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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IN ATTENDANCE:

ROBERT ELIAS, FPSC Division of Legal Services.

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

GREG RAMON, Tampa Electric Company

TIM WOODBURY, Seminole Electric Co-op

JOHN SIMPSON, Florida Power Corporation

BILL LOCKE, Florida Power & Light

TOM DELANEY, Enron

JOE McGLOTHLIN, Reliant Energy Power Generation

DAVE McMILLAN, Reliant Energy Power Generation

TRACY DENISE, Jacksonville Electric Authority

ED REAGAN, Gainesville Regional Utilities

TOM WASHBURN, FRCC rep

FRED BRYANT, FMPA

SUSAN KELLY

CYNTHIA BOGORAD

ED TWOMEY

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

create our own separate organization to deal with those solutions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

needed for effective convergence between reliability and commercial interests.

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

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

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

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

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

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

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

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

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

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

agreement.

MR. RAMON: The funding you want to hear?

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

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

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

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

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

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

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

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

planning and siting and operations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

-- if not, do you want to --

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

MR. RAMON: Redispatch.

MR. JENKINS: I mentioned that.

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

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

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

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

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

line relief and then a redispatch.

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

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

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

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

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

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

COMMISSIONER CLARK: Right.

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

Any other questions?

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

COMMISSIONER CLARK: Could I ask just one question?

MR. JENKINS: Go ahead.

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

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

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

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

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

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

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

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

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

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

COMMISSIONER CLARK: By the end of this year?

MR. WASHBURN: For Florida, yes.

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

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

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

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

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

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

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

COMMISSIONER CLARK: What are the margins?

MR. WASHBURN: Beg your pardon?

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

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

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

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

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

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

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

COMMISSIONER CLARK: Okay.

(Inaudible comment from the audience.)

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

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

The CBM side is normally recalled for a CBM

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

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

MR. WASHBURN: TRM.

COMMISSIONER CLARK: -- TRM on a nonfirm basis.

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

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

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

COMMISSIONER CLARK: Okay. Thank you.

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

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

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

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

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

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

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

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

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

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

these items that you speak of into account?

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

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

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

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

MR. JENKINS: Well, it sounds like as long

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

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

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

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

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

MR. JENKINS: Even at the central --

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

MR. JENKINS: Okay. Okay, thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

What are these access rights in terms of

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

COMMISSIONER JACOBS: Yes.

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

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

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

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

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

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

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

transact with people.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the state are your neighbors to the north.

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

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

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

Ancillary services. Who needs them? Where?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

You need a public process towards a FERC

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

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

Instead of after-the-fact complaints, a

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

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

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

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

I think the next two sheets -- because I

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMISSIONER CLARK: Yeah.

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

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

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

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

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

MR. JENKINS: Any more questions?

(No response.)

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

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

MR. JENKINS: Sounds good.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

There are other disadvantages. One is --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

maximize the return on any future investment.

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

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

MR. DENISE: No.

COMMISSIONER CLARK: Why not?

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

extent, and thus impair or impede the planning process.

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

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

MR. DENISE: I don't --

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

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

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

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

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

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

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

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

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

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

Once these constituencies are in place, and

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

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

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

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

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

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

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

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

I would submit to you that a state-owned

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. DENISE: Eminent domain.

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

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

Electric Authority; parameters of eminent domain.

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

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

COMMISSIONER CLARK: I guess --

MR. DENISE: Again, like I said --

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

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

COMMISSIONER DEASON: That would be at fair market value?

MR. DENISE: That would be a bone of

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

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

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

MR. DENISE: Yes, that would be reasonable.

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

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

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

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

The ratepayers of the state are going to pay

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

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

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

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

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

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

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

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

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

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

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

COMMISSIONER JACOBS: Thank you.

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

come before us or this --

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

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

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

CHAIRMAN GARCIA: The other way around.

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

CHAIRMAN GARCIA: Okay.

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

Gainesville Regional Utilities on the financial aspects.

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

MR. JENKINS: You need to use it.

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

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

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

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

put on the table as a possibility.

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

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

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

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

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

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

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

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

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

However, their investors might say, "Well,

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

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

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

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

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

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

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

That concludes our presentation. Are there any questions?

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

MR. REAGAN: That would be the cost for the

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

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

MR. REAGAN: Right. Yes.

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

MR. REAGAN: Excuse me?

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

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

COMMISSIONER DEASON: Where did you get the 35%?

MR. REAGAN: It's a swag.

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

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

COMMISSIONER DEASON: Yeah. Okay.

MR. REAGAN: But I was --

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

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

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

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

COMMISSIONER DEASON: What would be your discount rate?

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

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

MR. REAGAN: No.

COMMISSIONER DEASON: It would not. Okay.

MR. REAGAN: No.

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

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

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

MR. DENISE: We are.

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

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

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

this room know, how would they want it done.

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

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

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

CHAIRMAN GARCIA: Right. Thank you.

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

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

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

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

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

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

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

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

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

Removing it from the marketplace and putting

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

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

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

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

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

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

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

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

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

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

COMMISSIONER DEASON: No. No.

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

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

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

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

No further questions. That's our presentation.

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

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

MR. DENISE: Formidable.

CHAIRMAN GARCIA: Yes, to say the very least.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

September.

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

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

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

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

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

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

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

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

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

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

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

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

the drawer.

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

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

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

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

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

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

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

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

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

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

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

included.

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

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

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

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

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

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

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

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

of vulcanized system that we have.

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

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

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

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

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

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

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

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

developed?

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

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

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

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

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

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

MR. RAMON: (Inaudible comments.)

CHAIRMAN GARCIA: Hang on. Identify yourself and then scream.

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

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

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

MR. WOODBURY: Yes.

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

MR. WOODBURY: Cindy, go ahead.

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

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

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

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

MR. WOODBURY: And one of the problems that

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

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

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

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

COMMISSIONER CLARK: I understand that,

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

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

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

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

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

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

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

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

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

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

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

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

administrator?

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

COMMISSIONER CLARK: Could the FRCC become the ITA?

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

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

COMMISSIONER CLARK: Okay.

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

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

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

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

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

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

structure.

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

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

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

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

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

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

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

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

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

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

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

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

who does that?

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

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

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

MR. WOODBURY: Right.

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

MR. WOODBURY: Right.

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

to take back jurisdiction.

MR. WOODBURY: That's correct.

COMMISSIONER CLARK: Okay. So it would --

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

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

MR. WOODBURY: Yes.

COMMISSIONER CLARK: Okay.

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

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

Develop uniform interconnection standards,

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

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

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

MR. WOODBURY: The ITA.

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

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

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

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

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

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

to require that maintenance schedules or commitment schedules or even redispatch be done to alleviate constraints.

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

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

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

MR. WOODBURY: The issues that were --

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

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

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

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

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

COMMISSIONER JACOBS: Thank you.

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

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

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

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

ITA?

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

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

MR. WOODBURY: That's right.

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

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

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

MR. WOODBURY: Oh, yes.

COMMISSIONER CLARK: Okay.

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

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

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

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

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

COMMISSIONER CLARK: Okay.

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

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

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

MR. WOODBURY: I'm sorry?

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

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

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

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

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

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

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

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

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

because it does benefit all consumers in the state.

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

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

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

California.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I've tampered that somewhat and said that in

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

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

Next bullet.

COMMISSIONER CLARK: Tim, how would we fund that?

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

COMMISSIONER CLARK: What did California do?

MR. WOODBURY: Excuse me?

COMMISSIONER CLARK: What did California do?

MR. WOODBURY: Do we have any California experts?

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

COMMISSIONER CLARK: That would be helpful.

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

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

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

will be built. That's an intuitive guess.

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

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

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

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

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

MR. WOODBURY: No, we do not.

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

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

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

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

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

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

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

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

facility.

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

MR. WOODBURY: Seminole's taxable.

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

COMMISSIONER CLARK: Are there any other co-ops?

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

COMMISSIONER CLARK: Okay.

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

MR. WOODBURY: Next slide please.

We think if the parties are committed to

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

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

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

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

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

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

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

MR. WOODBURY: Yes.

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

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

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

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

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

(Audience participation.)

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

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

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

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

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

COMMISSIONER CLARK: You need some indemnification.

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

COMMISSIONER CLARK: Thanks.

MR. WOODBURY: I would contend, though, that

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

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

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

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

CHAIRMAN GARCIA: Do you want to take a

break, Joe?

MR. JENKINS: Pardon?

CHAIRMAN GARCIA: We've been going for a while. Let's take a 15-minute break.

MR. JENKINS: Excuse me, John. We're going to take a 15-minute break; come back at 3:20.

(Brief recess.)

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MR. SIMPSON: We'll get started here.

Since we have the dubious honor, or whatever, of being last, we'll try to keep this thing going so that we can finish and get done in a timely manner.

I'm going to give the presentation about our proposal -- again, I apologize to those -- I should have introduced myself.

I'm John Simpson of Florida Power Corporation. And I'll give the presentation about our proposal. And then Bill Locke, from Florida Power and Light, is going to come up and give a presentation addressing the issues that were asked in the notice, or in the Commission agenda, advantages, disadvantages so we'll share this load a little bit here.

First off, why the Peninsular Florida regional transmission solution? And we call this our

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

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

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

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

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

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

Disputes. Any disputes that arise over the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Pricing. What we're proposing here to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

We think this goes a long way to mitigating the pricing -- the pancaking of transmission charges that has been complained about without burdening any more -- without burdening the existing native load customers.

With that, I'll turn it over to Bill.

MR. LOCKE: I'm Bill Locke. I'm the manager of Transmission Services at Florida Power and Light. And I have been asked to answer some of the other questions asked by the Commission in their agenda.

With regard to the advantages of what we see in the RTS, the PSC remains the jurisdictional body for all bundled retail rates and will retain this authority under the Grid Bill.

The different other proposals that you've seen today, for example the ITA, asks that the transmission component of retail rates be pulled out and would be put under FERC jurisdiction. The FERC has made it clear, and it is their legal opinion, that

they have the right to set terms, conditions, rates and everything associated once you unbundle a rate. That is also true -- we were talking about the not-for-profit TRANSCO today -- even though that state organization would be set up under existing statutes and existing rules at FERC, they would take the position that they govern the rates, ROE, terms and conditions, structure and what is done in the marketplace about that organization. That is different from what we're proposing.

Cost shifting among Florida's retail and native load customers would be mitigated on our proposal, when our proposal proposing to roll one rate together to create an average, for those that have worked hard and cut costs and lowered their cost, to ask them to raise that cost to a higher average is inequitable to their retail customers, we believe.

There is some costs that are going to be incurred in here, and I'll talk about when I get to the pricing mechanism that John was talking about. But it's not to the extent that when you're talking about averaging all rates.

We think the RTS addressed the concerns without new costly bureaucracy, and without restructuring the electric system in Florida. There's

been a lot of numbers thrown around; five to eight million; there was 500 million in California. There's a lot of numbers you can talk about. Say, for example, we throw out California, the ISO in the midwest is talking about 150 million. We know that the operating cost for the ISO in New England is $30 million a year.

The proposals that you've seen have talked about using the existing infrastructure. The question is to what extent that can be done and what additional stuff has to be done. So I question whether or not we need to take a different and more thorough look at those costs that were talked about. Ours does not result in those kind of costs.

The PSC will provide the oversight and dispute resolution for planning, construction responsibility, reliability and operation. John talked about that. And finally, that oversight ensures that all customers, not just a few, are fairly represented.

In trying to devise what we thought with a fair governance, some of the other proposals have -- for example, 15 to 20% of the customers in Florida really are the ones who make all of the decisions for the ITA, for example. What we saw as fair is those

entities that represented their customers, they could make decisions but to the extent someone thought they were harmed, they have the mechanisms to come to the PSC to get it resolved and someone who looks out for all the general body of customers in Florida rather than just a few.

The disadvantage that we see is this is a new approach. It's different than what's being talked about around the country. It's different than perhaps what's been talked about today, but we think it's an approach that people should think about and consider.

With regard to cost. Minimum cost to revise the OASIS. John has talked about a central location for that. In talking through what that would cost, we think it would be less than $100,000. Minimum cost to perform audits of State Security Coordinator -- what we're talking about is the PSC involved in doing that. Minimum cost for oversight personnel at the Security Coordinator's control center, one or two individuals. However, there may be some possible reductions in transmission service revenues for Florida Power and Light and Florida Power Corporation to the extent that a merchant plant, for example, sites its plant at Florida Power and Light, and all of the power is to go over to Corp. Florida Power & Light only gets

out-of-pocket revenues. To the extent we had a lot of those, then we may very well, to some extent, be subsidizing these particular transactions.

Benefits. There's been a lot of discussion today --

COMMISSIONER DEASON: Excuse me, let me interrupt. The example you just gave of a merchant plant, that would be using your facilities and you get incremental effects on your system.

MR. LOCKE: Right.

COMMISSIONER DEASON: That could be a subsidy. But is there any cost shifting?

MR. LOCKE: To the extent under today's regime, when someone asks for transmission service, they pay you transmission revenues. To the extent you don't get that, then someone has to cover those. And that's the reason I say that's a subsidy to some extent from your existing retail customers.

COMMISSIONER DEASON: But you only allow that transmission to occur if you have the capacity, which is a fixed cost, and if you're getting incremental effects from that transaction, how is there a subsidy?

MR. LOCKE: With regard to the incremental cost you're made whole. With regard to the embedded

cost, it results in a reapportionment. Because otherwise you would have been getting some revenues from the transmission service, even if you didn't have to build any facilities, for example.

COMMISSIONER DEASON: But if that transaction didn't take place you're not getting any revenue.

MR. LOCKE: That's true too.

COMMISSIONER DEASON: So to the extent it facilitates a transaction that otherwise would not occur, there's no subsidy. Do you agree with that?

MR. LOCKE: To the extent the -- yes, I think I do.

COMMISSIONER DEASON: Okay.

MR. LOCKE: We see the Peninsular Florida RTS facilitating a Florida solution. There's been a lot of discussion about a Florida solution. This is clearly a Florida solution. It is not a federal solution. And what I mean by that is that it does not require filing at the Federal Energy Regulatory Commission. It does not require changing in our existing tariff. All of these things can be done under the existing regime.

John has talked about the participatory process with regard to planning; the nondiscriminatory

safeguards we have with regard to State Security Coordinator. It essentially eliminates having to pay two transmission charges within Florida. There's some residual cost. We still are asking for people to pay out-of-pocket expenses such as reactive, other ancillary services and losses, and we think it provides independent governance through the PSC processes.

Jurisdictional implications. And we've talked about this, the PSC remains jurisdictional for bundled retail and maintains its authority under the Grid Bill. FERC still has jurisdiction with regard to wholesale transmission transactions, and all terms and conditions under the FERC tariff.

Implications. With regard to the discounting of short term, there's a potential that there will be an increase in short term and economy-type transactions because those cases in which you'd have to pay more than one rate through Florida Power and Light and through Corp now you'll essentially be paying each party half of their existing rate.

With regard to long term, also there's a potential increase in long-term transactions by virtue of only having to pay one system for transmission

service.

Funding mechanism. We had laid out in our original report with regard to audits and oversight personnel at the state coordinators -- State Security Coordinator's control center. Those costs would be assigned on a load ratio share of the coincident peak demands among all load serving entities in Florida.

OASIS is a little different. The organization that put together OASIS, cost is shared equally among all participants and that is our proposal.

What approvals are required? From the state we have been asking, or asking for a rulemaking for the development of an expedited dispute resolution process for the PSC. With regard to federal, again there's no federal legislation or FERC approvals required -- FERC filings, excuse me.

Time estimates for implementation. We believe that we can do the OASIS changes in approximately six months. With regard to the rulemaking, we think that also would require approximately six months.

There was also a question as to where this stood with regard to the FERC NOPR requirements. Again, this is a Florida solution. It's not intended

to be an RTO. It's an approach to accomplish the same objectives of a RTO without restructuring with a costly bureaucracy. The NOPR is just a proposal, not a rule. The final rule has not come out. In addition to that, the FERC at this point does not have the legal right to impose RTOs.

COMMISSIONER DEASON: Let me ask you a question about that. Obviously it's not a rule yet. If it does become a rule, and the FERC determines that the RTS does not meet the requirements of its rule, where does that put us?

MR. LOCKE: I think that puts you where you are today. They've asked you to do this but they don't have the legal right to impose that you do this so the conversation continues. Unless and until -- this is my opinion. I'm not a lawyer now. But unless and until they get legislative authority to impose RTOs, if the state wanted to do a RTS, there would obviously be a difference of opinion there until they could get the legislative authority to do so.

COMMISSIONER CLARK: I guess it seems to me there are two issues. Even if it were adopted as a rule, it's not clear that they have the authority to do it. And even if they had the authority to do it -- they haven't said if you don't do this what will

happen. We just don't know.

MR. LOCKE: One, Commissioner Curt Hebert continues to talk about that and he points out that it is a voluntary arrangement, because if they wanted otherwise, and they have done this in previous orders and previous rules, they would have had some penalties for not doing so. And very clearly all of that is left out of the Notice of Proposed Rulemaking.

COMMISSIONER CLARK: I have another question. I'm not sure who would -- it's speculation. But Order 888 is still on appeal. Does anyone have any information as to when a decision might come out?

MR. LOCKE: I'd like to defer to Ed Twomey.

COMMISSIONER CLARK: I think you need to come to the microphone.

MR. TWOMEY: I got everybody else on the bench but him, I'm sorry.

COMMISSIONER CLARK: I would appreciate the collective wisdom over there.

MR. TWOMEY: Three lawyers might get the answer right.

My name is Ed Twomey. I'm representing Florida Power and Light, as Bill said.

Oral argument is set in the DC circuit November 3rd, I believe; early November. And

typically the DC circuit takes approximately a year or a little more to come it with a decision. This decision is unprecedented in the sense that it's bigger than just about every case even the DC circuit has had. It's bigger than the Order 636 gas cases. And I believe the parties have asked for up to two days of oral argument. I've never heard of such a thing. But that's before the court right now. So it might take a little longer. So let's say it's the end of the Year 2000, it's probably going to be the year -- sometime early 2002 would be my best guess.

COMMISSIONER CLARK: How long has Order 888 been out?

MR. TWOMEY: May of 1996, I believe.

COMMISSIONER CLARK: To me that's rationale for finding a Florida solution.

I have another question. Mr. Woodbury put up there a suggestion with respect to an increase in costs for transmission and an estimate of how much transmission costs could go up to still get a benefit from expending that money in terms of how much it would mean -- if it meant supposedly perhaps a 5% reduction in generation cost, that as I recall 1% increase in transmission costs, it would be a good thing to do under those conditions. Do you agree with

that?

MR. LOCKE: I can't necessarily agree with his numbers, but I will say this -- and when utilities do plan, they take into account those trade-offs of whether or not you spend transmission dollars or whether or not you spend generation dollars. And all of those are taken into account. That's one of the values of planning both generation and transmission together. You could have some cases in which that is the case, but I really can't speak to his numbers.

But there is value in building transmission. There's value in a system that encourages people to own assets and build. And if I might add, since you brought this up, one of the fatal flaws of even Bill Hogan, Harvard and what others are talking about in the ISO today is no transmission is built because there's no encouragement under that system to build transmission. And if you're going to reap these additional values, say, for example, hypothetically he's correct, there has to be something in some system in which people continue to build. And I think we have one in Florida that works and people do continue to build. They do not under ISOs. At least not to this point.

COMMISSIONER CLARK: Are you saying that

since ISOs have been created, there's been no new building of transmission assets?

MR. LOCKE: Very little. Because there's always fights about who pays for it still, and there's a great deal of conversation about congestion rates and who gets them, and who gets the monies from them. So it hasn't solved those problems. And as a result, they are redividing the same pie, in my opinion. I don't see us doing that in Florida.

COMMISSIONER CLARK: In some sense transmission does compete with generation.

MR. LOCKE: Yes, it does, and I don't see that to be a bad thing. I listened to this conversation today.

One of the things that's already being discussed in the press -- say, for example, you have a generator and it's a must-run unit-run unit. And it may not be the most efficient unit. If you have an efficient transmission system and people have incentives and correct ROEs and other things to build transmission, you might very well build transmission to get the cheaper generation to eliminate that must-run unit. I don't see a problem with that. The discussion was if we have this kind of an organization, they may very well build transmission to

compete with generation. I don't see a thing wrong with that. I think it makes sense. I think the customer benefits and everybody has to compete on a legitimate basis.

COMMISSIONER CLARK: Then you think transmission ownership should remain with whoever chooses to own transmission assets, and that the scheduling should just be a centralized function?

MR. LOCKE: I don't think the scheduling either. I think what makes sense to me -- and this is my personal opinion -- is to the extent you own an asset, to allow someone else to have total control of that asset, it discourages you from ever investing in it. That's one of the -- again, that's the fatal flaw of some of these proposals and ISOs. No one wants to invest in something they have no say into. Wall Street tells you -- has told everybody this. There's been a lot of conversations about it. But in the real word that seems to make a lot of sense to me too; that you just don't want to own something that you have absolutely no say about.

COMMISSIONER DEASON: Even though your revenue requirements are, in effect, guaranteed to the extent they can be guaranteed? Just the fact that you don't have operational control is an impediment to you

making the investment, even assuming that you're going to earn -- I know it's a lot of assumption -- but assuming you're going to earn a reasonable rate of return on that investment.

MR. LOCKE: Some people would say that brings you neutral. However, if that organization that's making the investments, if you have the guaranteed return, I would debate that you don't have the efficiencies you need. The person who is making the decisions is not the one borrowing the money. The entity that's making the decisions really is not looking out for the stockholders who are investing in that company. And in the long run -- again, this is my own personal opinion -- those that invest the money and have control will invest the money because they are making the money.

COMMISSIONER DEASON: To an extent, doesn't that kind of come with the territory of having the ability to have a monopoly asset, that someone is going to basically determine your revenue requirement -- and, fortunately, it's not come down to this in this state -- but, in essence, order you to build facilities, whether it be transmission or generation or whatever because -- let's exclude generation for a moment because apparently it's being

considered no longer a monopoly asset. But for transmission, if you're going to be in the business of transmission, and let's characterize that as a monopoly asset, doesn't that kind of come with the territory? That you're relinquishing some of your control because you're allowed the ability to invest in that monopoly asset?

MR. LOCKE: It depends on the degree, I think. To the extent that you're under a regulatory regime that we are today, and we have no quarrel with that, in which people look at our ROE and whether or not we have done things effectively, I think that's fine. That works. To the extent that you have -- as someone was talking about in California -- has become somebody that doesn't answer to anybody. It doesn't answer to the customers. It doesn't answer to the public. It doesn't answer to Wall Street. I think that's too far the other way.

What we have is a system to work -- and since you got me into this, I also believe that if you think about these proposals today, all of these proposals are talking about how do I achieve the same things I got from vertical integration? How to I find ways, now that I've thrown it all on the floor, to put it back together to get the same efficiencies,

effectiveness and benefits of vertical integration. If you don't have a system that's broken, I don't know why you break it, throw it on the floor and then try them try to put it back together.

COMMISSIONER DEASON: You mentioned earlier that competition between transmission and generation is a good thing, and that that is already accounted for in the planning process which the utilities who have both generation and transmission, they weigh those alternatives.

MR. LOCKE: Correct.

COMMISSIONER DEASON: And they make a decision as to what is the least-cost alternative; whether it's to build new generation in a particular location or whether it's to build transmission and, perhaps, eliminate some constraints and get some lower cost generation available. I mean, those are things that are considered in that process.

MR. LOCKE: Correct.

COMMISSIONER DEASON: But what I'm hearing is that there is the opportunity, or the perception of an opportunity that an entity that owns both the generation and the transmission, that there may be a -- I won't say it happens, but at least there's an inclination to maybe not look at just what is the

best -- or least cost or best alternative, but what's best to the bottom line of that entity in that it may not be the best thing for the state of Florida for a particular alternative to be chosen, but it may be the best alternative for that company. What is your response to that?

MR. LOCKE: That's a difficult accusation to make. I can only respond by saying this: We have a Code of Conduct, standards of conduct we have to comply to. It's very important to all of us --

COMMISSIONER CLARK: Is that required by the Order 888?

MR. LOCKE: That is correct. And to the extent -- I don't think any prudent business person, to the extent they would do that in which people -- some of these things that we have been accused of -- it would make no business sense at all to actually do that. If the result is that someone documents that you've done that, that would be a terrible business decision. Because then you're talking about well, this is why we really need these things because the Code of Conduct does not work. It does work. If anything, we laugh about this, but the folks who deal with Marty in our marketing group hate us because we treat them much more strongly than we treat anybody

else to make sure nobody can say, "Ah ha. I've got ten facts here to show that you've actually altered your affairs so the degeneration is an advantage." Again, regardless of a question of whether or not you should do it or not do it, a Code of Conduct, it's just not good business sense to do it. Because those -- the FERC has said there's a standard of conduct. You have to adhere to it. It's just an extremely high liability to a corporation to do something like that.

COMMISSIONER CLARK: Along those lines, is it part of your proposal with respect to the planning process, is when you have an open planning process and one that we would be involved in, then it -- you offer that as another insurance that you are not engaging in planning building assets, transmission assets, to benefit your generating company as opposed to others in the market?

MR. LOCKE: That's correct.

COMMISSIONER CLARK: Okay.

MR. LOCKE: I had a summary but I think you made me go through it already.

Some folks have referred to our proposal as the status quo. We don't see it that way at all. We see these as significant improvements and a way to

give independence to the planning and operation process. And the discounting regime that we've come up with, while it may be different than others have proposed, will get you there at 98% without having to restructure the electric system, and allows those that have merchant plants that are in one area to go through two systems without having to pay but essentially one rate. So we think we've addressed the issues that people have brought up.

I'd like to close by saying this: We've said from Day One, and we really mean it, if they are legitimate issues, we will address them one by one, with two exceptions. And that is we're not interested in moving forward on an RTO, and we really take a close look at how much our customers and retail customers are subsidizing things. A matter of fairness. But we are firmly committed to solve each one of these problems one by one.

MR. JENKINS: Are there any more questions?

I'd like to ask one or two. On the questions of the doubling or the pancaking of rates where you charge incremental cost, when you get to line losses, is that incremental or embedded? Are the embedded line losses called an incremental cost?

MR. LOCKE: Joe, it would depend on what's

in your tariff. Say, for example, Florida Power and Light's nonfirm tariff have incremental losses. So if you're under an incremental schedule -- I mean a nonfirm schedule -- excuse me -- that's incremental losses. If you're on a long-term schedule, for example, that's average losses. But the whole idea is to make your customers whole for that.

MR. JENKINS: Okay. And on the case of a long-term pancaked transaction, the result then would be two fully embedded loss components. Is that correct?

MR. LOCKE: Two average loss components.

MR. JENKINS: Two average or embedded. Okay.

Commissioners, that's all I have. I don't know what steps we should take next. If you have any thoughts -- or I could suggest some things.

COMMISSIONER CLARK: I'd be willing to hear Staff's suggestions.

MR. JENKINS: Well, my thoughts are at least we can do some of the initial steps toward PSC involvement in this process. Namely, I would propose that we, Staff, attend all meetings between Florida Power or Florida Power and Light with Seminole, with FMPA or with any marketers, any face-to-face meetings,

and that we be given a few days notice of the meeting taking place.

I'd also like to have from Florida Power --

COMMISSIONER DEASON: Let me interrupt you just a second here. Are you saying that that would be a requirement that you are there or that you're available if you're invited?

MR. JENKINS: We're invited in time for us to attend. So it's a requirement, I guess, for them to invite us or notify us.

On the question of requirement, I could leave it however you would like to proceed; a letter from the Chairman or a formal order. Certainly I think it's within our jurisdiction to order FPL or FPC to notify us of that, of any such meetings.

COMMISSIONER DEASON: The only reason I asked the question -- and I don't know what's in the minds of the participants, and I certainly don't object to you being there -- but they, in their process, they may reach a point where they don't want you there and they feel like they can have more conducive discussions if you're not there. And I'd hate for there to be some requirement that you're always there and that end up being some impediment.

MR. JENKINS: Well, we would be just a fly

on the wall. We would not say anything, if you can believe that.

Let me get back to where all of this might be heading. Let me give you a complete package.

I'd also suggest that we become involved by getting a copy of all correspondence from FPL, or FPC with Seminole, FMPA or a merchant plant-type marketer. What I want to do is sort of an evolutionary type thing to wherever we may be going on RTOs. I think this is a good first step.

Another requirement would be, I don't know if I could have the -- I don't believe I have the resources to man the Security Coordination Center in Miami 24 hours a day. At best I could tell, the places where the security coordinator can -- not interfere but cause impacts on the commercial operations I think is just TLR and redispatch, which I do not believe is occurring at the moment but is expected to occur soon.

I don't know if ancillary services can have an effect on commercial operations because it seems to be -- by the security coordinator because it seems to be set in stone. I'd probably have to find that out once I start sending people down to Miami, at least to look over TLR-type events.

What I would do is -- and then on the issues of what I'm not addressing now, but I'd like to evolve toward addressing, is the one of the transmission pricing. And there's two types of transmission pricing.

One is the non-network, point-to-point pricing, and then there's the network pricing for existing facilities. Let's see. Where is John Simpson? Somebody correct me if I say this wrong. I believe what you have not addressed in your proposal is network pricing for FMPA or Seminole for their existing resource points. Those stay the same; is that correct?

MR. McMILLAN: That's correct.

MR. JENKINS: And I would not attempt to try to address that now. Also the question of governance, obviously, I can't address. There are so many pros and cons of the types and governance.

What I would suggest to do in this evolutionary process is that every -- say, oh, say three months, quarterly. What I would do is I'd come back and report to this group, have another workshop. And what I've learned from the meetings I attend, if somebody tells me not to say anything in a public forum, I will certainly abide by that. And I'd like

to have a report, an update, if you will, from the negotiating parties about how they have worked on and what steps they have taken towards solving the governance issue and the pricing issues.

I guess in a nutshell, I'm trying to get the -- educate myself, my Staff and bring that education to you at workshops on the questions of delivery points for Seminole and FMPA, and transmission access by the nonutility generators.

COMMISSIONER CLARK: I guess something that I was envisioning is that based on what we've -- where we are now, that Staff would bring a recommendation to the Commission that sort of summarizes what's been proposed and whether or not you would recommend us moving in that direction.

MR. JENKINS: I can certainly to that.

COMMISSIONER CLARK: But you would cover in that some next steps. And you mentioned some next steps.

As I was listening to some of the presentations it seemed to me that -- I think we should maybe consider a date certain for asking the FRCC to agree on a methodology for the ATC, TTC, TMR, RMT or whatever it is, and CBM; that we would require some closure on that issue. And then Staff would be

involved in the process to review what data goes into those calculations and then the calculations. In other words, that we would be part of your planning process that you do and part of what you -- the way you come to a conclusion with respect to available transmission capacity and what will actually be posted on the OASIS. And along the OASIS line, I think we should also require that there be an implementation of a single system at some point.

MR. JENKINS: Yes.

COMMISSIONER CLARK: With regard to the governance, I'm still having difficulty understanding to what extent FRCC and any proposed legislation will address that issue.

MR. JENKINS: Right. One advantage of not jumping into that thicket now is I'm waiting to see what happens at the NAERO legislation, and then, you know, react accordingly instead of trying to change the governance twice.

COMMISSIONER CLARK: But having said that, I don't think anyone should conclude that this is where we would take the next steps as an end game.

MR. JENKINS: Not at all. This would be an evolutionary process and, again, I would propose another workshop in three months, that would be early

January, and at that workshop I would come to you and tell you what -- what the meetings were about, who wanted what, how they were handled, how responsive I thought the utility might have been. And then we'd get a report on how the negotiations are proceeding among the different entities about governance and the two types of transmission pricing.

COMMISSIONER DEASON: Let me say this: I'm not sure what the timing should be. Right now we're in a workshop mode. This is not a docketed matter. We've participated. He don't have any evidence on the record. We have no sworn testimony. And that's not being critical of this process. I think this is a very valuable process and this has been a very fruitful endeavor. It's been beneficial to me.

But at some point, if this Commission is going to take action, whatever that action is, whether it's -- you know, some people would say it's too much and some people might say it's too little -- to reach that point we've got to get out of the workshop mode and get into the mode of having a record upon which we can require action. We can either do that through a PAA Order and if it's protested then go to the hearing route, or just set the matter for hearing and issue a final order when we get ready to do that. And I'm not

saying that we're ready to do that.

But what I hear you saying, Joe, is that you envision continued workshops with continued monitoring by Staff, and in fact, a requirement that Staff be notified and in attendance and all of these things, and we basically have a workshop every three months. I'm not so sure -- I mean, I'm not necessarily opposed to that, but that doesn't seem to kind of bring us to the point to where we reach a conclusion whether its status quo was fine or whatever proposal we want to try to adopt or try to modify or craft some type of solution. At some point we're going to have to get out of the workshop mode and get into the decision-making mode.

COMMISSIONER CLARK: I thought we would do what -- the recommendation might be a PAA and we would sort of determine what issues we might go to hearing on. But it's not necessarily with the goal of taking any action. Part of it is at least aimed at developing a response to what FERC has asked us.

COMMISSIONER JACOBS: I have a concern that we reach those conclusions in a environment and in a manner that's deliberative. What I've heard today are concerns that we may be -- we may have time lines and agendas forced upon us to reach some kind of

conclusion. How likely is that?

MR. JENKINS: I can only guess like everyone else, I see possibly a change in the ministration. The federal legislation, I, myself, would crystal-ball it as two years, maybe three, and then some FERC rulemaking. I think we have time. That's my guess. But I think we'll lose time if we don't start, at least however humbly.

COMMISSIONER CLARK: And the concern about time isn't just necessarily with respect to governmentally imposed times. It may be time -- if you believe that we should have a merchant plant in the state to the extent you don't have in place a structure, there's confidence that it is an open access, you might not have that.

MR. JENKINS: Well, that's another reason for not rushing right now. We have one merchant plant on appeal, although in the scheme of things it's a minor one because of what we heard yesterday, 3100 megawatts; looks like is going to be built outside the Plant Site Act.

CHAIRMAN GARCIA: It strikes me that the best way to go with this would perhaps be that you make a recommendation to us.

MR. JENKINS: Okay.

CHAIRMAN GARCIA: And then we go from there. Give us your professional opinion of what we should be doing, what you think we should move forward on, and then we'll decide what issues there we want to take to workshop. What we may want to issue an order on, or a PAA on to -- that will bring us into some more formalized hearing basis. But at least that way -- I think talking is important and we should try to keep certain things on a workshop mode just to develop the thinking. But there are certain things, at least, I have felt from discussing it with the parties here that, you know, there's nothing left to discuss. I mean, we're not going to reach an agreement on. So if there is a position that we can take that facilitates them to speak a little bit more to each other, maybe we can.

MR. JENKINS: Well, what I'll do is I'll bring you a PAA-type recommendation sometime in the month of October and we'll go from there.

CHAIRMAN GARCIA: Hang on. Your counsel is getting worried and that always worries me.

MR. ELIAS: I have a couple of thoughts. One is, you know, I'm not sure that the necessary outgrowth of the discussion here today is something that takes the form of a docket, and it may be that

Internal Affairs is a more appropriate discussion.

The second, as far as the timing, if we're going to bring something to you in October, we basically have about nine days to file a recommendation on the subject.

COMMISSIONER JACOBS: What is the nature of our obligation to respond to FERC? Is it some formal Commission action? If that's the case, then we've got to do it --

COMMISSIONER CLARK: No, it doesn't require any formal Commission action, but this is sort of the quandary we always find ourself in, is being asked to comment on these broad policy considerations without having looked at it and gathered empirical facts upon which to make a policy recommendation. That happens a lot of times in FCC dockets, and Commissioner Deason has pointed that out a number of times. How can we make these suggestions as to policy when we haven't looked at the facts. And I think this is an attempt to do that.

I see it sort of there are two things that might happen. There might be things that we would order companies within our jurisdiction to do under the Grid Bill and there might be things that we would tell our Staff to do to sort of be part of a single

strategy. What we tell our Staff to do is we don't need to put in orders, but, for instance, with respect to the ATC, and I think it's imperative that we get some resolution about that methodology, so at least that is taken off the table as an area where the system can be gamed. And then I think having Staff on a before-the-fact basis reviewing the inputs that are into it, that will take that off the table. But we may come to the conclusion that that type of oversight, even coupled with the Code of Conduct, is not enough to stimulate a robust wholesale market. We may think more needs to be --

MR. JENKINS: That's correct. When something more needs to be done, particularly in the pricing and governance area, we will need a very long formal document.

COMMISSIONER JACOBS: I would love to see a statement to that effect. What do we need to do to spur a robust wholesale market? That would be a wonderful product of this.

CHAIRMAN GARCIA: Joe, he's lobbying it to you. You might as well knock it out of the park.

I think that -- if you could come to us with where you think we should go from now.

MR. JENKINS: Well, I'm not ready to learn

how to swim by jumping in the middle of the Atlantic Ocean.

CHAIRMAN GARCIA: Right. That's fine. And that's exactly what --

MR. JENKINS: I'd like to take a small baby step, clear the table best we can of these -- not so minor issues but the serious issues of delivery points, and access and how rapidly the transmission providers respond to request for transmission access. But the big thing, the big items on the table are going to be your pancaking, your pricing, and, of course, your governance. I've got questions of jurisdiction in that manner.

CHAIRMAN GARCIA: Let me ask you this: Can we order -- what FPL proposed today, can we go ahead and order that and continue discussing the other things? I mean, would the FPL-FPC proposal --

MR. JENKINS: I'm not sure you can order, in total package, what FPL and FPC have proposed today, because there are requirements in there on Seminole and FMPA, and I presume the merchant marketers. What I have done is taken pieces of what they have proposed and extracted it out to where I believe we can do it without FERC authority. The remainder of it would require at least agreement without, albeit, FERC

approval.

CHAIRMAN GARCIA: Come back to us. Tell us what you think we should do next and, obviously, if your counsel says you may need a few more days, you need a few more days, but do it as soon as you can.

COMMISSIONER DEASON: Let me make one request. Whatever time it takes. But one of the things that I'm grappling with, and it seems to be just as clear as mud -- and that is, exactly what is the FERC's authority? What is our authority? What can we do without any additional legislation? And I guess it's probably -- under FERC's authority it's probably what they think their authority is and what we think their authority is.

MR. JENKINS: There's that difference.

COMMISSIONER DEASON: I need some explanation, and I guess that would be Bob's job to put that together.

MR. ELIAS: We can build that hornet's nest.

MR. JENKINS: May be late October.

CHAIRMAN GARCIA: Thank you very much. Appreciate your participation. Very enlightening.

(Thereupon, the hearing concluded at 4:40 p.m.)

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STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JOY KELLY, CSR, RPR, Chief, Bureau of Reporting, Official Commission Reporter, and KIMBERLY K. BERENS, CSR, RPR,

DO HEREBY CERTIFY that the Workshop was heard by the Florida Public Service Commission at the time and place herein stated; it is further

CERTIFIED that we stenographically reported the said proceedings; that the same has been transcribed by us; and that this transcript, consisting of 207 pages, constitutes a true transcription of our notes of said proceedings.

DATED this 7th day of October, 1999.

JOY KELLY, CSR, RPR
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