutes this tariff, it's
21 very clear in that sense what system is going to do
22 rather than eight screens on your desk trying to
23 figure out how you're going to transact across the
24 state.

25 Instead of after-the-fact complaints, a

1 Florida ISA must, in advance, control an OASIS. It
2 controls the OASIS. It calculates TTC, ATC and OTC.
3 It is something that they could delegate still back to
4 the utilities as an interim organization before an
5 RTO. It could do that. But it must have clear
6 oversight over the utility in terms of I agree with
7 what you've done. And if not, an ADR process to take
8 care of that.

9 Control compensating generators, meaning
10 must run. You want to make sure that they have
11 control as a reliability organization with a regional
12 security coordinator inside. Again, the short-term
13 reliability would rest with that regional security
14 coordinator. It ensures the existence of a vibrant
15 market. Very important.

16 Across the nation you'll have people that
17 will be making investments in different states. If
18 the state seems closed, they probably don't go there.
19 An ISA must, I think, have rules regarding
20 transmission additions and improvements as well.

21 I have, on the next sheet, for people to
22 consume -- I won't really go over this -- the
23 differences between an ISA and an ISO. That's for
24 your consumption.

25 I think the next two sheets -- because I

1 promised one Commissioner I'd tried to keep this short
2 and I don't want to suggest that I'll do otherwise --
3 is a matrix. And this matrix is just a suggestion on
4 some of the functions of the grid through an open due
5 process that people need to come and discuss.

6 Now, what I would suggest, is when you look
7 at ISAs in the west, FERC has been very definite on
8 what they like and they don't like. They say the AISA
9 in Arizona is bad. They say after-the-fact monitoring
10 will not cut it. They said the same thing with the
11 IGS up in the northwest. That will not cut it.

12 By my recollection I think you will see a
13 proposal on the table that is exactly that. It's
14 nothing more than an independent auditor. It won't
15 cut it.

16 The Nevada ISA is far more an organization
17 that takes the access decisions of the grid and makes
18 it interesting and that's what markets need.

19 So all of these five things here.
20 Scheduling access to the grid. Many issues in there.
21 Basically the ISA, if it's to be independent, needs
22 independence. If it's going to be a scheduling
23 administrator, it needs to take the schedules. It
24 also needs to administrate something. Probably the
25 tariff, the schedules and so on.

1 Operation of the transmission grid. That
2 happens between the ISA at the control areas and
3 regional security coordinator.

4 IRCS is an independent regional security
5 coordinator. TOs are transmission owners. MP, market
6 participants. Administration of a regional, it's all
7 over the place. But ultimately if control areas, in a
8 way, are subcontractors to this ISA, they could select
9 control areas to do it but the ISA must have clear
10 authority and oversight on whether or not they feel
11 it's been done correctly or not. Again, you're using
12 existing staff.

13 Transmission pricing. I think that is
14 still, for the most part, with the utilities. But
15 things like discounts and when you give discounts
16 still should be a discussion on when the ISA
17 intervenes.

18 The reservation of accesses. ISA. Access
19 equals scheduling equals tariff equals who chooses.
20 Should that be independent? A dispute resolution.
21 ISA should need that again. I put an RTG in here.
22 That would still be in the ISA, I believe.

23 Settlements and coordination of the
24 transmission planning. Again, it's a cooperative
25 venture.

1 That's my vision, at least, I think for the
2 state. I've seen different proposals on the table.
3 I've seen one from the ITA. Yes, it's at 30,000 feet
4 but you have got to start there. And you have to have
5 a common definition on what you're trying to do. From
6 there you make your way down to the ground.

7 I've seen what Florida Power Corp and
8 Florida Power and Light has put out there. What they
9 really are offering in my mind is FERC 888, with not a
10 lot of change. Because still the business decision
11 acts as making functions of the grid. Stay with the
12 utility who has a strategy. Users of the grid aren't
13 really at par at that point.

14 And then there was a Jacksonville proposal,
15 which I believe was a single control area, which is
16 not a bad proposal, folks. I'm just saying look at
17 the dollars. See whether or not that makes sense.

18 So, in essence, I believe if you had a wall
19 and -- 888 was over there and you had a wall and the
20 NOPR is over there -- I have seen one proposal that's
21 about an inch from that wall (indicating), another
22 proposal that's closer to that wall (indicating) and I
23 think an ITA which is more in between. But it doesn't
24 matter. These are the same players. I think they
25 need to be in a public forum, sponsored, maybe, by the

1 Commission, with an expectation that you want results
2 filed with FERC at that given date that they want it.
3 And they probably need to be in the room talking about
4 these things. It starts today I believe.

5 Anyway, that's it for me. I appreciate your
6 listening. If there's any questions, I'd be more than
7 happy to take those.

8 **COMMISSIONER CLARK:** I do have one question
9 and it was brought up by some comments to the RTO
10 NOPR.

11 Where would the liability lie for the
12 mismanagement of the transmission system?

13 **MR. DELANEY:** In other words, if someone
14 burns down wire, something like that, who pays?

15 **COMMISSIONER CLARK:** Yeah.

16 **MR. DELANEY:** Well, if you have a single
17 control area, the control area basically takes that
18 over from the RTO, and, in essence, they're the ones
19 liable. But still in a sense I've always seen, even
20 in California or anywhere else they've put in there,
21 that the utility basically has the right to reject
22 what this organization is doing. Even the Cal-ISO,
23 the utility is going to say, "I reject what you are
24 doing because I deem as a TO and there's still a
25 fiduciary responsibility upon me not to put anyone's

1 health at risk and not to burn down the system," and
2 all these things. So what you end up having is an ADR
3 process. What you end up having is a lot of
4 procedures and rules up front that are agreed to by
5 people. But, again, you still need someone to
6 facilitate these discussions who doesn't have a dog in
7 this race.

8 Ultimately, if a system burns down -- we
9 have had these discussions in Desert Star -- like
10 mandatory compliance -- if someone does not follow
11 what NERC is going to put out there -- or NAERO --
12 puts out there as mandatory compliance, who gets the
13 bill? Desert Star gets the bill. Desert Star will
14 get the bill because Desert Star has basically taken
15 this role on.

16 So you have to work through the issues of
17 indemnity. Who's on first? Who's on second? And
18 agreeing to as many the rules up front as possible. I
19 think it's fair still, until you get to a single
20 control area, that utilities have some right of
21 refusal but, again, lots and lots of public scrutiny.
22 Sunshine is good. Because if they do it once, well
23 that's fine, it makes sense if they did it. But if
24 they continually do something that doesn't make sense,
25 then I think you need to have some kind of ADR process

1 that cleans it up. When I say "ADR", nothing that you
2 see today at FERC -- because what you end up having is
3 180 to even a one-year bite at the apple -- that means
4 you have a rolling bite at the apple that's as far out
5 as a year, and by then the damage to markets are done.
6 Markets work on a short-term basis. So I think you
7 need something that looks like a fast track ADR that
8 facilitates that.

9 **MR. JENKINS:** Any more questions?

10 (No response.)

11 Okay. Thank you, Tom. Commissioners, shall
12 we break for lunch?

13 **CHAIRMAN GARCIA:** Let's go ahead and take a
14 lunch break and we'll reconvene at 1:00.

15 **MR. JENKINS:** Sounds good.

16 (Thereupon, lunch recess was taken at
17 12:15 p.m.)

18 - - - - -

19 **MR. DENISE:** Ladies and gentlemen on the
20 Commission, my name is Tracy Denise and I'm with the
21 Jacksonville Electric Authority and I am here today to
22 speak about the proposal made by JEA and with me is
23 Mr. Ed Reagan of Gainesville Regional Utilities, and
24 it is a joint proposal made by Gainesville Regional
25 Utilities and Jacksonville Electric Authority.

1 Mr. Reagan is going to address the financial
2 dimensions. I am going to talk basically about the
3 policy decisions that are inherent in resolving the
4 transmission situation in Florida.

5 I want to say a couple of things in the
6 negative at first. First of all, this is not a
7 proposal that is aimed at or looking towards retail
8 competition in the state of Florida. This is a
9 proposal generated exclusively because of the FERC
10 NOPR and the passage of the Energy Policy Act of 1992.

11 When you take those two events together, the
12 NOPR, which came out of Order 888, and 888, which came
13 out of the Energy Policy Act, we have, I think, a
14 situation that is forced on us and a situation that
15 mandates some degree of change.

16 But at the outset, I want to say that
17 Jacksonville and Gainesville do not envision the
18 present system of providing electricity in the state
19 of Florida as being broken. We see a situation which
20 is workably efficient in its present structure; a
21 situation which under the status quo could continue to
22 well serve the people of the state of Florida.

23 But at the same time we recognize the
24 inevitability of change, especially the change
25 prompted and fueled by the Energy Policy Act, which

1 established a wholesale -- wholesale -- I mean a
2 wholesale competition market in the wholesale electric
3 energy business.

4 Having looked at all of the proposals that
5 have been made and being familiar with all of the
6 various structures that are being tried around the
7 country, and being somewhat familiar with the
8 litigation and the policymaking decisions which have
9 ensued, Gainesville and Jacksonville have come to the
10 conclusion that the most workable solution for the
11 state of Florida, should change be inevitable and be
12 forced upon us as the FERC NOPR appears to do, would
13 be a publicly owned not-for-profit Florida TRANSCO.

14 Now, we envision in that statement that the
15 entity for handling all transmission in the state of
16 Florida would be publicly owned, it would require a
17 legislative enactment and it would require total
18 divestiture of the necessary transmission facilities
19 from the present owners.

20 What we are proposing is a Peninsular
21 transmission system where ownership, operational
22 control, planning, and financing would be combined in
23 one entity. It would be a not-for-profit entity. It
24 would have a governing board established in the
25 political realm where these type of policies can only

1 be made, and it would be independent. It would be
2 totally independent of all of the present array of
3 stockholders.

4 I'm talking about existing utilities, be
5 they investor-owned, publicly-owned,
6 cooperatively-owned. I'm talking about brokers, power
7 marketers, merchant plants. I'm talking about the
8 full array of what we presently call stakeholders in
9 this discussion about transmission and the evolution
10 of the electric market.

11 As I said earlier -- go on to No. 4 now. As
12 I said earlier, we feel that there is a workable
13 status quo here. If Florida is allowed the option of
14 remaining the same, holding onto our status quo, if we
15 are permitted that option, then we believe the status
16 quo should be maintained. However, I believe these
17 workshops contemplate change being compelled one way
18 or the other.

19 In that regard, we feel that if change is
20 inevitable, go forward, go as far as necessary to do
21 it right, because the circumstances are not going to
22 come back into confluence when real change can take
23 place. Anything short of a complete restructuring of
24 the transmission market will lead to a compromise
25 situation in which stakeholders are posturing for

1 whatever advantage they can gain. There's nothing
2 inherently wrong with that. That is the name of our
3 system. And if you can't avoid it by maintaining the
4 status quo, then I submit that you must go further or
5 should go further and adopt a system that mitigates
6 it.

7 As we have said in our summary, in this case
8 mitigation is best achieved by complete avoidance;
9 divestiture of all the facilities.

10 You asked for us to discuss the advantages
11 and disadvantages. I have chosen to take
12 disadvantages first.

13 The main concern that I believe will be
14 raised with this is largely a philosophical concern.
15 I do not say philosophical trying to make it appear
16 irrelevant. To me philosophical concerns are very
17 important in the nature of the policymaking that I'm
18 suggesting this Commission should commence.

19 The idea, especially in the past ten or so
20 years in this country, of privatizing essential
21 services, privatizing some governmental services, has
22 taken a strong hold. I recognize that this is the
23 reverse of that; that it is fighting a current trend.
24 But nowhere else have we come to a set of
25 circumstances that come together as do the vast array

1 of problems inherent in trying to unbundle
2 transmission from generation and serve the NOPR -- the
3 mandates of FERC.

4 There are other disadvantages. One is --

5 **COMMISSIONER CLARK:** Can I interrupt you
6 just a minute? I guess I'm not clear what you mean by
7 publicly-owned. Who would own the company? Would it
8 be any member of the public?

9 **MR. DENISE:** It would be a political
10 subdivision of the state. It has -- whatever it is,
11 it has to start with the creation at the state level.
12 Anything less than that is not going to have the
13 necessary powers that will have to be vested in an
14 exclusive or unitary transmission system.

15 **COMMISSIONER CLARK:** Is there an entity that
16 exists today that is sort of a model for this?

17 **MR. DENISE:** I think one place that might
18 come close is Enterprise Florida where they put the
19 Department of Commerce functions. They did that --
20 they have two. They have Enterprise Florida and
21 another one to handle the tourism promotion.

22 Another area at the national level that may
23 lend some organizational light would be an outfit such
24 as Fannie Mae and other government corporations. For
25 many years the Panama Canal Corporation was a

1 publicly-owned corporation formed by Congress. There
2 are a number of governance mechanisms that can be
3 looked at, but the essential of it would be that it
4 would be created by the Legislature.

5 Another perceived disadvantage may be that
6 these people would necessarily be public employees and
7 there is always the battle between the private and
8 public sectors as to where the most efficiency is. I
9 believe that in the electric utility industry that I
10 can state -- probably subject to much criticism from
11 my colleagues on the other side of the various
12 ownerships -- that public employees are as capable of
13 running electric systems as are private employees.
14 And furthermore, they go to the same engineering
15 schools. They attend the same seminars. And the fact
16 of the matter is, I do not believe that there can be
17 any strength put into the perception that public
18 employees are inherently less competent.

19 There is another perceived disadvantage that
20 could arise, and that would be that management and
21 operating encumbrances of state personnel laws, et
22 cetera. In the enabling legislation it would be
23 incumbent on everyone concerned, stakeholders and this
24 Commission, to see that the enabling legislation
25 separates itself from those encumbering mechanisms

1 of state personnel practices necessary to attract the
2 right people into this organization.

3 Another disadvantage would be the
4 substantial initial investment. Mr. Reagan of
5 Gainesville is going to speak to that in a few
6 minutes.

7 I will just simply say this. If you take
8 the four largest systems with transmission, which are
9 Florida Power & Light, Florida Power Corp, Tampa and
10 Jacksonville, you have a net book value, based on '97
11 and '98 figures, of around \$2 billion. I think it's
12 about 1.97. That would be net book value. That would
13 be the starting point of discussions.

14 Obviously, the question of initial
15 investment is not one you can avoid simply because
16 you're going to divest some valuable assets of the
17 private ownership, and fair and just compensation has
18 to be -- as to follow for Constitutional reasons if no
19 other, and there are other good reasons too.

20 Those are the main disadvantages and I think
21 the rebuttal of those are inherent in them. I tried
22 to cover that.

23 I'd like to speak now to the advantages. We
24 heard each of the presenters today talk about the
25 absolute necessity of divesting or achieving complete

1 independence of transmission from the other market
2 participants. Total divestiture of the necessary
3 transmission system, and lodging it in a public
4 not-for-profit entity assures, far more than any other
5 suggested device, a complete independence of
6 transmission from the remaining functions of the
7 market.

8 The second advantage and the one that, to
9 me, is extremely important, is the fact that you can
10 take by legislative act and develop one unitary
11 purpose of this organization; this organization being
12 the transmission -- the unitary transmission system.
13 You can delegate to it a recognizable and
14 ascertainable goal. And that is, make its sole
15 purpose the optimizing of the benefits of competition
16 from a wholesale electric market.

17 Now that -- anything short of a
18 publicly-owned and not-for-profit TRANSCO cannot focus
19 exclusively on optimizing the competitive wholesale
20 market. Anything short of a not-for-profit
21 publicly-owned TRANSCO necessarily would be a
22 for-profit TRANSCO. You would always be faced with
23 the undeniable fact that the for-profit TRANSCO has to
24 maximize the return on its investment. It has to
25 maximize the return on its existing system and try to

1 maximize the return on any future investment.

2 To that extent, its focus on optimizing the
3 benefits of a -- of a competitive retail market has to
4 be diluted. There's no way of avoiding that. It's
5 human nature. You cannot legislate away the
6 obligation of management to serve its investors.

7 **COMMISSIONER CLARK:** Let me ask you a
8 question along those lines. It strikes me that if you
9 do have a for-profit TRANSCO and they're assuming
10 their assets would be the transmission systems, their
11 objective would be to use that system as efficiently
12 as possible to maximize their profit. Isn't that --
13 doesn't that goal coincide with maximizing commercial
14 transactions?

15 **MR. DENISE:** No.

16 **COMMISSIONER CLARK:** Why not?

17 **MR. DENISE:** It could often. There are
18 planning situations where it would not fit. There are
19 quite possible situations such as congestion in a
20 transmission system that could mitigate against
21 expansion. Congestion can be a high revenue producing
22 phenomenon. You would not -- you would be faced with
23 the problem of investing for expansion to relieve the
24 congestion versus maintaining congestion or gaining
25 congestion, all of which would be legal to some

1 extent, and thus impair or impede the planning
2 process.

3 There would be, wherever you look, if you
4 have not got divestiture -- now if you have total
5 divestiture, you would have the nearest thing to a
6 not-for-profit TRANSCO. But you still are going to be
7 faced with the need to serve the investors primarily,
8 first and foremost. So the mandate of optimizing the
9 competitive wholesale market necessarily is going to
10 have to take second posture to that quite natural and
11 inherent obligation of management.

12 **CHAIRMAN GARCIA:** How about the structure we
13 have in Florida now? In other words, a regulated
14 entity?

15 **MR. DENISE:** I don't --

16 **CHAIRMAN GARCIA:** In other words, a private
17 entity that is regulated, that its profit is
18 controlled by a governmental force, like we have
19 regulated monopolies in Florida now.

20 **MR. DENISE:** Its profit is controlled. More
21 accurately, its rate of return is set and the measure
22 of profit within that rate of return is up to the
23 entity. But still in all, its investment, and its
24 investment plans, which means basically the strategic
25 plan of the company, has to be geared to maximizing

1 the return on that investment and on the existing
2 investment. Anything short of that is not acceptable
3 by stockholders, and in my mind anything short of that
4 is improper.

5 There was talk this morning, I believe, from
6 the Enron presentation, talking in terms of a regional
7 transmission organization transcending state
8 boundaries. I believe that Florida, due to its
9 peninsula configuration, is one of the few places
10 where FERC would and could see the rationality of a
11 statewide system. I'm talking Peninsular Florida now.
12 Of course, I do not intend -- as it has been the case
13 for many years, the -- Gulf Power to the far west of
14 the Panhandle would be still be oriented towards the
15 Southern Company.

16 But the Peninsular Florida, due to the
17 uniqueness of the geographic configuration, would, in
18 all likelihood, be seen by FERC as a suitable region
19 that constitutes a definable and discrete economic
20 market. It would be an efficient market and it does
21 have interties, although they are very limited, as you
22 well know.

23 So I think that a publicly owned TRANSCO
24 would fit very well with the policy purpose of
25 maintaining as much control and as much Florida

1 personality of this entity and more so than any other
2 kind.

3 Florida has some unique problems. One of
4 those is siting of facilities. A state agency would
5 have a better opportunity -- I'm not saying a crystal
6 clear path, but a better opportunity of siting
7 necessary facilities.

8 One of the main advantages of a
9 publicly-owned not-for-profit TRANSCO is in the
10 planning function. There you have brought together,
11 you have combined ownership and planning into one
12 entity. None of the other proposals spoken about here
13 today have made that combination. In my mind, that is
14 a long-term, virtually incurable flaw, and once the
15 system is evolved here, once it's set up, we are not
16 going to have a lot of opportunity to make incremental
17 correction. I think it's very important that the
18 policymakers should understand that.

19 What we're putting in place here today,
20 we're not going to have the luxury of a long-term
21 tuning process. You're going to develop
22 constituencies immediately as to whatever comes out of
23 this process or whatever comes out of the FERC
24 process.

25 Once these constituencies are in place, and

1 they will be -- the constituencies are in place here
2 today, and I'm speaking for one and others have spoke
3 for others -- you're going to impair substantially the
4 capability of the policymakers to tune or adjust or
5 evolve further.

6 One other thing that stands out in this
7 question of the constituencies; if you sit back and
8 ask yourself what would the average person in the
9 state of Florida do with transmission if they knew
10 what the people in this room know, if they could
11 understand the full dimensions of what the people in
12 this room know, I believe if you could achieve that
13 type of hypothetical situation, they would say put the
14 transmission function into the public realm; remove it
15 from the marketplace because it is not a marketplace
16 function. It is a monopoly.

17 And I don't think there can be any disputing
18 the fact that transmission is a monopoly and will
19 remain a natural monopoly, and it is from that point
20 that I proceed to, what do you do in the best interest
21 of the average consumer with this natural monopoly,
22 and I say harness it to the competitive wholesale
23 market.

24 That's where the real changes and the real
25 efficiencies lay. All the talk about unbundling other

1 services really aren't going to be recognized in the
2 bill of an electric ratepayer. They will be
3 recognized in the bottom line of annual reports. But
4 on the bill of the average ratepayer, they won't be
5 recognized, and, therefore, the monopoly nature of
6 transmission is best harnessed to the public's
7 interest by going through a publicly-owned TRANSCO.

8 Looking further at the advantages of a true
9 publicly-owned TRANSCO. Maximum access for wholesale,
10 competition. That would be the mandate; not one of
11 several mandates, but that would be the mandate of a
12 publicly-owned transmission.

13 I mentioned earlier it is the best mechanism
14 for planning and financing because the ability to
15 finance, the need for planning, the operational
16 control and the ownership of the necessary facilities
17 are all vested in one entity. It also offers the best
18 possibility of maintaining a desirable state
19 involvement in transmission. Right now under
20 existing federal law, it would not be regulated other
21 than as to the open access provisions of Order 888.

22 There is talk that all municipal or all
23 public power systems will be subjected to FERC
24 regulation if and when the federal government acts.

25 I would submit to you that a state-owned

1 transmission entity would be the least likely to call
2 forth the rigors of federal regulation. I can't
3 maintain to you that it would avoid it altogether, but
4 it would be the least likely to be regulated, and it
5 would be the most likely to retain state regulatory
6 control. I think that's very important in this state.

7 Short and long-term state and federal
8 jurisdictional issues was another question that we
9 were asked to address. I just told you the state
10 agency would not be fully subject to the Federal Power
11 Act. It might have some vestiges of regulation, but
12 in general it would be the least prone to federal
13 regulation.

14 The principal interest that the federal
15 government would have would be to ensure access to a
16 state system by out-of-state providers. Since the
17 national -- since the Energy Policy Act is a federal
18 act, it establishes a federal or national regime of
19 wholesale competition. It is illogical to assume that
20 the federal regulatory agency would be indifferent to
21 the question of access just because it's a state
22 agency. However, I do not think that that necessarily
23 has to call forth full-scale FERC economic regulation.

24 On the full extent of state regulation, that
25 would be policy decisions to be made in the process of

1 coming to agreement, if agreement can be reached, on
2 the enabling legislation. It's a full array of
3 matters. I would think that the Legislature may see
4 some benefit in the PSC having a regulatory oversight
5 along -- maybe a public jurisdiction on the
6 ratemaking. I think the ratemaking would remain in
7 the TRANSCO, but subject to some type of access by
8 participants -- market participants to a body that
9 could oversee that and overrule it if it got out of
10 hand.

11 The short and long-term market implications.
12 I think that it almost -- I think it's very clear that
13 to serve the wholesale market, a publicly-owned
14 transmission entity, free of all other market
15 involvement, and I emphasize "free of all other market
16 involvement," would be able to focus on maintaining a
17 robust wholesale market.

18 That is the policy that we have to implement
19 because the feds have adopted it for the nation and
20 Florida is part of that nation. The question of
21 whether or not it is or is not was resolved about 130
22 years ago. There is no sense revisiting it.

23 So the question of going forward means
24 should we go forward and do it right or should we go
25 forth incrementally and just try to compromise the

1 various interests of the market participants? I would
2 think we should go forward all the way and do it
3 right.

4 One other thing that I -- let me emphasize
5 to you. All of the technical aspects of transmission,
6 those which I refer to as mandates of the laws of
7 physics, are going to be the same regardless of
8 ownership, regardless of governing structure. Those
9 problems, reliability, the ancillary services, all of
10 those remain in terms of the laws of physics
11 invariably.

12 I believe that the combination of the entire
13 transmission function into one entity gives the state
14 the best opportunity for managing the inevitable
15 conclusions, inevitable results of the laws of physics
16 and transmission.

17 I think that that pretty well covers what we
18 had in mind. Well, the regulatory and statutory
19 authorization, I've alluded to in parts here.

20 Obviously, you have to have a comprehensive
21 enabling piece of legislation. A focal point of that
22 legislation would have to be the comprehensive
23 governing structure. You start almost in a
24 traditional mode, appointed by the Governor, confirmed
25 by the State Senate. You could use the nominating

1 council principle that is use for appointments to this
2 Commission. In any event, you would want it to be as
3 far as removed as possible but still have some ties
4 back to the political decision-making machinery of the
5 state.

6 It would not be stakeholder-driven in my
7 mind. I reiterate that, what would be a clear-cut
8 option of a stakeholder board or a totally independent
9 board. I would not make it a stakeholder board,
10 because I think what you do when you have that is you
11 wind up simply reaching a decision by compromise,
12 trying to accommodate all of the stakeholders, and I
13 believe that the average electric consumer tends to
14 get lost in the process of accommodating stakeholders.

15 When I look around this room today, I
16 believe everybody here is here, like myself, as a
17 result of stakeholders. The only people thinking,
18 whose job explicitly it is to think for the public,
19 are the people sitting at this table from here down
20 and down at that table there.

21 So, I would assume that the board would have
22 suitable technical advisory committees; I would think
23 that a board, perhaps, of 7 to 11, maybe 15 directors
24 broken down also into, perhaps, an executive committee
25 full time. An executive committee full time and paid

1 might not be the best way of arriving at executive
2 decisions. TVA is run that way. I have never been
3 overly enamored with TVA. I just point out it is an
4 option.

5 I would think the most suitable way is to
6 appoint a CEO of this organization. The CEO would
7 have to have the same management powers inherently as
8 an investor-owned or municipal authority, for
9 instance; a municipal authority such as from
10 Jacksonville Electric Authority. We have a
11 seven-person board and they appoint a CEO. That CEO
12 has the same authorities as an investor-owned CEO with
13 the exception of certain city pension and civil
14 service.

15 I would say that this board should be
16 exempted from any of the constraining personnel
17 policies of the state employment system at large,
18 including anything that smacks at a civil service. It
19 would be a relatively small organization, but it would
20 be one that would have to be highly competent and it
21 would have to be incentivized, to the extent possible,
22 in order to keep the focus on maximizing the benefit
23 of a wholesale competition.

24 Ed is going to talk about the financing.
25 Whether or not it could be utilized -- tax-free

1 financing is a matter that is currently at issue in
2 Washington. The private use law, what they call the
3 private use issue, is a matter of contention now. It
4 is being hotly contested by the investor-owned segment
5 and the public power segments in Washington. We do
6 not know the outcome of that.

7 **COMMISSIONER CLARK:** Let me ask you a
8 question. What relevance does that have here?

9 **MR. DENISE:** It would have to do if you
10 finance this by revenue bonds -- state revenue bonds,
11 whether or not you would be able to tax -- issue those
12 bonds tax free, because it's going to be in the
13 transmission function. The treasury ruling, which
14 presently is the nubbin of contention, would cover an
15 organization like this.

16 **COMMISSIONER CLARK:** Okay. And as long as
17 I've interrupted you, what authority would the
18 Legislature have to order private companies to sell
19 their assets?

20 **MR. DENISE:** Eminent domain.

21 **COMMISSIONER CLARK:** And what are the
22 parameters of eminent domain?

23 **MR. DENISE:** The same parameters that
24 presently govern Tampa Electric Company, Florida
25 Power & Light, Florida Power Corporation, Jacksonville

1 Electric Authority; parameters of eminent domain.

2 The state could declare -- and they would
3 probably have to do so in the enabling legislation,
4 although I'm not thoroughly conversant with the
5 doctrine of a higher public use -- the higher public
6 use doctrine.

7 The state would have the axe handle of
8 eminent domain over all the existing transmission
9 facilities. And they could either negotiate with the
10 axe handle or they could actually go ahead, if
11 somebody wanted to refuse, and take it all the way to
12 condemnation proceedings.

13 **COMMISSIONER CLARK:** I guess --

14 **MR. DENISE:** Again, like I said --

15 **COMMISSIONER CLARK:** -- you're saying our
16 Constitution would allow the taking of property for
17 this purpose?

18 **MR. DENISE:** Yes, ma'am. It allows for
19 Florida Power & Light to take it right now, and it
20 allows it for Jacksonville. All the utilities have
21 the right of eminent domain in this state and they do
22 in every other state.

23 **COMMISSIONER DEASON:** That would be at fair
24 market value?

25 **MR. DENISE:** That would be a bone of

1 contention. There is no segue on that. Right now, I
2 believe if you condemn an investor-owned utility's
3 property there is an additional factor in of going
4 concern. I know it for a fact that that's in the law
5 now. And that going concern value in this context
6 would probably translate up to fair market value.
7 There would be efforts probably -- you could argue
8 that it should be net book value. Net book value,
9 arguably, is what the investors expected when they
10 made their investment. It can also be argued that it
11 should be market value and it should go up.

12 Ed is going to approach that situation.
13 That battle would be fought in the Legislature. I
14 guarantee you it will be fought. If it ever gets that
15 far, it will definitely be the bone of contention in
16 enabling legislation. There might be others, but that
17 will be one of the principal ones.

18 **COMMISSIONER DEASON:** From a policy
19 standpoint, if you make the assumption that fair
20 market value and the going concern concept associated
21 with these assets is in excess of book value, which I
22 think is probably a reasonable assumption --

23 **MR. DENISE:** Yes, that would be reasonable.

24 **COMMISSIONER DEASON:** If you make that
25 assumption, then you need someone -- the policymakers

1 need to weigh the efficiencies that would come from
2 this, whether it would outweigh the fact that he would
3 have to be paid fair market value. When right now, in
4 theory at least, the citizens of this state have the
5 benefit of those assets at book value from a regulated
6 standpoint.

7 **MR. DENISE:** Yes, they do. The
8 efficiencies -- on all of the technical dimensions,
9 the problems confronted are going to be exactly the
10 same. The laws of physics, as I said earlier, are
11 going to be the same, so we're really into the
12 economic differences.

13 The question of market power, there's an
14 underlying assumption that the whole issue of market
15 power has to do with efficiency of the marketplace.
16 This is the best solution insofar as controlling
17 market power and removing market power as a factor
18 from the competitive market. This would remove market
19 power from the competitive market because all of the
20 remaining market participants would be indifferent to
21 this. As long as they have equal access on a
22 nondiscriminatory basis, and as long as the previous
23 owners have been fairly compensated, they would be
24 indifferent.

25 The ratepayers of the state are going to pay

1 either a return on the existing investment or they're
2 going to pay a revenue requirement emanating from
3 bonds that would be issued to buy the system.

4 And I think if you -- when you start walking
5 the price up from book value, the equity component is
6 going to figure in that. Again, I would like to defer
7 that to Ed.

8 Now, let me -- I want to just summarize
9 before I ask Mr. Reagan -- oh, yes, Commissioner.

10 **COMMISSIONER JACOBS:** One quick question. I
11 think you indicated that by virtue of this public
12 ownership this entity would be exempt from
13 jurisdiction under the Federal Power Act.

14 **MR. DENISE:** It presently would be with the
15 exception of those provisions put into the -- under
16 the Energy Policy Act as an amendment to the Federal
17 Power Act, and that has to do with the part of FERC
18 888 that requires a reciprocity.

19 **COMMISSIONER JACOBS:** How does that work? I
20 assume that there are provisions that require such an
21 entity to have to comply with all the reliability of
22 it?

23 **MR. DENISE:** Presently, I had -- I have not
24 reviewed the New York State Power Authority or
25 Bonneville. Bonneville has a special place under the

1 Federal Power Act. I cannot give you a good answer.

2 I can say this. The main federal concern
3 would be, does this entity allow out-of-state
4 providers the same access as it allows in-state
5 providers. And even if there's nothing in the law
6 right now that said they must, I would suspicion it
7 would find its way into the law very quickly if this
8 comes into being. So the federal government is going
9 to maintain some control over that.

10 As far as rates go, right now there would be
11 no jurisdiction in the Federal Power Commission over
12 the rates of this entity. Will that be the case if
13 they -- if the legislation now pending goes through?
14 I would think it might not be the case.

15 I can't give you a definite answer.
16 However, I do know that as a practical matter a
17 state-owned entity is again the least likely to be
18 dealt necessarily a burden by federal regulation.
19 That has been the case since the Federal Power Act was
20 passed in 1935.

21 **COMMISSIONER JACOBS:** Thank you.

22 **CHAIRMAN GARCIA:** So you would be putting
23 the -- when you put here rates, FPSC oversight, the --
24 I guess this would be -- the stakeholders issue would
25 come before us, or I guess -- no, this board would

1 come before us or this --

2 **MR. DENISE:** The stakeholders -- the way I
3 see it, the stakeholders could go to the PSC, the
4 Public Counsel could go to the PSC, or the board
5 itself could come. The board would set the rates.

6 **CHAIRMAN GARCIA:** And from those rates, they
7 would also derive their operational cost, the
8 development of new transmission. So whenever, let's
9 say, Enron wanted to build a merchant plant in Florida
10 and it needed some transmission for that merchant
11 plant and it was in FPL's service territory, they
12 would come to this Commission to ask for that
13 transmission?

14 **MR. DENISE:** They would come to the new
15 agency now. The new agency probably would not drive
16 its transmission planning by the needs of a particular
17 merchant plant. I think it would probably be the
18 reverse.

19 **CHAIRMAN GARCIA:** The other way around.

20 **MR. DENISE:** Yes. And that's, I think, the
21 proper way it should be. It would be a transparent
22 planning process, though.

23 **CHAIRMAN GARCIA:** Okay.

24 **MR. DENISE:** With the Commission's
25 permission, I will turn it over to Mr. Reagan now of

1 Gainesville Regional Utilities on the financial
2 aspects.

3 **MR. REAGAN:** Do I need to use this or can I
4 just speak loudly?

5 **MR. JENKINS:** You need to use it.

6 **MR. REAGAN:** When Gainesville was
7 considering how to structure a TRANSCO, the financing
8 package is a real integral part on how you achieve the
9 overall objectives and we had a couple of objectives
10 in mind.

11 First, there is an issue, as the fellow from
12 Enron mentioned, where a municipality's involvement in
13 ISOs can cause problems for them because of their
14 having used taxes and financing in a private used
15 facility.

16 Transmission facilities are considered
17 output facilities under current IRS regulations and
18 that causes some entanglements. The TRANSCO proposal
19 would severe that entanglement by divesting the
20 municipality of the transmission facilities.

21 We are pretty convinced right now that
22 the -- because of the current federal regulations this
23 would not be a tax exempt financeable item. It would
24 be a taxable state revenue bond unless there was some
25 federal legislation to enable that, which we want to

1 put on the table as a possibility.

2 So, obviously, the amount of debt payment
3 that's being made, you can see the difference. We
4 discussed this with our financial advisor, Morgan
5 Stanley. And one of the other objectives we were very
6 interested in is, how would this look to an investment
7 community.

8 A not-for-profit Transco that was not part
9 of the state would not be viewed well by investors.
10 It would be just too strange of an entity. It just --
11 we'd get a terrible bond rating; you'd have very high
12 issuance cost for insurance and those sorts of things,
13 and that was one of the arguments that really
14 compelled Gainesville's lead toward a public
15 ownership.

16 However, one that was backed by the good
17 faith of the state would be viewed very highly. We
18 obviously haven't taken an issue for a rating, but I
19 would speculate you would at least get a double A
20 rating on an issue like that.

21 Investors would see what Florida was doing
22 here, at least in terms of our financial advisor.
23 We'd be taking those facilities out of the risk
24 markets of electric generation. A lot of utilities'
25 bond ratings have been going down because of concerns

1 of the investment community of what's happening. And
2 so this overall structure would mitigate that for at
3 least the transmission part of it.

4 So we think that it would be a very highly
5 rated bond issue. We'd get low interest rates. If we
6 went to the market today, Morgan Stanley's desk priced
7 it out at 5.3% for tax exempt and 7.3% for taxable
8 debt. So if you would go ahead and turn the slide.

9 The third major issue that Gainesville was
10 worried about is, we're trying to do this fairly, and
11 fairness is in the eye of the beholder, so you'll
12 notice that we have two columns. One is what we would
13 call the book value column and one would be the
14 discounted return on equity column.

15 In our presentation last time on this issue
16 we identified that how much to recompense owners for
17 these facilities is going to be a big issue.

18 On one hand, one might argue that book value
19 is really all they're due. If you do it correctly, if
20 you gave an investor-owned company the book value of
21 their facilities, making the proper adjustments for
22 deferred tax credits and all those complicated sorts
23 of things, they would be made whole and probably
24 didn't have any complaint.

25 However, their investors might say, "Well,

1 gosh, I was thought I was investing in a business that
2 was going to be making money." So, the question is
3 what becomes the market value.

4 And in the telecommunications arena, for
5 nonregulated entities, market value is the sky is the
6 limit. But this is not -- this is a regulated entity.
7 The sky is not the limit. We think that the market
8 value can be very fairly determined as being the rate
9 of return on equity through time.

10 And just for discussion purposes, we cranked
11 up a little model here. And in discounting the
12 revenue back to present value -- and that would be a
13 lump sum payment, which, in theory, if everybody
14 agreed to the economic factors that were applied in
15 the calculation, the investors would be economically
16 indifferent.

17 Because it is discounted and because it's a
18 not-for-profit entity -- which goes back to another
19 Commissioner question, why not have a for-profit
20 TRANSCO -- the citizens and public in Florida would be
21 indifferent because this is -- you notice I used the
22 customer discount rate in here. This is their
23 expectation of what they're going to be paying for the
24 use of this transmission to get their services, and if
25 it's -- if they pay this and indeed went to a

1 for-profit TRANSCO, there's some double-dipping and,
2 in fact, the citizens and the public would not be
3 indifferent. That's another reason why we're going
4 for a not-for-profit TRANSCO.

5 This calculation just assumes 50 basis
6 points for issuing the debt. You can see that's
7 really not a whole lot of money. It's about \$2.5
8 billion, \$2.6 billion. That seems like a lot, but I
9 was pretty surprised. When you compare it to the
10 total investment in electric plant in Florida that's a
11 small amount, relatively small amount.

12 And just for the purposes of argument we
13 took the book value of Florida Power & Light, Florida
14 Power Corp and TECO, 69 kV and above and then ratioed
15 it out to represent the whole state. We didn't try to
16 address the issue of, well, what facilities would be
17 included in a TRANSCO because we think that's an issue
18 that's a wash across all the alternatives and, you
19 know, it's sort of not germane to the argument here.

20 That concludes our presentation. Are there
21 any questions?

22 **COMMISSIONER DEASON:** Under your
23 assumptions, you indicated 50 basis points. What
24 assumption -- what does that apply to?

25 **MR. REAGAN:** That would be the cost for the

1 underwriters and the lawyers to put together the deal.
2 That's a pretty typical number.

3 **COMMISSIONER DEASON:** Kind of like closing
4 costs in a way?

5 **MR. REAGAN:** Right. Yes.

6 **COMMISSIONER DEASON:** And then your
7 Assumption C is 35% embedded equity. What do you mean
8 by that?

9 **MR. REAGAN:** Excuse me?

10 **COMMISSIONER DEASON:** What do you mean by
11 35% embedded equity?

12 **MR. REAGAN:** Well, investor-owned utilities,
13 their structure of debt is equity. They have
14 preferred stock and they have debt. And it's my
15 understanding that their rate of return is on their
16 embedded equity.

17 **COMMISSIONER DEASON:** Where did you get the
18 35%?

19 **MR. REAGAN:** It's a swag.

20 **COMMISSIONER DEASON:** You may want to update
21 that a little bit.

22 **MR. REAGAN:** That part I had to make up,
23 yes.

24 **COMMISSIONER DEASON:** Yeah. Okay.

25 **MR. REAGAN:** But I was --

1 **MR. DENISE:** It would be larger than that.
2 At the present time all the utilities are trying to
3 pay down their indebtedness in anticipation of
4 deregulation. So the 35% figure would be closer to 50
5 or better.

6 **MR. REAGAN:** Another swag was the book
7 value, the book life of 20 years.

8 **COMMISSIONER DEASON:** So you would take that
9 calculation and do some type of a present value
10 analysis to come up with present market value of those
11 assets?

12 **MR. REAGAN:** Defining market value as being
13 the discounted value of the return on that investment.

14 **COMMISSIONER DEASON:** What would be your
15 discount rate?

16 **MR. REAGAN:** I used a customer discount rate
17 of 12%. You could use -- that's --

18 **COMMISSIONER DEASON:** So if your customer
19 discount rate is the same as your authorized rate of
20 return, wouldn't your end result still be book value?

21 **MR. REAGAN:** No.

22 **COMMISSIONER DEASON:** It would not. Okay.

23 **MR. REAGAN:** No.

24 **MR. DENISE:** Commissioner, that would be a
25 question -- and I don't mean to sound crass about

1 this -- but that discount rate is going to be at the
2 nubbin of any Legislative determination. And in our
3 system of government it's probably going to hinge on
4 who's got the votes. And I don't know of any other
5 way to put it, but that's about what it would come
6 down to.

7 **CHAIRMAN GARCIA:** Can I add, why is this in
8 JEA's interest? I understood your concept, but I
9 mean, JEA is seen as a big transmission player in this
10 state and a beneficiary of that system --

11 **MR. DENISE:** We are.

12 **CHAIRMAN GARCIA:** -- so why is this -- and I
13 know the state -- you gave a very compelling argument
14 why this is good for Florida. Now, tell me why this
15 is good for Jacksonville?

16 **MR. DENISE:** If you look at Jacksonville's
17 economic interest, this is not the best way of saving
18 it or maximizing. We have had quite a bit of
19 discussion within our own management. We know that
20 maintaining the status quo maximizes the economic
21 return on our investment in transmission.

22 We decided very deliberately to try to
23 answer the question based on an average person with no
24 stake involved other than as a monthly electric bill,
25 and if that person knew what the people like those in

1 this room know, how would they want it done.

2 We were pulled inexorably back to our own
3 economic self-interest. But our decision to go and
4 advocate something as radical as this was based on our
5 very clear cut, after a reasoned process,
6 determination that this was the best thing for the
7 public; not just a body of ratepayers of one utility
8 system or another, but the overall public; that this
9 offered the best opportunity of all the proposals that
10 we could think of to maximize the efficiencies of a
11 competitive wholesale market. And that should be
12 where our focus is. That's where the competition is
13 in this industry.

14 Nobody seriously contends that the wires are
15 going to be competitive. You can hear talk about
16 unbundling this, ancillary services at the market
17 price and all of that. But the fact of the matter is,
18 generation is where the efficiencies are for that
19 mythical ratepayer who has only one concern, and
20 that's paying his electric bill. And that's how we
21 came to it, Commissioner.

22 Now, the status quo is in our economic best
23 interest and probably in the economic best interest of
24 most every system in this state who has a material
25 investment in transmission assets.

1 **CHAIRMAN GARCIA:** Right. Thank you.

2 **COMMISSIONER DEASON:** Is it your belief that
3 this system is the most cost-effective way for
4 customers and taxpayers in this state to have -- to
5 open up access to the transmission system and to
6 promote competition at the wholesale level?

7 **MR. DENISE:** Yes, sir, Commissioner, it is
8 my belief. When you look at the economic dimensions
9 of the FERC mandates, this system goes the furthest to
10 satisfying all of them. The separation of ownership
11 and control that all of the other proposals
12 contemplate is actually just a formula for stalemated
13 or compromised to the lowest common denominator
14 decision-making process. That is also my complaint
15 about the stakeholder board.

16 Take the -- recognize that transmission is a
17 monopoly and then say, now, how best can that monopoly
18 be utilized to maximize the wholesale market? And
19 when you walk all around that question you come up
20 with, take it completely out of the market dimension
21 and harness it to one purpose and that purpose is to
22 maximize the efficiency of a wholesale generation
23 market.

24 And I think if you achieve the efficiencies,
25 which I believe to be possible in the wholesale

1 market, you would, to a great extent, blunt any
2 movement that might arise for a complete retail
3 deregulation.

4 I believe a wholesale market is probably --
5 a viable and robust wholesale market is probably the
6 best equilibrium that the state of Florida ratepayers
7 and the stakeholders could achieve or should achieve.

8 **COMMISSIONER DEASON:** But are you saying
9 this is the only way to ensure a robust competitive
10 wholesale market?

11 **MR. DENISE:** This will ensure the most
12 robust. This will take away the impediments of the
13 mix of ownership and stakeholder concern. If
14 transmission is left in the private sector as a
15 TRANSCO, you cannot separate the necessity and the
16 ethical obligation of management to maximize the
17 return on its investment. There's nothing wrong with
18 that. If we make a decision to leave it there, that
19 has to be understood as the principal focus.

20 I'm saying that the monopoly, it's going to
21 be regulated and it's probably going to be regulated
22 very heavily if the recent filings at FERC and the
23 litigious atmosphere that seems to be developed pan
24 out, and I think they are.

25 Removing it from the marketplace and putting

1 it into the private -- into the public sector is the
2 way to remove most of the impediments that presently
3 exist. Anything less than a TRANSCO, in my opinion
4 you're just -- you are perpetuating a series of
5 problems that will only get exacerbated over time and
6 you will not be able to go back and undo that a few
7 years down the road.

8 Now, that is something I do want to
9 emphasize. Anything we do here is going to come full
10 bore into life with a lot of constituencies interested
11 in various parts. And once that happens, you can
12 forget the idea of fine-tuning the economic
13 dimensions.

14 So I'm saying, you've got an opportunity now
15 to go all the way ahead and create the thing that
16 maximizes the competitive market. This is the most
17 friendly proposal insofar as competition is concerned.

18 **COMMISSIONER DEASON:** Have you made any
19 estimate of the amount of ongoing operating cost of
20 this entity? Obviously, there is significant cost
21 other than just the initial capital outlay to acquire
22 the assets. Someone has to operate those assets.
23 Someone has to maintain those assets. Do you have any
24 idea of what type of costs are involved?

25 **MR. DENISE:** I have a figure that I, in a

1 fit of candor, just pulled out of the air, except it
2 was error rarefied by the California experience.
3 You're talking about the operating costs and start-up
4 costs, Commissioner?

5 **COMMISSIONER DEASON:** Operating costs -- you
6 know, these assets -- just because you acquire an
7 asset you still have expenses of operating and
8 maintaining assets.

9 **MR. DENISE:** The operating costs should be
10 essentially the same, with the exception of the cost
11 of capital would be -- that would be different.

12 **COMMISSIONER DEASON:** So you're assuming
13 that basically the same operating costs that are
14 incurred by the investor-owned utilities would be
15 incurred by this new entity?

16 **MR. DENISE:** Yes, sir, I think the operating
17 costs. I thought you were referring to the start-up
18 costs.

19 **COMMISSIONER DEASON:** No. No.

20 **MR. DENISE:** I think the operating costs
21 would be essentially the same with the exception of
22 the cost of money which would not have the same degree
23 of equity component.

24 **COMMISSIONER DEASON:** So you think the
25 efficiencies are -- kind of come in through savings

1 through cost of capital and the avoidance of the
2 entity itself having to pay income tax?

3 **MR. DENISE:** Yes, sir, and I think the
4 efficiencies would come in because of the completely
5 nondiscriminatory access given to the transmission
6 sector of the business, and the encouragement it would
7 give to the competitive wholesale market. This idea
8 is not for the entity to make money. The idea is that
9 the entity facilitates the competitive wholesale
10 market.

11 No further questions. That's our
12 presentation.

13 **CHAIRMAN GARCIA:** You know, I guess -- I
14 don't know which way -- you've sort of given it, but
15 maybe you should comment on the other two plans
16 that -- that's probably what the other guys are saying
17 in the room. What you would think in terms of the
18 other proposals that are before us. I don't know if
19 this is the right time or should we wait until all the
20 presentations are made? I know that he was on a short
21 time frame.

22 Clearly, what you're going for here is an
23 engineering efficiency that would promote a financial
24 efficiency. Obviously, the political realities behind
25 doing this are --

1 **MR. DENISE:** Formidable.

2 **CHAIRMAN GARCIA:** Yes, to say the very
3 least.

4 **MR. DENISE:** To say the least. Now, the
5 proposals that I heard today fall short of even a
6 TRANSCO. Although I understood that the Enron
7 proposal seems to contemplate some form of regional
8 transmission organization at the end of some period of
9 time. So to the extent that neither one of them go as
10 far as a TRANSCO and certainly neither one of them
11 even contemplated a publicly-owned not-for-profit
12 TRANSCO, I think they fall far short.

13 The basic FPL-FPC proposal, I do not think
14 will even come close to passing muster under the FERC
15 NOPR. It does not even remotely approach the problem
16 of planning for a transmission basis; it does not give
17 you any inkling of unitary transmission planning, and
18 the FMPA proposal goes just a bit further but falls
19 far short of divestiture. And I think divestiture is
20 really important.

21 I noticed -- the other day I saw a short
22 write-up in the press. I think it's Commissioner
23 Conlon of California was talking to the Federal Trade
24 Commission. And in his comments he made it clear that
25 if they could have done it over again out there he,

1 for one, would have insisted on complete divestiture
2 at the start.

3 Now, that bell in California has been rung.
4 You're going to hear some echoes from it for a long
5 time to come, but you're not going to unring it.
6 That's my point. What we do in this state, we're a
7 big state and we're a complicated state and we are a
8 high growth state.

9 So whatever steps we take now are going to
10 be with us for a long, long, long time to come. And
11 that's why I think if you take the opportunity to go
12 all the way to the most optimum mechanism you can
13 derive to maximize the efficiencies to the general
14 public of the wholesale competition, it would be a
15 wise, albeit radical, but it would be a wise decision.
16 I think the Legislature could see the benefits of it
17 and I think if the Commission were to adopt that as a
18 proposal.

19 Right now, this Commission -- and
20 yesterday's proceeding, and this is also an indication
21 of it -- you are trying to cope with a regulatory
22 regime that was designed for vertically integrated
23 monopolies not in competition with each other. That's
24 the way the whole system grew up since 1953.

25 And you simply can't -- you've got an

1 entirely new picture coming on to you here by the
2 advent of the merchant plants and the Energy Policy
3 Act and you cannot take the existing statutory regime
4 and feasibly do the regulatory job that the old regime
5 statutory authority imposed on you.

6 So you're going to have to, in my
7 estimation, go to the Legislature sooner or later and
8 say, you got a new game here and we better get it
9 fixed. Because this Commission is going to be in a
10 real bind. In fact, it is in a bind.

11 **COMMISSIONER DEASON:** I notice that you
12 said, we should go to the Legislature and not you.

13 **MR. DENISE:** I will be right there behind
14 you, Commissioner. (Laughter)

15 **COMMISSIONER DEASON:** That's what I'm afraid
16 of.

17 **MR. DENISE:** The Commission is the only
18 public entity right now that has an obligation and has
19 the wherewithal to wade into this. I don't even
20 believe there is a member of the press out there. And
21 we've been here for several months talking about an
22 essential element of the most vital public service to
23 this state. And if anybody says there's a more vital
24 public service, I ask them to consider cutting off
25 their air conditioners from the months of July through

1 September.

2 But the fact of the matter is, we're a high
3 growth state. Electricity is what fuels all of the
4 commercial enterprise in this state. And this
5 Commission is the only body. You're not a
6 stakeholder. Everybody else -- all of us are. And
7 somehow the policy evolution has to emanate from this
8 body.

9 Now, I didn't come here to preach to you all
10 but I guess I wound up doing that. But I apologize
11 for --

12 **CHAIRMAN GARCIA:** It's the process of
13 putting on the mike. Good.

14 **MR. DENISE:** Are there any questions from
15 anybody else? I didn't think so.

16 **MR. JENKINS:** Okay. Thank you, Mr. Denise.
17 Our next presenter will be Tim Woodbury.

18 **MR. WOODBURY:** I am not known for my
19 mechanical prowess. They won't let me into the
20 control room at our power plant because they're afraid
21 of what button I will press. If I can get this thing
22 on here. Is this on now? No. Greg, we need you over
23 here for the overhead. It's on now? It was the on
24 switch.

25 I guess I'd like to echo a couple of things

1 that Tracy said. There are a number of things that he
2 said.

3 First of all, my name is Tim Woodbury. I'm
4 representing the Independent Transmission
5 Administrative Working Group and I'm employed by
6 Seminole Electric Cooperative.

7 And there are a number of things that Tracy
8 said today that I think ring true and, in fact, there
9 are many ways that we have a great deal of
10 similarities in terms of what we are trying to
11 accomplish. I think our means of getting there are
12 perhaps different.

13 But first, before I go into that, I want to
14 get a little philosophical here with you and I've got
15 a quote from John Stewart Mill that said, "we must
16 neglect nothing that could give truth a chance of
17 reaching us."

18 And I just wanted to commend the Florida
19 Public Service Commission and its Staff in its effort
20 to seek the truth in this area. This is a highly
21 technical subject. It's a difficult one to grasp.
22 There is a lot of emotion over this issue. And I've
23 got some help with me in terms of answering a lot of
24 questions, in part because it is a technical subject,
25 and because I'm not necessarily the sharpest knife in

1 the drawer.

2 So we've got Dave McMillan here from
3 Reliant, Joe McGlothlin who practices before the
4 Florida Public Service Commission. And we've got a
5 couple of FERC practitioners as well, Sue Kelly and
6 Cindy Bogorad, and Bob Williams is here as well from
7 FMPA. There are a number of people throughout the
8 audience that are a part of the ITA Working Group who
9 are here to answer any questions that you might have.

10 What is the ITA Working Group? It's a
11 diverse group of existing and perspective users of the
12 transmission network who are seeking a Florida
13 solution to the formation of an independently
14 administered transmission system for the benefit of
15 all Florida consumers. And I should have underscored
16 "all". Because there is a notion here that if we
17 somehow can reduce the cost of wholesale power by
18 increasing competition at the wholesale level, that
19 that's not going to benefit some people in this state.
20 And that is not a fact. That's noise. That's not a
21 reality.

22 The customers of Florida Power Corporation,
23 Florida Power & Light Company will benefit when there
24 is increased competition at the wholesale level; when
25 there are additional generators; when there are new

1 suppliers that come into this state to serve the needs
2 of all consumers in this state.

3 Now, who is in the group? We've got a
4 diverse group. It represents -- we've got
5 investor-owned utility, Tampa Electric Company. We've
6 got public power, Seminole, Florida Municipal Power
7 Agency, Orlando Utilities Commission, Lakeland. We've
8 got independent power producers; people who have given
9 notice that they're putting power in the state and
10 people who are contemplating giving notice or thinking
11 about it, in part, based on what maybe this Commission
12 does relative to this issue. We've got Reliant, Duke
13 New Smyrna Beach, Constellation, PG&E Generating,
14 Panda, Sonat, Williams. I would classify those as
15 independent power producers. These are people that
16 generally are putting assets into the ground. Dynergy
17 perhaps could be in that mode but they also could
18 serve in a power marketer function; that is, a
19 financial trader rather than an
20 asset-in-the-ground-type company, at least in Florida.
21 And you got PECO and Enron as well that are part of
22 our group.

23 These people, I think, play different roles
24 in different parts of the country. In some parts of
25 the country they might be a marketer rather than an

1 independent power producer. But it is a wide array of
2 folks that have gotten together to try to promote a
3 Florida solution.

4 Now, I'm not going to focus on the
5 background information. Greg Ramon went into that.
6 I'll go through it rather quickly. So I won't spend a
7 lot of time on it.

8 What I do intend to spend a little more time
9 on is to describe what we think is wrong with the
10 current transmission infrastructure; what can and
11 should be done to improve the system and why the
12 Florida Public Service Commission needs to be part of
13 a timely solution and where do we go from here.

14 Greg talked to you already about the history
15 at the federal level; the Energy Policy Act, FERC
16 Orders 888, 889, the FERC NOPR proceeding. And then
17 on a regional level, we've got -- going back to 1998,
18 the FRCC formed a task force. We tried to, as a
19 group, before it got to this level, see if we could
20 reach some consensus agreement on how the state might
21 restructure its transmission network and we were
22 unable to reach an agreement.

23 The Public Service Commission Staff, to its
24 credit, then started looking into the activity. We
25 held a number of workshops, and this workshop

1 included.

2 And then we've got the CP&L-FPC merger which
3 is expected, I suppose to be consummated sometime in
4 2000. There may be a condition precedent in that
5 agreement that says it has to be consummated by a
6 certain date. I don't know.

7 What's wrong with the current system? In
8 our view, a fundamental inherent flaw in the system is
9 that the commodity providers remain in control of the
10 transmission highway. We don't believe that markets
11 can function properly when one of the competitors of
12 the end-use product controls the delivery system that
13 everyone has to use.

14 This is not -- this is not complicated to
15 understand. You've got an end-use supplier who
16 controls the essential grid facilities that everybody
17 needs to be able to get its product to market.

18 That kind of a system represents a
19 fundamental conflict of interest. It creates abuses.
20 It creates the opportunity for abuses. Let's not
21 delve into what may or may not have been done or what
22 or what cannot be proven. It just creates the
23 opportunity for abuses. And that puts a damper on the
24 market. And it could promote desperate treatment
25 among consumers.

1 There is a fundamental fiduciary obligation,
2 I suppose, that the existing transmission owners have
3 to their stockholders to take the rules that are given
4 to them and do whatever they can legally to be able to
5 advantage their companies as compared to their
6 competitors. They owe it to their company's
7 stockholders to try that, to do it. They wouldn't be
8 doing their jobs if they didn't. But that doesn't
9 promote wholesale competition.

10 The other thing we're trying to incorporate
11 and deal with in our ITA proposal is what we view as
12 an inefficient regional transmission planning process,
13 and the fact that it is vulcanized in nature.

14 Individual companies are each planning their
15 own transmission systems separate and distinct, or I
16 should say without a Florida perspective; that is, an
17 entire state perspective. They're looking at their
18 own companies and maybe what customers have come to
19 them and given them notices on, but the state as a
20 whole is not being planned from a transmission
21 perspective as a single entity. And we think there
22 can be efficiencies gained if we were to shift to that
23 kind of a model.

24 It also makes it difficult to integrate the
25 needs for new market entrants when you have the kind

1 of vulcanized system that we have.

2 You've heard a lot about pancaking of
3 transmission charges. Layering of transmission, I
4 think, is pretty obvious as to way that causes
5 problems. It tends to disadvantage small systems.
6 Florida Power & Light doesn't suffer as much from
7 pancaking because their geography covers
8 three-quarters of the state, so it's not likely that
9 they need to move through multiple systems to be able
10 to deliver power.

11 Florida Power, again, is also a large
12 company. A Seminole, and FMPA, smaller companies with
13 generators smattered throughout the state suffers from
14 this kind of thing to a much greater extent than a
15 large system would.

16 Pancaking, though, from a market
17 perspective, setting aside the fact that it
18 disadvantages small existing competitor, acts as a
19 barrier to generation market entry. New folks
20 thinking about putting generators in the state have to
21 say, "well, geez, I want to sell to so and so, but I
22 also might want to market power to different locations
23 in the state so maybe I need to build transmission to
24 be able to tie to both the FPC and FPL control areas."
25 So there's perhaps extra transmission investment that

1 has to be able to -- to be made to be able to make an
2 investment in generation to avoid pancaking.

3 I know Seminole as an organization has done
4 this itself. We have tied -- tried to tie our
5 generating units to multiple control areas to avoid
6 pancaking, but it results in extra transmission that
7 would otherwise be needed.

8 And we think that pancaking distorts pricing
9 signals on a realtime basis. It doesn't have anything
10 to do with generation. And when you're pricing
11 generation products, transmission layering of costs
12 shouldn't be part of the equation, but it is.

13 FRCC governance. I think Greg talked about
14 this. Right now in the existing system there is too
15 much control in the hands of too few. As I understand
16 the current governance structure, there's one utility
17 in the state that has to show up for there to be a
18 quorum. And if that utility shows up and you can
19 conduct business, it has to vote in favor of whatever
20 action is being voted on, otherwise it will not be
21 approved.

22 **COMMISSIONER CLARK:** Let me ask you a
23 question since you're on that. Are you in agreement
24 with the proposed legislation from NERC with respect
25 to the governance and how reliability rules will be

1 developed?

2 **MR. WOODBURY:** Yes. The governance
3 structure would deal with those issues.

4 **COMMISSIONER CLARK:** No, that's not what I
5 asked. The NERC legislation that's been proposed, are
6 you comfortable with the structure of the Area
7 Regional Reliability Councils and how they would be
8 governed and how the reliability rules would be
9 developed at NERC and at those --

10 **MR. WOODBURY:** The concept of the NERC
11 governance structure, as I understand it, where no one
12 group can control or veto and it takes more than two
13 groups, I believe, Greg, to get approval; that
14 structure, I think, makes sense to us and we think
15 that's a fair independent view of the world.

16 Now, our proposal -- I'm going to talk about
17 this a little bit. It maybe doesn't go as far as it
18 needs to in that regard, but that's something that our
19 group continues to work on.

20 **COMMISSIONER CLARK:** Are you saying that the
21 NERC-proposed legislation allows for a stakeholder
22 board?

23 **MR. WOODBURY:** We think it does. It allows
24 for a stakeholder board. Greg, you're more of an
25 expert on this than I am.

1 **MR. RAMON:** (Inaudible comments.)

2 **CHAIRMAN GARCIA:** Hang on. Identify
3 yourself and then scream.

4 **COMMISSIONER CLARK:** You know, Cindy, maybe
5 you can go ahead and answer that.

6 **MS. BOGORAD:** Cindy Bogorad here for FMPA.
7 The NAERO legislature provides for a disinterested
8 board at the NAERO level, but at the ARRE level it can
9 be a stakeholder board.

10 **COMMISSIONER CLARK:** Okay. And you're
11 comfortable with what is proposed?

12 **MR. WOODBURY:** Yes.

13 **COMMISSIONER CLARK:** I have a second
14 question for you since I've interrupted you on that.
15 Do you have any -- take any issue with the state's
16 position with respect to the savings clause that we
17 feel we need in that legislation to assure that we
18 continue to have the authority we have today on it?

19 **MR. WOODBURY:** Cindy, go ahead.

20 **MS. BOGORAD:** Well, I'll talk for FMPA
21 because I can do that. Anybody else can correct me.
22 I think from FMPA's point of view we appreciate the
23 concerns of the state. The state savings clause
24 that's been proposed by NARUC, however, I don't even
25 think is good for Florida because what it would do

1 would be -- it would give every state the ability to
2 go out and set their own reliability standards which
3 could be more stringent than anybody else or the NAERO
4 standard without really going through the NAERO
5 process. And, you know, for example, Georgia could
6 set up some reliability standard which would then
7 severely constrict import capacity in the state and
8 into Florida and there wouldn't be anything Florida
9 could do.

10 On the other hand, we actually do appreciate
11 the concerns of the state. Certainly, adequacy is
12 something the state should be looking after and, you
13 know, the non-bulk power system reliability, and would
14 want to work with the states to come up with some
15 acceptable language, but we're concerned the proposed
16 language does more than any one state should want
17 because it creates a state-by-state problem.

18 **COMMISSIONER CLARK:** I'm not going to get
19 into -- we've been working on that language and I
20 know, Cindy, you have been working on that. I think
21 we've compromised significantly and I just -- I know
22 where national organizations are. I want to know
23 where our state organizations are. So FMPA is opposed
24 to savings clause language as it's currently stated.

25 **MR. WOODBURY:** And one of the problems that

1 I have, I'm up here representing the Independent
2 Transmission Administrative Group, 15 companies, and
3 we haven't polled them to find out what each of their
4 views are. So when I express -- that's one of the
5 reasons I'm hesitating as to you how to answer
6 questions.

7 From Seminole's perspective, we believe that
8 the Florida Commission and the state of Florida has
9 the key interest with regard to reliability rules.
10 And, you know, past that I think we just need to see
11 specifics and we really haven't formulated a corporate
12 position at this juncture. But we're very much in
13 favor. We, obviously, feel strongly about that
14 concept on reliability and the Commission's role.

15 **COMMISSIONER CLARK:** Well, if you do I would
16 appreciate you looking at that and stating a position
17 on behalf of FMPA.

18 **MR. BRYANT:** Commissioners, let me ask.
19 There's a distinction between distribution reliability
20 and subtransmission reliability standards and
21 transmission reliability standards that are used for
22 interstate wholesale commerce, and I think that is
23 what Cindy was touching upon. There is a difference
24 in those types of functions.

25 **COMMISSIONER CLARK:** I understand that,

1 Fred. I just want to know your problems with the
2 language. I want to know specifically what FMPA
3 thinks about it.

4 **MR. WOODBURY:** Now, there have been specific
5 issues, complaints identified. There are a number of
6 utilities that have spent a lot of money litigating
7 transmission-related issues. There was a list of
8 specific problems that were identified at one of the
9 Staff's workshops. They generally dealt with the
10 subjects of governance, pricing, planning and
11 operations. But I don't intend at this time to dwell
12 on those specifics, but to talk about it from a
13 perspective.

14 We're looking at it from a long-term; how do
15 we promote wholesale competition in this state and
16 let's forget about the past is the way we would like
17 to proceed on this.

18 Now, what is our -- the ITA proposal? This
19 will be the last time you hear me to refer to our
20 proposal as a proposal. We're going to refer to it as
21 a strawman.

22 It is intended to be a work in progress.
23 It's not something that you could sit there and
24 implement today. We haven't taken it down to ground
25 level yet to get into the kinds of details that would

1 be involved. I don't think any of the people that
2 have put together proposals have done that kind of
3 detail on it. We are the only ones so far that have
4 indicated that it's of a strawman nature and that
5 we're looking to bring people into the fold to help to
6 develop something that's workable for this state. So
7 keep that in mind. That this is a strawman. It's
8 attempting to build consensus.

9 We are also attempting to recognize the need
10 for flexibility. One of the reasons that JEA doesn't
11 like this idea is they feel that there will be no
12 flexibility; that once you've set it up, that's it.
13 It won't evolve and then you'll never get to the
14 TRANSCO where they think we should be in total
15 independence.

16 I respect that view, but I disagree with it
17 because we're trying to set up a mechanism that would
18 allow the organization to morph, if you will, over
19 time as lessons are learned and as conditions change.
20 We're going to learn a lot about the market, the
21 wholesale market, over time; more and more of it in
22 Florida and how Florida's needs can be met and we need
23 to set up an organization, end of governance structure
24 that can evolve into something, and maybe it is a
25 TRANSCO at some point down the road.

1 We are seeking to retain as much of the
2 existing FRCC infrastructure as possible.
3 Committee-type structure, there are certain things
4 that FRCC does. We're trying to pull those things
5 into a separate independent governed organization and
6 to try to use as much of that infrastructure as we
7 can.

8 **COMMISSIONER CLARK:** Let me ask something
9 along these lines. Do you think that there would be a
10 separate organization for FRCC or there would be a
11 single organization that does what you're proposing
12 and the existing -- and new functions that they would
13 have under the legislation? Could they be the same
14 entity?

15 **MR. WOODBURY:** We think FRCC still has a
16 role from the generation perspective. You know, we
17 saw part of the role was yesterday in the Ten Year
18 Site Plan proceeding. There's still generation
19 interest that FRCC is going to be actively involved
20 in. What we're talking about here is pulling out
21 transmission related functions and putting them into a
22 separately independent organization.

23 **COMMISSIONER CLARK:** Let me see if I can ask
24 it again. Why can't FRCC continue doing what they're
25 doing and take over the role of transmission

1 administrator?

2 **MR. WOODBURY:** I'm sorry. You're going to
3 have to repeat it one more time.

4 **COMMISSIONER CLARK:** Could the FRCC become
5 the ITA?

6 **MR. WOODBURY:** Um, if we ended up with the
7 kind of governance structure that we're proposing, and
8 had the kinds of functions that we're proposing, I
9 think the preference would be to separate out those
10 things that are generation related and have separate
11 organizations for transmission versus generation-type
12 functions, to have them in separate organizations.

13 I don't know that I can say what the ITA
14 Working Group -- what our response would be relative
15 to having an FRCC organization that handled the whole
16 thing, if that was your question. I just can't answer
17 that, Commissioner.

18 **COMMISSIONER CLARK:** Okay.

19 **MR. WOODBURY:** We are seeking to preserve,
20 to the maximum extent possible, the role of the
21 Florida Public Service Commission with regard to
22 reliability and even with regard to the development of
23 revenue requirements for the unbundled component of
24 retail investor-owned utility rates.

25 Now, that's our objective. That's what --

1 we're trying to preserve that role. We're trying to
2 go into FERC and say, even though we're going to
3 unbundle this piece of the IOU revenue requirement,
4 we'd still like the Florida Public Service Commission
5 to set those revenue requirements for the single ITA
6 tariff.

7 Now, I can't tell you that that's something
8 that FERC would accept. But I know they won't accept
9 it if we don't propose it. And I think there's a
10 possibility that they could accept it if you, in
11 conjunction with the stakeholders in this state, put
12 it forth as a proposal. Basically what we think is
13 what our proposal does is provide a framework for a
14 Florida solution.

15 This is going to be the view from
16 50,000 feet. We are looking for an independent
17 governance structure; not independence to the extent
18 that Tracy is talking about where you basically divest
19 assets, put them into a separately held company,
20 publicly-owned or otherwise.

21 We're looking at a stake -- a representative
22 stakeholder board. Florida Power & Light, Florida
23 Power Corporation, all the independent power
24 producers, Seminole, FMPA, they all get to have their
25 say through that kind of a stakeholder governance

1 structure.

2 That's a key point, though, is independence.
3 I can't stress it enough. It's been stressed by, I
4 think, everybody that's had the opportunity to talk to
5 you so far. You heard it from Tom Delaney. You heard
6 it from Tracy and you're hearing it from the ITA
7 Working Group that it's critical if we're going to
8 have a robust wholesale market.

9 Transmission planning and operations are
10 conducted with a Peninsular Florida perspective under
11 our proposal or under our strawman. We are looking to
12 have a single region-wide tariff administered on a
13 consistent basis. Now, when I say a single
14 region-wide tariff -- I'm going to get to this in a
15 moment. That doesn't mean there's one rate for
16 everybody. We're looking to propose something in the
17 nature of what is referred to as a license-plate
18 approach for pricing. So I'll cover that in a moment.
19 And we are looking to ensure that all transmission
20 owners retain an opportunity to recover their costs
21 and to earn a reasonable return on their investments.

22 What are our goals and objectives? We're
23 looking to provide a more balanced governance
24 structure, improve efficiencies in transmission grid
25 management, ensure grid reliability and competitive

1 market, remove opportunities for discriminatory
2 transmission practices, improve market performance,
3 reduce the need for costly litigation, and establish a
4 structure that can evolve over time. Those are the
5 goals of the ITA Working Group.

6 Now, bring it down a little closer to ground
7 level. On the membership, we are requiring
8 membership. We propose that you require membership if
9 you own or control both transmission, if you operate a
10 control area, and if you serve retail load.

11 The governance structure, as we've currently
12 got it laid out is, as I said, a stakeholder board.
13 There are five classes with three members in each
14 class.

15 The Florida Public Service Commission. We
16 would have one Commissioner act as a nonvoting member.
17 General actions would require two-thirds the majority
18 of voting members. So, what that basically is saying
19 is that of the five classes, you'd need to get two
20 solid classes plus one party from another class, if
21 you will. So that you require basically three classes
22 to have agreed to a particular action; not quite
23 three, but it's more than two.

24 For changes in bylaws -- and this is the
25 area that's a little tougher to say that we've

1 addressed fully, is that that requires two-thirds
2 majority of each class. And, Commissioner, this gets
3 back to that NARUC question you were raising. This
4 one might not pass muster there because there's one
5 class that could veto a change in bylaws, and that
6 might prevent you from having the organization evolve
7 over time. So we are, as a group, looking at this to
8 a greater extent.

9 Transmission pricing. We are looking to
10 eliminate rate pancaking in all forums, including
11 losses, including ancillary services, and with
12 guarantees that it's gone. Not at the whim of whether
13 or not someone wants to continue to offer a discount.
14 It's gone.

15 An ITA tariff would recover a combined
16 revenue requirement of all transmission owners. We
17 would establish revenue collection zones to minimize
18 cost shifting and we would also institute impact fees
19 to encourage beneficial location of generation in
20 various locations or basically expressed differently
21 to dissuade people through incent pricing from putting
22 generation in parts of the state where it's costly to
23 put it.

24 **COMMISSIONER DEASON:** Let me ask a question
25 on that slide. The revenue requirement determination,

1 who does that?

2 **MR. WOODBURY:** The revenue requirements, the
3 concept that we were talking about was the Florida
4 Public Service Commission would set the revenue
5 requirements for the companies that are currently
6 Florida Public Service Commission jurisdictional. The
7 FERC would set revenue requirements for others -- the
8 other load. Those people that are not FERC
9 jurisdictional would abide by the FERC concept of
10 revenue requirements, would develop their revenue
11 requirements in accordance with the FERC procedures.

12 That's our proposal, is to try to maintain
13 as best we can the status quo with regard to how
14 revenue requirements are set.

15 **COMMISSIONER CLARK:** Just so I'm clear, you
16 would -- part of what would be -- have to be done with
17 this proposal is that you would unbundle trans --
18 retail transmission from retail services?

19 **MR. WOODBURY:** Right.

20 **COMMISSIONER CLARK:** And you would propose
21 to FERC that we continue to have the authority to set
22 the rates for this?

23 **MR. WOODBURY:** Right.

24 **COMMISSIONER CLARK:** But in Order 888 they
25 have, in fact, said when you unbundle it, we're going

1 to take back jurisdiction.

2 **MR. WOODBURY:** That's correct.

3 **COMMISSIONER CLARK:** Okay. So it would --

4 **MR. WOODBURY:** That also encourages people
5 to try to come up with innovative ideas that they
6 might accept. I mean, there are -- you know, we
7 shouldn't just presume that 888 is the gospel for all
8 things. We've got FERC practitioners here that may
9 give you --

10 **COMMISSIONER CLARK:** We've at least have
11 them make that claim anyway?

12 **MR. WOODBURY:** Yes.

13 **COMMISSIONER CLARK:** Okay.

14 **MR. WOODBURY:** I'm not a lawyer so I should
15 probably refrain from opining. Well, I will.

16 Okay. On transmission planning, region-wide
17 transmission planning, conducting reliability
18 assessments, identifying the need for additional
19 facilities, doing this in conjunction with the staff
20 from individual companies, but basically the ITA would
21 have responsibility for taking all the needs of the
22 state, looking at the needs of the state in making
23 recommendations or deciding when new assets need to be
24 put into place, transmission assets.

25 Develop uniform interconnection standards,

1 practices and procedures. Right now everybody's got
2 their own tariffs. They've got their own
3 implementations, their interpretations of how to
4 administer the tariffs. There's not necessarily
5 consistency amongst all utilities at the current time
6 relative to interconnection standards, practices and
7 procedures. That would be eliminated with the
8 strawman proposal.

9 Detail planning assessments would be
10 provided to the Florida Public Service Commission each
11 year.

12 **COMMISSIONER DEASON:** Excuse me. Let me ask
13 a question. Who has the authority under your proposal
14 to require the construction of new transmission
15 facilities?

16 **MR. WOODBURY:** The ITA.

17 **COMMISSIONER DEASON:** So if an entity is a
18 member and the ITA says that entity X needs to build
19 transmission facilities, well then that entity is
20 required to make that investment?

21 **MR. WOODBURY:** Well, if that company didn't
22 want to, it is entitled to earn -- recover its costs
23 and earn a fair return on its investment. If for some
24 reason it didn't want to, the ITA -- any member of the
25 ITA could come in and build it itself. If it needs to

1 get done, it's got to get done. The idea isn't to
2 necessarily have to say that FPL must build this
3 transmission line. But that transmission line is
4 going to get built by somebody and somebody is going
5 to earn a return on that investment.

6 **COMMISSIONER JACOBS:** And the ITA is going
7 to conduct the oversight to make sure all the
8 interfaces and everything that need to happen are
9 happening technically and operationally?

10 **MR. WOODBURY:** From an operations
11 perspective, the ITA will be responsible for the
12 security coordinator function. We've heard a lot of
13 discussion about that earlier today. It doesn't --
14 we're not proposing that the ITA actually do the
15 security coordinator function. We're saying that the
16 ITA can contract out. It can contract out with FPL to
17 do the security coordinator function. It could
18 contract with FPC to do it. If it didn't like the way
19 FPL was doing it, they could have somebody else do it.
20 But it is the ITA that is responsible for the
21 administration of that function. It is the ITA that
22 is responsible for the oversight of the OASIS, for the
23 calculations of ATC.

24 The ITA would provide a one-stop shop for
25 ancillary services and it would also have the ability

1 to require that maintenance schedules or commitment
2 schedules or even redispach be done to alleviate
3 constraints.

4 Dispute resolution. We really are proposing
5 a form of mediation or form of alternative dispute
6 resolution mediation mode which would be voluntary,
7 fast track, nonbinding. But I think the point here is
8 that if you set up a structure that is well thought
9 out, that has the consensus of the stakeholders, I
10 think it's likely that we can avoid a lot of problems
11 with regard to disputes. We'll certainly narrow the
12 array of disputes that could occur.

13 And our view is, is that this would not be
14 utilized. And I think the experience of ERCOT
15 suggests that it has -- this has not had to be used
16 very often at all so far in that region. Dave, is
17 that fair?

18 **MR. MCMILLAN:** Dave McMillan with Reliant
19 Energy. So far in ERCOT in the three, almost four
20 years now that it's been in operation, our ADR process
21 I think has been used one or two times.

22 **MR. WOODBURY:** The issues that were --

23 **COMMISSIONER JACOBS:** Is there an expedited
24 process or how long is it?

25 **MR. MCMILLAN:** Yes, it is. It's completely

1 administered by the ERCOT ISO and the -- either party
2 can ask for the decision or the outcome of that ADR to
3 be reviewed by our Public Utility Commission. So far
4 the one -- I'm sorry. I don't know whether it's been
5 one or two, but the instances where it's been used it
6 has not gotten to the Commission, and it's been
7 settled within 90 days.

8 **COMMISSIONER JACOBS:** I'm wondering how long
9 it takes.

10 **MR. MCMILLAN:** The process is designed to
11 take and has taken no longer than 90 days.

12 **COMMISSIONER JACOBS:** Thank you.

13 **MR. WOODBURY:** Tracy mentioned earlier that
14 change is inevitable and we agree and we think change
15 is upon us. The FERC RTO rulemaking is out there.
16 We've got the NAERO legislation in Congress and now
17 we've got the CP&L and FPC merger. We desire -- the
18 ITA Working Group desires a Florida solution.

19 **COMMISSIONER CLARK:** Tim, let me interrupt
20 you a minute. Why does the NAERO legislation in
21 Congress require action on our part?

22 **MR. WOODBURY:** Why does -- why is it
23 relevant to the change concept? I'm sorry.

24 **COMMISSIONER CLARK:** Well, I know it would
25 be a change. Why does NAERO legislation dictate an

1 ITA?

2 **MR. WOODBURY:** I don't think it dictates an
3 ITA at all. It's just something that is out there
4 that we're dealing with. So it's not dictating an
5 ITA. It is dictating, I think, though, that the
6 regions deal with governance.

7 **COMMISSIONER CLARK:** It's something that you
8 would factor into whatever you would do to address the
9 FERC RTO?

10 **MR. WOODBURY:** That's right.

11 **COMMISSIONER CLARK:** What about the CP&L and
12 FPC merger? Explain to me --

13 **MR. WOODBURY:** Well, once that merger
14 proceeding is -- once that merger is filed and parties
15 start intervening, one of the things that everybody is
16 going to be asking for is a condition for approval of
17 the merger is an agreement by CPL and Florida Power
18 Corporation to join an RTO.

19 **COMMISSIONER CLARK:** You anticipate that
20 will be what intervenors will request as a condition
21 to the merger? (Laughter)

22 **MR. WOODBURY:** Oh, yes.

23 **COMMISSIONER CLARK:** Okay.

24 **MR. WOODBURY:** Oh, yes. And I think the
25 relevant point here is that what kind of an RTO are we

1 talking about? One thing that we have to keep in mind
2 is when this thing is merged, CP&L, you've got now a
3 North Carolina utility in control of Florida
4 generating assets. And if I were them, I'd be
5 interested in a southeast regional RTO. Because if
6 I'm looking to economically dispatch in a more
7 efficient way my assets in Florida and in North
8 Carolina, I'd rather do it without pancake rates. I'd
9 rather not have to deal with that bad boy in between
10 us.

11 So this is something that once this goes
12 this way, if we don't have a Florida solution, I think
13 we're looking at the possibility of at least a
14 southeast regional RTO starting to get bigger play for
15 those kinds of reasons. And maybe even the market
16 players in Florida will be looking -- not the people
17 who are against this, but the ITA representatives
18 might look for a southeast regional solution at some
19 point if they didn't think that Florida was going to
20 come up with its own solution.

21 **COMMISSIONER CLARK:** I think what I hear you
22 saying is that we need to do this now before FPC
23 becomes more incorporated into FPL -- I mean CPL,
24 because when they do, they're going to want a
25 different RTO.

1 **MR. WOODBURY:** I don't have that crystal
2 ball, but I think what we're saying is that by the
3 time this merger proceeding gets too far along, it
4 would be nice if we could go in as the state of
5 Florida and say this is what we think, at least as to
6 Florida.

7 **COMMISSIONER CLARK:** Okay.

8 **MR. WOODBURY:** CP&L can join alliance. They
9 can do whatever they want. We don't care. But
10 Florida Power Corporation can't live with the status
11 quo. It's got to join some other organization for
12 Florida. And that's what we think we'd like to go in
13 with, but going in without the Florida Public Service
14 Commission will certainly weaken that.

15 Next overhead. I've already covered the
16 first bullet, and the second bullet basically -- and
17 I've got some attorneys here that will confirm this --
18 is that it's going to be required. Most of the firms
19 that have gone in with mergers have read the tea
20 leaves and don't even force somebody to require it.
21 They go in and they propose it up front. I mean, it's
22 there for everybody, so we haven't really gotten too
23 many cases where FERC has actually said you will do
24 it. The tea leaves are being read and everyone knows
25 it's going to be a condition.

1 **CHAIRMAN GARCIA:** Has it been required in
2 the other mergers?

3 **MR. WOODBURY:** I'm sorry?

4 **CHAIRMAN GARCIA:** The other mergers that
5 have occurred, it's been required?

6 **MR. WOODBURY:** Yes. Sue, do you want to
7 address the -- or Cindy.

8 **MS. BOGORAD:** Certainly in the recent
9 mergers that have come through, which have been
10 multiple electric companies as opposed to electric
11 gas, convergence mergers, RTOs have been a very
12 important part of it; have been something that the
13 FERC staff has push incredibly hard on and something
14 which has been a part of the orders approving it.

15 And one thing which I think is quite
16 instructive is the new proposal by New Century and NSP
17 to merge. And as part of their merger proposal, they
18 propose that not only will NSP be part of the Midwest
19 ISO, but Southwestern Public Service, which is in
20 Texas and New Mexico will be part of the Midwest ISO.
21 And if the Midwest ISO isn't hooked up to them
22 contiguously at that point, they will buy a
23 200-megawatt path and actually construct 25 miles of
24 345 kV line. So you have sort of an ISO by extension
25 cord, so to speak.

1 And if you think about how that could play
2 here, it certainly is a concern if you have a vision
3 for a Florida solution.

4 **MS. KELLY:** I would just like to add to
5 that. I'm Sue Kelly. That under the Public Utility
6 Holding Company Act, if the merger is going to be
7 subject to that Act, there are integration
8 requirements that make utilities that are distant want
9 to integrate their operations to meet the requirements
10 of that Act.

11 So there is kind of an impetus, a legal
12 impetus, to try and operate the systems in coordinated
13 fashions to meet that legal requirement, even though
14 they may be remotely distant.

15 **MR. WOODBURY:** Moving to the next general
16 subject is why should the Florida Public Service
17 Commission support the ITA strawman? These are going
18 to be more or less the philosophical points. I'll get
19 to more practical one.

20 But first of all, it promotes and enhances
21 wholesale competition by ensuring that transmission
22 ownership can't be used as a competitive weapon for
23 the points that we've already discussed and we think
24 that promoting wholesale competition is something that
25 the Florida Public Service Commission should want

1 because it does benefit all consumers in the state.

2 We think that our strawman allows for more
3 efficient statewide transmission system planning and
4 operation. And we think that it is a significant step
5 forward while minimizing the costs and implementation
6 time. We want something that can be developed in
7 eight months, not eight years. And in due respect for
8 any TRANSCO proposals, we talked about some of the
9 complications in getting a TRANSCO approved. I would
10 imagine that it would take years to develop. So we're
11 looking for something that can be done in months, but
12 not years.

13 Now, Florida solution. We want to be able
14 to evolve consensus agreement. We would like to try
15 to do it, as I indicated, in time for the FPC-CP&L
16 merger proceeding. We seek to maintain a strong FPC
17 involvement. We are looking to lower costs and we
18 are, obviously, trying to ensure grid reliability and
19 a more competitive wholesale market.

20 Now, there will be costs associated with the
21 ITA. You've heard points made about giant
22 bureaucracies being created. You've heard about
23 California. Anytime anybody is against the ITA
24 proposal or a strawman wants to say anything that
25 leaves you with a bad impression -- I just mentioned

1 California.

2 It's -- we're not proposing California here.
3 Okay. This is not California. We are looking to
4 minimize costs by using the existing infrastructure.
5 We think that and we're confident that the costs
6 associated with anything that we might do in this
7 regard are going to be offset by the generation
8 savings, and I'll try to demonstrate that for you in a
9 moment.

10 There will be some cost shifting. We've
11 attempted to minimize it with the use of zonal rates,
12 the license-plate approach, and there will be more
13 FERC involvement. We can't ignore that fact.

14 Now, transmission costs are important but we
15 don't think you can let the tail wag the dog on that
16 issue. What we've done is we've taken a
17 representative split, a functionalized split, of the
18 generation/transmission distribution functions in
19 Florida.

20 Now, this is basically the three
21 investor-owned utilities' data that was used. 78% of
22 the revenue requirements are generation related,
23 generation cost related; 17% distribution; 5% bulk
24 transmission. Talking about a lot of leverage here in
25 terms of being able to derive -- if you raise the

1 costs for the 5% piece and promoting the active robust
2 wholesale market lowers the cost for the 78% piece, it
3 doesn't take much of a reduction in generation rates
4 to more than offset any costs that you could come up
5 with with regard to the establishment of an ITA.

6 **COMMISSIONER CLARK:** Tim, what would
7 increase transmission costs? Would it purely be the
8 addition of a transmission line?

9 **MR. WOODBURY:** In terms of the
10 infrastructure that we're talking about, the
11 bureaucracy that you've probably heard about, we're
12 talking about the staffing of the ITA, those kinds of
13 things. Transmission lines is the investment itself.
14 I would contend that the ITA would lower transmission
15 investment over time because we would have a more
16 regional perspective on investments.

17 So I would think less transmission would be
18 required with that perspective than under the
19 vulcanized approach that we currently got.

20 Now, we've used ERCOT's estimates because
21 what we've proposed here, we referred to ERCOT as an
22 ISO. I've heard more acronyms today. The ITA is
23 ours. Tom Delaney had another one, ISA.

24 But the bottom line is, ERCOT's start-up
25 costs were in the neighborhood of \$5 million to

1 \$8 million. Initial annual operating costs are in the
2 neighborhood of \$5 million to \$6 million.

3 Now, how much those costs vary from those
4 numbers depends greatly on the amount of the existing
5 infrastructure that you can keep, the transferring of
6 existing staff, and elimination of duplication of
7 services.

8 But, just based on these estimates, the
9 average power cost just associated with that
10 \$5 million to \$6 million revenue requirement impact
11 due to the RTO would only be .07% or less than .005
12 cents per kilowatt hour before consideration of any
13 generation savings that might be obtained through a
14 robust wholesale market, and before any savings that
15 might be obtained through a more efficiently planned
16 and constructed transmission network over time because
17 of the regional perspective.

18 Now, there are studies that have been done
19 to suggest that a vibrant wholesale market or a
20 vibrant generation market can result in savings. I've
21 referred to two -- there are two DOE studies that have
22 been conducted. One that was just done in April of
23 '99; another one a couple of years earlier that
24 suggested the savings in the neighborhood of 15%.

25 I've tampered that somewhat and said that in

1 the neighborhood of 5% to 10% we think that savings
2 could be obtained, but even if you were to go down to
3 1%, we think that the 1% savings in the generation
4 market, we estimate it would be in the neighborhood of
5 \$64 million.

6 So you can spend a lot of money on setting
7 up an independent transmission organization even if a
8 lot of money were required to justify getting a
9 savings on the generation side by promoting additional
10 wholesale power supply into the state.

11 Next bullet.

12 **COMMISSIONER CLARK:** Tim, how would we fund
13 that?

14 **MR. WOODBURY:** Funding is basically done --
15 well, we haven't developed the details on funding yet.
16 That is something that needs to be fleshed out in
17 further detail in our proposal.

18 **COMMISSIONER CLARK:** What did California do?

19 **MR. WOODBURY:** Excuse me?

20 **COMMISSIONER CLARK:** What did California do?

21 **MR. WOODBURY:** Do we have any California
22 experts?

23 **MR. MCMILLAN:** I'm not an expert in
24 California, but I can tell you how ERCOT or how Texas
25 funded it.

1 **COMMISSIONER CLARK:** That would be helpful.

2 **MR. MCMILLAN:** The funding mechanism for the
3 ERCOT ISO was a three-tier process. User fees,
4 there's a 15 cent per megawatt hour scheduling charge
5 to the ISO. There is fees for OASIS licensing and
6 then there's assessment to load for the balance of the
7 revenue requirements. The original design was to try
8 and achieve a 30% funding out of the user fees and
9 OASIS licenses and the balance coming from the --
10 basically an uplift charge from load. I think our
11 short experience has been that the user fees have
12 covered in excess of the 30%.

13 **MR. WOODBURY:** This is how wholesale prices
14 come down when you've got a transmission market that's
15 truly open. Florida, we've got a 36,000-megawatt load
16 and we've got about 4,000 megawatts of nonutility
17 generation announced.

18 In the New York ISO with a 29,000-megawatt
19 load, they've got the 8,600 megawatts of nonutility
20 generation announced. And ERCOT with a
21 54,000-megawatt load, they've got 25,000 megawatts of
22 nongeneration. This one I had to check the numbers
23 because it seemed a little odd to me. But in the New
24 England ISO you've got 23,000 megawatts of load and
25 30,000 megawatts of announced, much of which I doubt

1 will be built. That's an intuitive guess.

2 But the bottom line is, is that if you open
3 up the transmission network, you will encourage new
4 development in the state.

5 Okay. Where do we go from here? And we
6 think that the Florida Public Service Commission
7 should, under its Grid Bill authority, cause the
8 parties to undertake efforts to develop a Florida
9 solution.

10 We think you should order us to go into a
11 room and not come out until we've come up with a
12 solution that meets certain key principles.

13 We think that's what it's going to take in
14 order to get everybody to come to that room. And we
15 think you have the authority to issue such an order.

16 **COMMISSIONER CLARK:** That was a question I
17 had. Do you see no legislation needed from the
18 Florida Legislature?

19 **MR. WOODBURY:** No, we do not.

20 **COMMISSIONER CLARK:** And the Grid Bill
21 authority would give us the authority to do this, but
22 as I understand you're position on the savings clause,
23 it would undermine authority in that area. I couldn't
24 resist.

25 **MR. WOODBURY:** Let's get it done quick.

1 **COMMISSIONER CLARK:** So you just -- you see
2 no need to get legislation. Let me ask you one
3 other --

4 **MR. WOODBURY:** I'm advised by counsel to
5 that effect.

6 **COMMISSIONER CLARK:** The other thing is do
7 any munis or co-ops have -- there would not be any
8 transfer of ownership of assets, would there?

9 **MR. WOODBURY:** No transfer of ownership of
10 assets. Everybody owns their existing assets. They
11 get compensated for their revenue requirements which
12 go into a pool, if you will, by revenue collection
13 zones, and rates are paid for by the loads.

14 **COMMISSIONER CLARK:** And that would not
15 affect the tax exempt of any --

16 **MR. WOODBURY:** No, because ownership hasn't
17 changed. So the ownership -- from my perspective, I
18 think, the ownership hasn't changed, so it don't
19 affect tax exempt status. For the co-ops, you have
20 got an issue with regard to use of facilities, but we
21 provide transmission services over our facilities
22 right now and no one is going to tell Seminole that
23 they can't provide transmission; at least that would
24 be my perspective. But, Sue, you have a national view
25 of what's happened with co-ops on the issue of use of

1 facility.

2 **MS. KELLY:** There are number of co-ops which
3 are currently tax exempt under the Internal Revenue
4 Code. If more than 15% of their income comes to them
5 from nonmembers on an annual basis they will lose that
6 tax exempt status. So that's an impediment to a
7 number of G&T co-ops that are currently nontaxable
8 going into an RTO. It's a different tax problem than
9 the munis have, but it's every bit as real to them.
10 Seminole, are they a tax exempt --

11 **MR. WOODBURY:** Seminole's taxable.

12 **MS. KELLY:** So since Seminole's taxable, it
13 has already had to cross that bridge and it would not
14 have that impediment.

15 **COMMISSIONER CLARK:** Are there any other
16 co-ops?

17 **MR. WOODBURY:** There may be some member
18 systems that might have an issue with regard to the
19 tax exempt status, so I'd have to check that,
20 Commissioner.

21 **COMMISSIONER CLARK:** Okay.

22 **MS. KELLY:** Just for the record, it's
23 Section 501(c)12 of the Internal Revenue Code.

24 **MR. WOODBURY:** Next slide please.

25 We think if the parties are committed to

1 achieving a consensus solution, that one could be
2 developed within six to eight months. But I think
3 that for that to happen, we're going to have to get a
4 push from this Commission. I mean, we've got a
5 consensus approach that we've got with 15 companies,
6 but there are two big utilities that own a lot of
7 transmission that aren't buying it. So we've got to
8 figure out how do we move off of the dime.

9 Next. We think that our proposal meets
10 most, if not all, the NOPR requirements, NOPR
11 principles. We think that the working group is
12 continuing to address areas where change may be
13 required, and that we don't want to mislead you. That
14 once we did something and filed it with FERC, FERC
15 could order changes to it. You just have to recognize
16 that going in.

17 But, again, I'd reiterate the fact that if
18 we don't propose something, it's going to happen on
19 us, and I think we can control more if with we are the
20 ones making the proposal.

21 Trying to summarize things, a Florida
22 solution is the desired result, the specifics of which
23 can take many forms. We are not here to tell you that
24 we have the answer. We think that the principles,
25 though, that we've identified with regard to

1 independent governance, pricing, planning and
2 operations are principles that should be adopted by
3 this Commission to promote wholesale competition for
4 the benefit of all consumers. We think that our
5 strawman is a well-reasoned foundation for the
6 development of a solution for Florida's needs. And we
7 do think that the public is served by the FPSC's
8 endorsement of this strawman.

9 So that is our presentation. If there's any
10 questions, any more questions, we'll be glad to take
11 them at this point.

12 **COMMISSIONER CLARK:** It's not necessarily on
13 your presentation, but I wanted to ask you about
14 something the FRCC had done recently, and that was to
15 audit the security coordinator. Did you all
16 participate in that audit?

17 **MR. WOODBURY:** Yes.

18 **COMMISSIONER CLARK:** And there were a number
19 of recommendations regarding the conduct of the
20 security coordinator.

21 If those recommendations are implemented,
22 how far does it go in addressing your issues with
23 respect to independence and your assurance that it is
24 an open and fair access?

25 **MR. WOODBURY:** I don't think it goes to

1 independence at all. I think Florida Power and Light
2 is still the security coordinator and the FRCC
3 governing structure is not an independent governing
4 structure.

5 **COMMISSIONER CLARK:** Okay. How many control
6 areas are there in Florida, do you know?

7 (Audience participation.)

8 **MR. WOODBURY:** 12. The consensus is
9 hovering around 12. And we're not proposing -- our
10 proposal does not require that we go to a statewide
11 single control area. We're proposing that you can
12 maintain several control areas. You ideally want to
13 evolve towards a single control area, but that's not a
14 requirement.

15 **MR. BRYANT:** Commissioner Clark, if I may,
16 you asked the question about the tax exempt problems.
17 The tax exempt private use has potential of affecting
18 FMPA in its taxes and bonds. That's one reason why
19 the municipal systems are asking for the Gordon,
20 Senator Gordon Bill, in the senate. However, as a
21 practical matter, because of the way you would measure
22 private use in the limited transmission facilities
23 that municipals have, the FMPA municipals, that
24 probably would not be a problem in the measurement.
25 It might be a potential legal problem, but when it's

1 actually measured it doesn't become a problem. So the
2 answer is for the municipals, we still have private
3 use tax problems but you have to run the test that
4 IRS --

5 **COMMISSIONER CLARK:** Let me ask you one last
6 thing with regard to liability for the operation of
7 the system. And I think -- I guess it was Tom Delaney
8 indicated that the transmission owners in California
9 can actually reject doing something that the ISO says
10 when they feel that it improperly jeopardized their
11 assets, or, I suppose, jeopardizes the public with
12 respect to some failure of the assets.

13 **MR. WOODBURY:** I think we're coming down to
14 below the 20,000 foot level in terms of the amount of
15 effort that's been put into our group. That's
16 something that obviously you'd have to get into the
17 details as to what would happen under those
18 circumstances.

19 **COMMISSIONER CLARK:** You need some
20 indemnification.

21 **MR. WOODBURY:** I'm sure that everybody's
22 going to be looking for indemnification provisions.
23 Be all sorts of interesting things that will come up.

24 **COMMISSIONER CLARK:** Thanks.

25 **MR. WOODBURY:** I would contend, though, that

1 the problems that would need to be addressed would be
2 far less than those that might have to be addressed if
3 we went to a TRANSCO.

4 **MR. McMILLAN:** If I could add, possibly,
5 another answer to your question, from our experience
6 in ERCOT, the transmission owners who, as in the
7 strawman that you heard presented today, still retain
8 ownership of their assets, and they have ultimately
9 the responsibility, and, I guess, legally the
10 liability for how those systems are ultimately
11 operated. They still do operate those systems.

12 What you generally have, though, is since
13 you have a balance representation in the entity that
14 creates the policies and protocols that run the grid,
15 you'd have those owners having appropriate input into
16 those policies and protocols at the front end, and as
17 Mr. Delaney mentioned earlier, they still have,
18 ultimately, the right to object to or, in fact, refuse
19 under all but emergency circumstances, orders from the
20 ISO. Now, if the ISO has declared an emergency, they
21 do not have the right to refuse action.

22 **MR. JENKINS:** Okay. If there are no further
23 questions, our last presenter, I believe, will be John
24 Simpson on the RTS.

25 **CHAIRMAN GARCIA:** Do you want to take a

1 RTS proposal. And it is a Florida solution. And what
2 we did is we listened to the issues and the concerns
3 that were brought up by transmission customers. We
4 were not saying that there was something broken in
5 Florida but certainly there were issues raised by
6 customers. Customers weren't happy. And because of
7 that, we sat down and decided yes, we need to address
8 these issues. We needed to come up with a
9 comprehensive meaningful solution that addressed all
10 of them. And that's what we did with the RTS. We
11 think it really does that. It addresses the issues,
12 the planning operations, governance and pricing, and
13 I'm going to go through each of those here quickly.

14 Planning. To address the issue of planning
15 we really looked at, you know, what was being raised
16 and it was primarily that customers didn't have a say
17 or didn't have a voice in transmission planning. At
18 least that's what we heard. And so we developed a
19 solution that involves a highly coordinated planning
20 process in two levels: One, a local area planning
21 process that addresses the needs of the load serving
22 entities and those load serve entities will be treated
23 equally, whether they are the transmission providers
24 own native load or a wholesale customer's retail load
25 that's connected to the transmission provider system.

1 We also have a highly coordinated process
2 for Peninsular Florida. And this addresses the
3 integration of the local area plans and the planning
4 of the system to accept transmission -- new bulk
5 transmission facility additions and new generation
6 additions.

7 Again, as I mentioned, it's a participatory
8 process and the transmission provider is not going to
9 do this in a vacuum. He's going to sit down with the
10 customers, review results of load flows, discuss
11 options, and it's also going to be -- have a high
12 level of oversight and participation by the Florida
13 Public Service Commission.

14 The Public Service Commission has charge for
15 this under the Grid Bill, anyway, for the reliability
16 and adequacy of the transmission grid, so we want to
17 involve the PSC and allow them to sit with the
18 customers and the transmission providers in overseeing
19 the development of transmission plans.

20 We're proposing that interconnection
21 standards would be adopted consistent with the NERC
22 standards, and we would implement that through the
23 NERC or the NAERO process, the due process involvement
24 so that all participants have a say in those.

25 Disputes. Any disputes that arise over the

1 transmission plans over what needs to be built or
2 what's the level of service provided by the plans,
3 those disputes would be resolved through a streamlined
4 Public Service Commission dispute resolution
5 procedure, which I'll talk about a little bit more as
6 we get into the governance piece of this.

7 Operations. Again, we're asking for and
8 proposing a higher level of oversight by the Florida
9 Public Service Commission of the state security
10 coordinator function. We want them to oversee that
11 and participate in the review of the security
12 coordinator's actions on a regular basis. We also
13 want them to work through audits, both on a planned
14 and unplanned basis. It was mentioned earlier about
15 the audit that was done of the security coordinator
16 here recently. We want that to be a normal type of
17 affair as seen fit by the Public Service Commission.

18 Or if there's an issue raised by
19 transmission customer where they want a review of a
20 particular action that was taken by the security
21 coordinator, I want the Florida Public Service
22 Commission to be involved in the audit and review of
23 those actions.

24 **COMMISSIONER CLARK:** I wanted to ask you
25 some specifics on oversight of the security

1 coordinator's function. Would that be looking into
2 what the inputs are to the calculation of the ATC and
3 the actual calculation of that?

4 **MR. SIMPSON:** Yes, it would. That I'm going
5 to cover in another slide here, but, yes, it involves
6 that also.

7 We've also proposed that the PSC can place
8 its own representative or a contractor under its
9 control in the state security coordinator's control
10 center on a full-time basis or on whatever basis the
11 PSC sees fit, so that that individual could sit there
12 and watch the actions on a realtime basis to see what
13 is going on, what actions are being taken by the
14 security coordinator, and have first-hand knowledge of
15 the action that was taken, and be able to better
16 ascertain whether there was any discriminatory action
17 or favored treatment given by the security
18 coordinator.

19 The PSC will participate in the FRCC
20 Engineering and Operating Committees; be involved in
21 those meetings. And any disputes that arise through
22 the Security Coordinator or his actions would be
23 arbitrated by the Florida Public Service Commission
24 under the FERC's Open Access Tariff Dispute Resolution
25 Rules. There's a section in the Tariff where the

1 transmission provider can designate an independent
2 arbitrator, and we propose to designate the Florida
3 Public Service Commission in that role.

4 Continuing on. This is the OASIS. We
5 propose a streamlined and transparent OASIS to
6 facilitate one-stop shopping for all customers of
7 transmission service.

8 The issue has been raised about the
9 difficulty of looking on more than one OASIS page.
10 Right now the transmission providers in Florida are
11 all members of the FLOASIS, which is one common OASIS
12 site, but it's true that each transmission provider
13 has their own page on FLOASIS, and so to make a
14 reservation you have to go to the page or the
15 transmission provider that you want access from. And
16 if you need some from Power Corp, then you go to our
17 page to make a request there. If you need some from
18 Power and Light, you go to their page and have to
19 duplicate that.

20 We propose to modify OASIS to enable
21 one-stop shopping of transmission service so that the
22 customer would only go to that one page, make his
23 request. And if it involved more than one
24 transmission provider, the computer will take and send
25 that request to the transmission providers that are

1 involved, get the responses back and then the computer
2 would give one answer to the customer. So it's
3 totally transparent to the customer. He just sees one
4 request and one answer. The individual transmission
5 providers would continue to evaluate and approve
6 requests on their own systems, but they would do all
7 that transparent to the customers.

8 We think this proposal provides an efficient
9 nonduplicative means of requesting service and getting
10 responses for service.

11 Next, Commissioner Clark, is what you
12 requested, the determination of TTC and ATC. And as
13 was very ably mentioned by Tom Washburn this morning,
14 who, Tom, by the way, is from the Orlando Utilities
15 Commission, in case anybody didn't know that.

16 But Tom is -- gave us a good overview of TTC
17 and ATC and the work that's being done within Florida
18 to come up with a common methodology for providing
19 those calculations, and to get numbers that match as
20 closely as possible.

21 And what we propose here is too use that
22 common methodology in data, and, in fact, Florida
23 Power right now is acting as -- under the FRCC ATC
24 working group, we're assembling the databases for
25 these common ATC calculations, and we, within the next

1 two months, should have all of the database cases
2 established to enable the calculation of ATCs out for
3 the 13 months that are required under the current
4 OASIS rules. We'll have those databases built and
5 available to all entities that are calculating ATCs.
6 So they would use the common database of assumptions
7 for their calculations.

8 The TTC and ATC numbers would be provided by
9 the owners to OASIS, and then OASIS would post one set
10 of numbers on OASIS for available transmission
11 capacity within Peninsular Florida.

12 Any disputes that arise over the calculation
13 of ATC, or the posting of ATC numbers, would, again,
14 be resolved by the Florida Public Service Commission,
15 particularly their Security Coordinator
16 Representative, or the Commission itself under their
17 arbitration -- under the PSC -- or the FERC's Open
18 Access Transmission Tariff Rules again.

19 Governance. We propose to keep the FRCC a
20 reliability-only organization. We think that's in
21 Florida's best interest. To maintain a single
22 reliability organization that is -- whose sole purpose
23 and sole charge is looking out for the reliability of
24 the customers of the electric system in the state of
25 Florida.

1 We recognize that the governance of the FRCC
2 is going to have to change once the NAERO legislation
3 is enacted. And we propose -- I mean, certainly we
4 wouldn't propose to not do that. But we don't think
5 it's in our best interest to try to change the
6 governance structure of FRCC until that legislation is
7 enacted. And we all know that legislation gets
8 changed. We know how it's proposed right now. But as
9 a bill is going through Congress, there are amendments
10 offered, changes made -- we think it's better to sit
11 back and wait until a final bill passes and then we'll
12 know exactly how to change that legislation to meet
13 the new law.

14 The planning and siting disputes. We
15 propose a streamline process for resolving those
16 disputes to be developed by the Public Service
17 Commission through -- under their existing statutes
18 and due process requirements. We have proposed
19 something on the order of a rulemaking to develop
20 this. And we're not talking about a long-term dispute
21 resolution process. We're talking about something 60
22 to 90 days; to quickly hear the dispute, resolve it
23 and move on.

24 Examples of the types of disputes that would
25 be resolved are under planning and siting, which

1 facilities would be built; who is going to build them,
2 and the timing of construction. When are they really
3 needed?

4 Operational disputes. Again, FERC's open
5 access tariff is already set up to allow an arbitrator
6 to hear and resolve disputes. We propose that the
7 Florida Public Service Commission would act as that
8 arbitrator.

9 The arbitrator can apply the provisions of
10 the tariff but cannot change the tariff. The tariff
11 is under FERC's jurisdiction. We're not proposing to
12 try to change that or to get the PSC involved or
13 caught in the middle between the customers or the
14 company's transmission provider and FERC. But the PSC
15 would act as the arbitrator, applying the provisions
16 the tariff.

17 With this proposal we want the parties to
18 agree to allow the PSC to act as that arbitrator and
19 be bound by the arbitrator's decision. That means not
20 getting a decision from the arbitrator and then going
21 off and trying to appeal that somewhere else. We
22 think that the arbitration should be binding on all
23 parties. And Florida Power and Florida Power and
24 Light are willing to live by that.

25 Pricing. What we're proposing here to

1 address is the issue of pancake transmission rates as
2 a discounting regime.

3 First, pricing is under FERC's jurisdiction.
4 They are a wholesale transmission. There's nothing
5 you can do to change that. FERC said they have got
6 jurisdiction for wholesale transmission rates and
7 that's something we live with now.

8 But the way the pro forma tariff is set up,
9 transmission providers can offer discounts. It should
10 be noted that within Peninsular Florida now you can go
11 anywhere in the region for a maximum of two
12 transmission wheels. So we're not talking about a lot
13 of pancaking within Florida anyway. But we are saying
14 the two major transmission providers within the state
15 of Florida are offering to offer a discount mechanism
16 to essentially eliminate that pancaking.

17 The proposal we're making, it mitigates the
18 multiple charges; mitigates cost shifting to Florida
19 native load customers. That's a criteria that we went
20 in looking at what can we do to not shift a lot of
21 costs from wholesale customers to retail customers.
22 It addresses all classes of transmission service. And
23 we've got some examples here. Go to the next slide.

24 These are some examples we tried to put
25 together to show this, because this gets a little

1 complicated, but just to try to go through it
2 quickly -- for nonfirm transmission service and
3 short-term firm transmission service, let's look at
4 Scenario 1.

5 Scenario 1 is set up with the City of
6 Tallahassee wanting to make a short-term or a nonfirm
7 sale to the City of Lake Worth. In order to do that
8 they have to get transmission service from both
9 Florida Power Corp and Florida Power and Light. We're
10 proposing that both -- in a case like this, both Corp
11 and Light would agree to -- or wouldn't agree. We
12 would unilaterally discount our transmission service
13 charge by one-half. Yeah. Be careful what I say
14 here, right? (Laughter)

15 We discount -- that, in essence, leaves you
16 with one average transmission rate. Vice versa, if
17 you go in the other direction it just works -- it's
18 the same thing.

19 Let's go to the next slide. Let's look at
20 long-term firm point-to-point. In this case let's
21 look at Scenario 2 with the City of Lake Worth wanting
22 to make a long-term sale to the City of Tallahassee.
23 In this case Lake Worth -- or it could be a generator
24 No. 2 connected to FPL -- in this case they both,
25 again, need to get transmission service from both

1 Power and Light and Corp to enact this deal. And in
2 this case we're saying that the transmission system,
3 the last that delivers the power to the load would
4 charge its normal transmission rate according to its
5 tariff. The previous system would make a charge that
6 just keeps it whole so that it doesn't bear any
7 additional costs for that transmission transaction.
8 That means it would charge for any incremental
9 facilities that it has to build in order to enable
10 that transaction, and it would charge its tariff rate
11 for losses and ancillary services and any
12 out-of-dispatch costs that it might have to incur to
13 enable that transaction to flow.

14 So they are basically just made whole, and
15 the Corp system in this case, would charge its normal
16 tariff charges. If you are doing a sale the other
17 way, or if Generator 1 up there, that's connected to
18 Corp system, wants to make a long-term sale to Lake
19 Worth, then it just turns around, and in this case FPL
20 would charge its normal tariff charges, and Corp would
21 only charge for its incremental facilities and
22 out-of-pocket costs.

23 Okay. The last type of services, network
24 service. And if we look at -- say, the City of
25 Tallahassee, again, wanting to have a generator on its

1 system that's designated as a network resource for
2 some load within FPL's transmission system, some
3 wholesale load that's embedded in FPL's system. In
4 that case, again to avoid -- eliminate or mitigate the
5 pancaking and transmission charges, FPL would charge
6 its normal transmission rate; the wholesale network
7 customer pays its network tariff transmission charges,
8 and Corp, in this case, provides point-to-point
9 service across its system and it discounts the cost of
10 that transmission service to zero and only charges for
11 any incremental facilities it has to build, any
12 ancillary services, average system losses and any
13 out-of-dispatch costs. Again, just being made whole,
14 so its customers don't bear any burden for that
15 transaction, but yet provides the most economical
16 service possible to the network customer in Light's
17 system. And, again, if it was Lake Worth, a resource
18 in Lake Worth being used to serve a load, network load
19 in the Corp's system, it's just the opposite.

20 The last slide is -- really involves a
21 generator. In this case it's not the City of
22 Tallahassee or the City of Lake Worth. Say it's a
23 merchant generator or a nonutility generator or
24 something like that, that's connected to Corp's
25 system, wanting to make a sale a network load in Light

1 system, it's the same thing. The network customer
2 pays his normal network tariff charges to the system
3 that he's connected to, and the other system discounts
4 the transmission service to zero and yet charges the
5 incremental facility's losses, ancillary services and
6 out-of-dispatch costs.

7 We think this goes a long way to mitigating
8 the pricing -- the pancaking of transmission charges
9 that has been complained about without burdening any
10 more -- without burdening the existing native load
11 customers.

12 With that, I'll turn it over to Bill.

13 **MR. LOCKE:** I'm Bill Locke. I'm the manager
14 of Transmission Services at Florida Power and Light.
15 And I have been asked to answer some of the other
16 questions asked by the Commission in their agenda.

17 With regard to the advantages of what we see
18 in the RTS, the PSC remains the jurisdictional body
19 for all bundled retail rates and will retain this
20 authority under the Grid Bill.

21 The different other proposals that you've
22 seen today, for example the ITA, asks that the
23 transmission component of retail rates be pulled out
24 and would be put under FERC jurisdiction. The FERC
25 has made it clear, and it is their legal opinion, that

1 they have the right to set terms, conditions, rates
2 and everything associated once you unbundle a rate.
3 That is also true -- we were talking about the
4 not-for-profit TRANSCO today -- even though that state
5 organization would be set up under existing statutes
6 and existing rules at FERC, they would take the
7 position that they govern the rates, ROE, terms and
8 conditions, structure and what is done in the
9 marketplace about that organization. That is
10 different from what we're proposing.

11 Cost shifting among Florida's retail and
12 native load customers would be mitigated on our
13 proposal, when our proposal proposing to roll one rate
14 together to create an average, for those that have
15 worked hard and cut costs and lowered their cost, to
16 ask them to raise that cost to a higher average is
17 inequitable to their retail customers, we believe.

18 There is some costs that are going to be
19 incurred in here, and I'll talk about when I get to
20 the pricing mechanism that John was talking about.
21 But it's not to the extent that when you're talking
22 about averaging all rates.

23 We think the RTS addressed the concerns
24 without new costly bureaucracy, and without
25 restructuring the electric system in Florida. There's

1 been a lot of numbers thrown around; five to
2 eight million; there was 500 million in California.
3 There's a lot of numbers you can talk about. Say, for
4 example, we throw out California, the ISO in the
5 midwest is talking about 150 million. We know that
6 the operating cost for the ISO in New England is
7 \$30 million a year.

8 The proposals that you've seen have talked
9 about using the existing infrastructure. The question
10 is to what extent that can be done and what additional
11 stuff has to be done. So I question whether or not we
12 need to take a different and more thorough look at
13 those costs that were talked about. Ours does not
14 result in those kind of costs.

15 The PSC will provide the oversight and
16 dispute resolution for planning, construction
17 responsibility, reliability and operation. John
18 talked about that. And finally, that oversight
19 ensures that all customers, not just a few, are fairly
20 represented.

21 In trying to devise what we thought with a
22 fair governance, some of the other proposals have --
23 for example, 15 to 20% of the customers in Florida
24 really are the ones who make all of the decisions for
25 the ITA, for example. What we saw as fair is those

1 entities that represented their customers, they could
2 make decisions but to the extent someone thought they
3 were harmed, they have the mechanisms to come to the
4 PSC to get it resolved and someone who looks out for
5 all the general body of customers in Florida rather
6 than just a few.

7 The disadvantage that we see is this is a
8 new approach. It's different than what's being talked
9 about around the country. It's different than perhaps
10 what's been talked about today, but we think it's an
11 approach that people should think about and consider.

12 With regard to cost. Minimum cost to revise
13 the OASIS. John has talked about a central location
14 for that. In talking through what that would cost, we
15 think it would be less than \$100,000. Minimum cost to
16 perform audits of State Security Coordinator -- what
17 we're talking about is the PSC involved in doing that.
18 Minimum cost for oversight personnel at the Security
19 Coordinator's control center, one or two individuals.
20 However, there may be some possible reductions in
21 transmission service revenues for Florida Power and
22 Light and Florida Power Corporation to the extent that
23 a merchant plant, for example, sites its plant at
24 Florida Power and Light, and all of the power is to go
25 over to Corp. Florida Power & Light only gets

1 out-of-pocket revenues. To the extent we had a lot of
2 those, then we may very well, to some extent, be
3 subsidizing these particular transactions.

4 Benefits. There's been a lot of discussion
5 today --

6 **COMMISSIONER DEASON:** Excuse me, let me
7 interrupt. The example you just gave of a merchant
8 plant, that would be using your facilities and you get
9 incremental effects on your system.

10 **MR. LOCKE:** Right.

11 **COMMISSIONER DEASON:** That could be a
12 subsidy. But is there any cost shifting?

13 **MR. LOCKE:** To the extent under today's
14 regime, when someone asks for transmission service,
15 they pay you transmission revenues. To the extent you
16 don't get that, then someone has to cover those. And
17 that's the reason I say that's a subsidy to some
18 extent from your existing retail customers.

19 **COMMISSIONER DEASON:** But you only allow
20 that transmission to occur if you have the capacity,
21 which is a fixed cost, and if you're getting
22 incremental effects from that transaction, how is
23 there a subsidy?

24 **MR. LOCKE:** With regard to the incremental
25 cost you're made whole. With regard to the embedded

1 cost, it results in a reapportionment. Because
2 otherwise you would have been getting some revenues
3 from the transmission service, even if you didn't have
4 to build any facilities, for example.

5 **COMMISSIONER DEASON:** But if that
6 transaction didn't take place you're not getting any
7 revenue.

8 **MR. LOCKE:** That's true too.

9 **COMMISSIONER DEASON:** So to the extent it
10 facilitates a transaction that otherwise would not
11 occur, there's no subsidy. Do you agree with that?

12 **MR. LOCKE:** To the extent the -- yes, I
13 think I do.

14 **COMMISSIONER DEASON:** Okay.

15 **MR. LOCKE:** We see the Peninsular Florida
16 RTS facilitating a Florida solution. There's been a
17 lot of discussion about a Florida solution. This is
18 clearly a Florida solution. It is not a federal
19 solution. And what I mean by that is that it does not
20 require filing at the Federal Energy Regulatory
21 Commission. It does not require changing in our
22 existing tariff. All of these things can be done
23 under the existing regime.

24 John has talked about the participatory
25 process with regard to planning; the nondiscriminatory

1 safeguards we have with regard to State Security
2 Coordinator. It essentially eliminates having to pay
3 two transmission charges within Florida. There's some
4 residual cost. We still are asking for people to pay
5 out-of-pocket expenses such as reactive, other
6 ancillary services and losses, and we think it
7 provides independent governance through the PSC
8 processes.

9 Jurisdictional implications. And we've
10 talked about this, the PSC remains jurisdictional for
11 bundled retail and maintains its authority under the
12 Grid Bill. FERC still has jurisdiction with regard to
13 wholesale transmission transactions, and all terms and
14 conditions under the FERC tariff.

15 Implications. With regard to the
16 discounting of short term, there's a potential that
17 there will be an increase in short term and
18 economy-type transactions because those cases in which
19 you'd have to pay more than one rate through Florida
20 Power and Light and through Corp now you'll
21 essentially be paying each party half of their
22 existing rate.

23 With regard to long term, also there's a
24 potential increase in long-term transactions by virtue
25 of only having to pay one system for transmission

1 service.

2 Funding mechanism. We had laid out in our
3 original report with regard to audits and oversight
4 personnel at the state coordinators -- State Security
5 Coordinator's control center. Those costs would be
6 assigned on a load ratio share of the coincident peak
7 demands among all load serving entities in Florida.

8 OASIS is a little different. The
9 organization that put together OASIS, cost is shared
10 equally among all participants and that is our
11 proposal.

12 What approvals are required? From the state
13 we have been asking, or asking for a rulemaking for
14 the development of an expedited dispute resolution
15 process for the PSC. With regard to federal, again
16 there's no federal legislation or FERC approvals
17 required -- FERC filings, excuse me.

18 Time estimates for implementation. We
19 believe that we can do the OASIS changes in
20 approximately six months. With regard to the
21 rulemaking, we think that also would require
22 approximately six months.

23 There was also a question as to where this
24 stood with regard to the FERC NOPR requirements.
25 Again, this is a Florida solution. It's not intended

1 to be an RTO. It's an approach to accomplish the same
2 objectives of a RTO without restructuring with a
3 costly bureaucracy. The NOPR is just a proposal, not
4 a rule. The final rule has not come out. In addition
5 to that, the FERC at this point does not have the
6 legal right to impose RTOs.

7 **COMMISSIONER DEASON:** Let me ask you a
8 question about that. Obviously it's not a rule yet.
9 If it does become a rule, and the FERC determines that
10 the RTS does not meet the requirements of its rule,
11 where does that put us?

12 **MR. LOCKE:** I think that puts you where you
13 are today. They've asked you to do this but they
14 don't have the legal right to impose that you do this
15 so the conversation continues. Unless and until --
16 this is my opinion. I'm not a lawyer now. But unless
17 and until they get legislative authority to impose
18 RTOs, if the state wanted to do a RTS, there would
19 obviously be a difference of opinion there until they
20 could get the legislative authority to do so.

21 **COMMISSIONER CLARK:** I guess it seems to me
22 there are two issues. Even if it were adopted as a
23 rule, it's not clear that they have the authority to
24 do it. And even if they had the authority to do it --
25 they haven't said if you don't do this what will

1 happen. We just don't know.

2 **MR. LOCKE:** One, Commissioner Curt Hebert
3 continues to talk about that and he points out that it
4 is a voluntary arrangement, because if they wanted
5 otherwise, and they have done this in previous orders
6 and previous rules, they would have had some penalties
7 for not doing so. And very clearly all of that is
8 left out of the Notice of Proposed Rulemaking.

9 **COMMISSIONER CLARK:** I have another
10 question. I'm not sure who would -- it's speculation.
11 But Order 888 is still on appeal. Does anyone have
12 any information as to when a decision might come out?

13 **MR. LOCKE:** I'd like to defer to Ed Twomey.

14 **COMMISSIONER CLARK:** I think you need to
15 come to the microphone.

16 **MR. TWOMEY:** I got everybody else on the
17 bench but him, I'm sorry.

18 **COMMISSIONER CLARK:** I would appreciate the
19 collective wisdom over there.

20 **MR. TWOMEY:** Three lawyers might get the
21 answer right.

22 My name is Ed Twomey. I'm representing
23 Florida Power and Light, as Bill said.

24 Oral argument is set in the DC circuit
25 November 3rd, I believe; early November. And

1 typically the DC circuit takes approximately a year or
2 a little more to come it with a decision. This
3 decision is unprecedented in the sense that it's
4 bigger than just about every case even the DC circuit
5 has had. It's bigger than the Order 636 gas cases.
6 And I believe the parties have asked for up to two
7 days of oral argument. I've never heard of such a
8 thing. But that's before the court right now. So it
9 might take a little longer. So let's say it's the end
10 of the Year 2000, it's probably going to be the
11 year -- sometime early 2002 would be my best guess.

12 **COMMISSIONER CLARK:** How long has Order 888
13 been out?

14 **MR. TWOMEY:** May of 1996, I believe.

15 **COMMISSIONER CLARK:** To me that's rationale
16 for finding a Florida solution.

17 I have another question. Mr. Woodbury put
18 up there a suggestion with respect to an increase in
19 costs for transmission and an estimate of how much
20 transmission costs could go up to still get a benefit
21 from expending that money in terms of how much it
22 would mean -- if it meant supposedly perhaps a 5%
23 reduction in generation cost, that as I recall 1%
24 increase in transmission costs, it would be a good
25 thing to do under those conditions. Do you agree with

1 that?

2 **MR. LOCKE:** I can't necessarily agree with
3 his numbers, but I will say this -- and when utilities
4 do plan, they take into account those trade-offs of
5 whether or not you spend transmission dollars or
6 whether or not you spend generation dollars. And all
7 of those are taken into account. That's one of the
8 values of planning both generation and transmission
9 together. You could have some cases in which that is
10 the case, but I really can't speak to his numbers.

11 But there is value in building transmission.
12 There's value in a system that encourages people to
13 own assets and build. And if I might add, since you
14 brought this up, one of the fatal flaws of even Bill
15 Hogan, Harvard and what others are talking about in
16 the ISO today is no transmission is built because
17 there's no encouragement under that system to build
18 transmission. And if you're going to reap these
19 additional values, say, for example, hypothetically
20 he's correct, there has to be something in some system
21 in which people continue to build. And I think we
22 have one in Florida that works and people do continue
23 to build. They do not under ISOs. At least not to
24 this point.

25 **COMMISSIONER CLARK:** Are you saying that

1 since ISOs have been created, there's been no new
2 building of transmission assets?

3 **MR. LOCKE:** Very little. Because there's
4 always fights about who pays for it still, and there's
5 a great deal of conversation about congestion rates
6 and who gets them, and who gets the monies from them.
7 So it hasn't solved those problems. And as a result,
8 they are redividing the same pie, in my opinion. I
9 don't see us doing that in Florida.

10 **COMMISSIONER CLARK:** In some sense
11 transmission does compete with generation.

12 **MR. LOCKE:** Yes, it does, and I don't see
13 that to be a bad thing. I listened to this
14 conversation today.

15 One of the things that's already being
16 discussed in the press -- say, for example, you have a
17 generator and it's a must-run unit-run unit. And it
18 may not be the most efficient unit. If you have an
19 efficient transmission system and people have
20 incentives and correct ROEs and other things to build
21 transmission, you might very well build transmission
22 to get the cheaper generation to eliminate that
23 must-run unit. I don't see a problem with that. The
24 discussion was if we have this kind of an
25 organization, they may very well build transmission to

1 compete with generation. I don't see a thing wrong
2 with that. I think it makes sense. I think the
3 customer benefits and everybody has to compete on a
4 legitimate basis.

5 **COMMISSIONER CLARK:** Then you think
6 transmission ownership should remain with whoever
7 chooses to own transmission assets, and that the
8 scheduling should just be a centralized function?

9 **MR. LOCKE:** I don't think the scheduling
10 either. I think what makes sense to me -- and this is
11 my personal opinion -- is to the extent you own an
12 asset, to allow someone else to have total control of
13 that asset, it discourages you from ever investing in
14 it. That's one of the -- again, that's the fatal flaw
15 of some of these proposals and ISOs. No one wants to
16 invest in something they have no say into. Wall
17 Street tells you -- has told everybody this. There's
18 been a lot of conversations about it. But in the real
19 word that seems to make a lot of sense to me too; that
20 you just don't want to own something that you have
21 absolutely no say about.

22 **COMMISSIONER DEASON:** Even though your
23 revenue requirements are, in effect, guaranteed to the
24 extent they can be guaranteed? Just the fact that you
25 don't have operational control is an impediment to you

1 making the investment, even assuming that you're going
2 to earn -- I know it's a lot of assumption -- but
3 assuming you're going to earn a reasonable rate of
4 return on that investment.

5 **MR. LOCKE:** Some people would say that
6 brings you neutral. However, if that organization
7 that's making the investments, if you have the
8 guaranteed return, I would debate that you don't have
9 the efficiencies you need. The person who is making
10 the decisions is not the one borrowing the money. The
11 entity that's making the decisions really is not
12 looking out for the stockholders who are investing in
13 that company. And in the long run -- again, this is
14 my own personal opinion -- those that invest the money
15 and have control will invest the money because they
16 are making the money.

17 **COMMISSIONER DEASON:** To an extent, doesn't
18 that kind of come with the territory of having the
19 ability to have a monopoly asset, that someone is
20 going to basically determine your revenue
21 requirement -- and, fortunately, it's not come down to
22 this in this state -- but, in essence, order you to
23 build facilities, whether it be transmission or
24 generation or whatever because -- let's exclude
25 generation for a moment because apparently it's being

1 considered no longer a monopoly asset. But for
2 transmission, if you're going to be in the business of
3 transmission, and let's characterize that as a
4 monopoly asset, doesn't that kind of come with the
5 territory? That you're relinquishing some of your
6 control because you're allowed the ability to invest
7 in that monopoly asset?

8 **MR. LOCKE:** It depends on the degree, I
9 think. To the extent that you're under a regulatory
10 regime that we are today, and we have no quarrel with
11 that, in which people look at our ROE and whether or
12 not we have done things effectively, I think that's
13 fine. That works. To the extent that you have -- as
14 someone was talking about in California -- has become
15 somebody that doesn't answer to anybody. It doesn't
16 answer to the customers. It doesn't answer to the
17 public. It doesn't answer to Wall Street. I think
18 that's too far the other way.

19 What we have is a system to work -- and
20 since you got me into this, I also believe that if you
21 think about these proposals today, all of these
22 proposals are talking about how do I achieve the same
23 things I got from vertical integration? How to I find
24 ways, now that I've thrown it all on the floor, to put
25 it back together to get the same efficiencies,

1 effectiveness and benefits of vertical integration.
2 If you don't have a system that's broken, I don't know
3 why you break it, throw it on the floor and then try
4 them try to put it back together.

5 **COMMISSIONER DEASON:** You mentioned earlier
6 that competition between transmission and generation
7 is a good thing, and that that is already accounted
8 for in the planning process which the utilities who
9 have both generation and transmission, they weigh
10 those alternatives.

11 **MR. LOCKE:** Correct.

12 **COMMISSIONER DEASON:** And they make a
13 decision as to what is the least-cost alternative;
14 whether it's to build new generation in a particular
15 location or whether it's to build transmission and,
16 perhaps, eliminate some constraints and get some lower
17 cost generation available. I mean, those are things
18 that are considered in that process.

19 **MR. LOCKE:** Correct.

20 **COMMISSIONER DEASON:** But what I'm hearing
21 is that there is the opportunity, or the perception of
22 an opportunity that an entity that owns both the
23 generation and the transmission, that there may be
24 a -- I won't say it happens, but at least there's an
25 inclination to maybe not look at just what is the

1 best -- or least cost or best alternative, but what's
2 best to the bottom line of that entity in that it may
3 not be the best thing for the state of Florida for a
4 particular alternative to be chosen, but it may be the
5 best alternative for that company. What is your
6 response to that?

7 **MR. LOCKE:** That's a difficult accusation to
8 make. I can only respond by saying this: We have a
9 Code of Conduct, standards of conduct we have to
10 comply to. It's very important to all of us --

11 **COMMISSIONER CLARK:** Is that required by the
12 Order 888?

13 **MR. LOCKE:** That is correct. And to the
14 extent -- I don't think any prudent business person,
15 to the extent they would do that in which people --
16 some of these things that we have been accused of --
17 it would make no business sense at all to actually do
18 that. If the result is that someone documents that
19 you've done that, that would be a terrible business
20 decision. Because then you're talking about well,
21 this is why we really need these things because the
22 Code of Conduct does not work. It does work. If
23 anything, we laugh about this, but the folks who deal
24 with Marty in our marketing group hate us because we
25 treat them much more strongly than we treat anybody

1 else to make sure nobody can say, "Ah ha. I've got
2 ten facts here to show that you've actually altered
3 your affairs so the degeneration is an advantage."
4 Again, regardless of a question of whether or not you
5 should do it or not do it, a Code of Conduct, it's
6 just not good business sense to do it. Because
7 those -- the FERC has said there's a standard of
8 conduct. You have to adhere to it. It's just an
9 extremely high liability to a corporation to do
10 something like that.

11 **COMMISSIONER CLARK:** Along those lines, is
12 it part of your proposal with respect to the planning
13 process, is when you have an open planning process and
14 one that we would be involved in, then it -- you offer
15 that as another insurance that you are not engaging in
16 planning building assets, transmission assets, to
17 benefit your generating company as opposed to others
18 in the market?

19 **MR. LOCKE:** That's correct.

20 **COMMISSIONER CLARK:** Okay.

21 **MR. LOCKE:** I had a summary but I think you
22 made me go through it already.

23 Some folks have referred to our proposal as
24 the status quo. We don't see it that way at all. We
25 see these as significant improvements and a way to

1 give independence to the planning and operation
2 process. And the discounting regime that we've come
3 up with, while it may be different than others have
4 proposed, will get you there at 98% without having to
5 restructure the electric system, and allows those that
6 have merchant plants that are in one area to go
7 through two systems without having to pay but
8 essentially one rate. So we think we've addressed the
9 issues that people have brought up.

10 I'd like to close by saying this: We've
11 said from Day One, and we really mean it, if they are
12 legitimate issues, we will address them one by one,
13 with two exceptions. And that is we're not interested
14 in moving forward on an RTO, and we really take a
15 close look at how much our customers and retail
16 customers are subsidizing things. A matter of
17 fairness. But we are firmly committed to solve each
18 one of these problems one by one.

19 **MR. JENKINS:** Are there any more questions?

20 I'd like to ask one or two. On the
21 questions of the doubling or the pancaking of rates
22 where you charge incremental cost, when you get to
23 line losses, is that incremental or embedded? Are the
24 embedded line losses called an incremental cost?

25 **MR. LOCKE:** Joe, it would depend on what's

1 in your tariff. Say, for example, Florida Power and
2 Light's nonfirm tariff have incremental losses. So if
3 you're under an incremental schedule -- I mean a
4 nonfirm schedule -- excuse me -- that's incremental
5 losses. If you're on a long-term schedule, for
6 example, that's average losses. But the whole idea is
7 to make your customers whole for that.

8 **MR. JENKINS:** Okay. And on the case of a
9 long-term pancaked transaction, the result then would
10 be two fully embedded loss components. Is that
11 correct?

12 **MR. LOCKE:** Two average loss components.

13 **MR. JENKINS:** Two average or embedded.
14 Okay.

15 Commissioners, that's all I have. I don't
16 know what steps we should take next. If you have any
17 thoughts -- or I could suggest some things.

18 **COMMISSIONER CLARK:** I'd be willing to hear
19 Staff's suggestions.

20 **MR. JENKINS:** Well, my thoughts are at least
21 we can do some of the initial steps toward PSC
22 involvement in this process. Namely, I would propose
23 that we, Staff, attend all meetings between Florida
24 Power or Florida Power and Light with Seminole, with
25 FMPA or with any marketers, any face-to-face meetings,

1 and that we be given a few days notice of the meeting
2 taking place.

3 I'd also like to have from Florida Power --

4 **COMMISSIONER DEASON:** Let me interrupt you
5 just a second here. Are you saying that that would be
6 a requirement that you are there or that you're
7 available if you're invited?

8 **MR. JENKINS:** We're invited in time for us
9 to attend. So it's a requirement, I guess, for them
10 to invite us or notify us.

11 On the question of requirement, I could
12 leave it however you would like to proceed; a letter
13 from the Chairman or a formal order. Certainly I
14 think it's within our jurisdiction to order FPL or FPC
15 to notify us of that, of any such meetings.

16 **COMMISSIONER DEASON:** The only reason I
17 asked the question -- and I don't know what's in the
18 minds of the participants, and I certainly don't
19 object to you being there -- but they, in their
20 process, they may reach a point where they don't want
21 you there and they feel like they can have more
22 conducive discussions if you're not there. And I'd
23 hate for there to be some requirement that you're
24 always there and that end up being some impediment.

25 **MR. JENKINS:** Well, we would be just a fly

1 on the wall. We would not say anything, if you can
2 believe that.

3 Let me get back to where all of this might
4 be heading. Let me give you a complete package.

5 I'd also suggest that we become involved by
6 getting a copy of all correspondence from FPL, or FPC
7 with Seminole, FMPA or a merchant plant-type marketer.
8 What I want to do is sort of an evolutionary type
9 thing to wherever we may be going on RTOs. I think
10 this is a good first step.

11 Another requirement would be, I don't know
12 if I could have the -- I don't believe I have the
13 resources to man the Security Coordination Center in
14 Miami 24 hours a day. At best I could tell, the
15 places where the security coordinator can -- not
16 interfere but cause impacts on the commercial
17 operations I think is just TLR and redispatch, which I
18 do not believe is occurring at the moment but is
19 expected to occur soon.

20 I don't know if ancillary services can have
21 an effect on commercial operations because it seems to
22 be -- by the security coordinator because it seems to
23 be set in stone. I'd probably have to find that out
24 once I start sending people down to Miami, at least to
25 look over TLR-type events.

1 What I would do is -- and then on the issues
2 of what I'm not addressing now, but I'd like to evolve
3 toward addressing, is the one of the transmission
4 pricing. And there's two types of transmission
5 pricing.

6 One is the non-network, point-to-point
7 pricing, and then there's the network pricing for
8 existing facilities. Let's see. Where is John
9 Simpson? Somebody correct me if I say this wrong. I
10 believe what you have not addressed in your proposal
11 is network pricing for FMPA or Seminole for their
12 existing resource points. Those stay the same; is
13 that correct?

14 **MR. McMILLAN:** That's correct.

15 **MR. JENKINS:** And I would not attempt to try
16 to address that now. Also the question of governance,
17 obviously, I can't address. There are so many pros
18 and cons of the types and governance.

19 What I would suggest to do in this
20 evolutionary process is that every -- say, oh, say
21 three months, quarterly. What I would do is I'd come
22 back and report to this group, have another workshop.
23 And what I've learned from the meetings I attend, if
24 somebody tells me not to say anything in a public
25 forum, I will certainly abide by that. And I'd like

1 to have a report, an update, if you will, from the
2 negotiating parties about how they have worked on and
3 what steps they have taken towards solving the
4 governance issue and the pricing issues.

5 I guess in a nutshell, I'm trying to get
6 the -- educate myself, my Staff and bring that
7 education to you at workshops on the questions of
8 delivery points for Seminole and FMPA, and
9 transmission access by the nonutility generators.

10 **COMMISSIONER CLARK:** I guess something that
11 I was envisioning is that based on what we've -- where
12 we are now, that Staff would bring a recommendation to
13 the Commission that sort of summarizes what's been
14 proposed and whether or not you would recommend us
15 moving in that direction.

16 **MR. JENKINS:** I can certainly to that.

17 **COMMISSIONER CLARK:** But you would cover in
18 that some next steps. And you mentioned some next
19 steps.

20 As I was listening to some of the
21 presentations it seemed to me that -- I think we
22 should maybe consider a date certain for asking the
23 FRCC to agree on a methodology for the ATC, TTC, TMR,
24 RMT or whatever it is, and CBM; that we would require
25 some closure on that issue. And then Staff would be

1 involved in the process to review what data goes into
2 those calculations and then the calculations. In
3 other words, that we would be part of your planning
4 process that you do and part of what you -- the way
5 you come to a conclusion with respect to available
6 transmission capacity and what will actually be posted
7 on the OASIS. And along the OASIS line, I think we
8 should also require that there be an implementation of
9 a single system at some point.

10 **MR. JENKINS:** Yes.

11 **COMMISSIONER CLARK:** With regard to the
12 governance, I'm still having difficulty understanding
13 to what extent FRCC and any proposed legislation will
14 address that issue.

15 **MR. JENKINS:** Right. One advantage of not
16 jumping into that thicket now is I'm waiting to see
17 what happens at the NAERO legislation, and then, you
18 know, react accordingly instead of trying to change
19 the governance twice.

20 **COMMISSIONER CLARK:** But having said that, I
21 don't think anyone should conclude that this is where
22 we would take the next steps as an end game.

23 **MR. JENKINS:** Not at all. This would be an
24 evolutionary process and, again, I would propose
25 another workshop in three months, that would be early

1 January, and at that workshop I would come to you and
2 tell you what -- what the meetings were about, who
3 wanted what, how they were handled, how responsive I
4 thought the utility might have been. And then we'd
5 get a report on how the negotiations are proceeding
6 among the different entities about governance and the
7 two types of transmission pricing.

8 **COMMISSIONER DEASON:** Let me say this: I'm
9 not sure what the timing should be. Right now we're
10 in a workshop mode. This is not a docketed matter.
11 We've participated. He don't have any evidence on the
12 record. We have no sworn testimony. And that's not
13 being critical of this process. I think this is a
14 very valuable process and this has been a very
15 fruitful endeavor. It's been beneficial to me.

16 But at some point, if this Commission is
17 going to take action, whatever that action is, whether
18 it's -- you know, some people would say it's too much
19 and some people might say it's too little -- to reach
20 that point we've got to get out of the workshop mode
21 and get into the mode of having a record upon which we
22 can require action. We can either do that through a
23 PAA Order and if it's protested then go to the hearing
24 route, or just set the matter for hearing and issue a
25 final order when we get ready to do that. And I'm not

1 saying that we're ready to do that.

2 But what I hear you saying, Joe, is that you
3 envision continued workshops with continued monitoring
4 by Staff, and in fact, a requirement that Staff be
5 notified and in attendance and all of these things,
6 and we basically have a workshop every three months.
7 I'm not so sure -- I mean, I'm not necessarily opposed
8 to that, but that doesn't seem to kind of bring us to
9 the point to where we reach a conclusion whether its
10 status quo was fine or whatever proposal we want to
11 try to adopt or try to modify or craft some type of
12 solution. At some point we're going to have to get
13 out of the workshop mode and get into the
14 decision-making mode.

15 **COMMISSIONER CLARK:** I thought we would do
16 what -- the recommendation might be a PAA and we would
17 sort of determine what issues we might go to hearing
18 on. But it's not necessarily with the goal of taking
19 any action. Part of it is at least aimed at
20 developing a response to what FERC has asked us.

21 **COMMISSIONER JACOBS:** I have a concern that
22 we reach those conclusions in a environment and in a
23 manner that's deliberative. What I've heard today are
24 concerns that we may be -- we may have time lines and
25 agendas forced upon us to reach some kind of

1 conclusion. How likely is that?

2 **MR. JENKINS:** I can only guess like everyone
3 else, I see possibly a change in the ministration.
4 The federal legislation, I, myself, would crystal-ball
5 it as two years, maybe three, and then some FERC
6 rulemaking. I think we have time. That's my guess.
7 But I think we'll lose time if we don't start, at
8 least however humbly.

9 **COMMISSIONER CLARK:** And the concern about
10 time isn't just necessarily with respect to
11 governmentally imposed times. It may be time -- if
12 you believe that we should have a merchant plant in
13 the state to the extent you don't have in place a
14 structure, there's confidence that it is an open
15 access, you might not have that.

16 **MR. JENKINS:** Well, that's another reason
17 for not rushing right now. We have one merchant plant
18 on appeal, although in the scheme of things it's a
19 minor one because of what we heard yesterday, 3100
20 megawatts; looks like is going to be built outside the
21 Plant Site Act.

22 **CHAIRMAN GARCIA:** It strikes me that the
23 best way to go with this would perhaps be that you
24 make a recommendation to us.

25 **MR. JENKINS:** Okay.

1 **CHAIRMAN GARCIA:** And then we go from there.
2 Give us your professional opinion of what we should be
3 doing, what you think we should move forward on, and
4 then we'll decide what issues there we want to take to
5 workshop. What we may want to issue an order on, or a
6 PAA on to -- that will bring us into some more
7 formalized hearing basis. But at least that way -- I
8 think talking is important and we should try to keep
9 certain things on a workshop mode just to develop the
10 thinking. But there are certain things, at least, I
11 have felt from discussing it with the parties here
12 that, you know, there's nothing left to discuss. I
13 mean, we're not going to reach an agreement on. So if
14 there is a position that we can take that facilitates
15 them to speak a little bit more to each other, maybe
16 we can.

17 **MR. JENKINS:** Well, what I'll do is I'll
18 bring you a PAA-type recommendation sometime in the
19 month of October and we'll go from there.

20 **CHAIRMAN GARCIA:** Hang on. Your counsel is
21 getting worried and that always worries me.

22 **MR. ELIAS:** I have a couple of thoughts.
23 One is, you know, I'm not sure that the necessary
24 outgrowth of the discussion here today is something
25 that takes the form of a docket, and it may be that

1 Internal Affairs is a more appropriate discussion.

2 The second, as far as the timing, if we're
3 going to bring something to you in October, we
4 basically have about nine days to file a
5 recommendation on the subject.

6 **COMMISSIONER JACOBS:** What is the nature of
7 our obligation to respond to FERC? Is it some formal
8 Commission action? If that's the case, then we've got
9 to do it --

10 **COMMISSIONER CLARK:** No, it doesn't require
11 any formal Commission action, but this is sort of the
12 quandary we always find ourself in, is being asked to
13 comment on these broad policy considerations without
14 having looked at it and gathered empirical facts upon
15 which to make a policy recommendation. That happens a
16 lot of times in FCC dockets, and Commissioner Deason
17 has pointed that out a number of times. How can we
18 make these suggestions as to policy when we haven't
19 looked at the facts. And I think this is an attempt
20 to do that.

21 I see it sort of there are two things that
22 might happen. There might be things that we would
23 order companies within our jurisdiction to do under
24 the Grid Bill and there might be things that we would
25 tell our Staff to do to sort of be part of a single

1 strategy. What we tell our Staff to do is we don't
2 need to put in orders, but, for instance, with respect
3 to the ATC, and I think it's imperative that we get
4 some resolution about that methodology, so at least
5 that is taken off the table as an area where the
6 system can be gamed. And then I think having Staff on
7 a before-the-fact basis reviewing the inputs that are
8 into it, that will take that off the table. But we
9 may come to the conclusion that that type of
10 oversight, even coupled with the Code of Conduct, is
11 not enough to stimulate a robust wholesale market. We
12 may think more needs to be --

13 **MR. JENKINS:** That's correct. When
14 something more needs to be done, particularly in the
15 pricing and governance area, we will need a very long
16 formal document.

17 **COMMISSIONER JACOBS:** I would love to see a
18 statement to that effect. What do we need to do to
19 spur a robust wholesale market? That would be a
20 wonderful product of this.

21 **CHAIRMAN GARCIA:** Joe, he's lobbying it to
22 you. You might as well knock it out of the park.

23 I think that -- if you could come to us with
24 where you think we should go from now.

25 **MR. JENKINS:** Well, I'm not ready to learn

1 how to swim by jumping in the middle of the Atlantic
2 Ocean.

3 **CHAIRMAN GARCIA:** Right. That's fine. And
4 that's exactly what --

5 **MR. JENKINS:** I'd like to take a small baby
6 step, clear the table best we can of these -- not so
7 minor issues but the serious issues of delivery
8 points, and access and how rapidly the transmission
9 providers respond to request for transmission access.
10 But the big thing, the big items on the table are
11 going to be your pancaking, your pricing, and, of
12 course, your governance. I've got questions of
13 jurisdiction in that manner.

14 **CHAIRMAN GARCIA:** Let me ask you this: Can
15 we order -- what FPL proposed today, can we go ahead
16 and order that and continue discussing the other
17 things? I mean, would the FPL-FPC proposal --

18 **MR. JENKINS:** I'm not sure you can order, in
19 total package, what FPL and FPC have proposed today,
20 because there are requirements in there on Seminole
21 and FMPA, and I presume the merchant marketers. What
22 I have done is taken pieces of what they have proposed
23 and extracted it out to where I believe we can do it
24 without FERC authority. The remainder of it would
25 require at least agreement without, albeit, FERC

1 STATE OF FLORIDA)
2 COUNTY OF LEON)

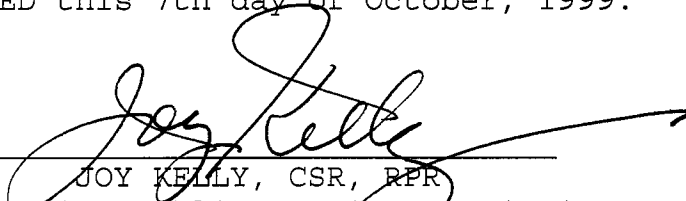
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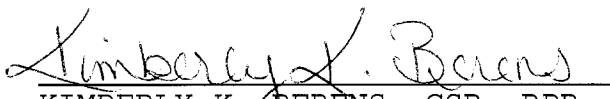
3 I, JOY KELLY, CSR, RPR, Chief, Bureau of
4 Reporting, Official Commission Reporter, and KIMBERLY
5 K. BERENS, CSR, RPR,

6 DO HEREBY CERTIFY that the Workshop was
7 heard by the Florida Public Service Commission at the
8 time and place herein stated; it is further

9 CERTIFIED that we stenographically reported
10 the said proceedings; that the same has been
11 transcribed by us; and that this transcript,
12 consisting of 207 pages, constitutes a true
13 transcription of our notes of said proceedings.

14 DATED this 7th day of October, 1999.

15
16 
17 _____
18 JOY KELLY, CSR, RPR
19 Florida Public Service Commission
20 Chief, Bureau of Reporting
21 (850) 413-6732

22
23 
24 _____
25 KIMBERLY K. BERENS, CSR, RPR
Official Commission Reporter

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