ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Determination of Need for an Electrical Power Plant in Okeechobee County by Okeechobee Generating Company, L.L.C.	DOCKET NO. 991462-EU FILED: Oct. 25, 1999

DIRECT TESTIMONY

OF

SEAN J. FINNERTY

ON BEHALF OF

OKEECHOBEE GENERATING COMPANY, L.L.C.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: PETITION FOR DETERMINATION OF NEED FOR THE OKEECHOBEE GENERATING PROJECT, FPSC DOCKET NO. 991462-EU

DIRECT TESTIMONY OF SEAN J. FINNERTY

Q: Please state your name and business address.

A: My name is Sean J. Finnerty. My business address is One Bowdoin Square, Boston, Massachusetts.

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

A: I am employed by PG&E Generating, as Manager, Project Development. I am the Project Manager for the Okeechobee Generating Company, L.L.C. ("OGC").

Q: Please describe your duties with PG&E Generating.

A: In my capacity as Manager, Project Development, I am responsible for managing all aspects of the development of the Okeechobee Generating Project ("Project"), including, but not limited to, activities related to the engineering, procurement, and construction ("EPC") contract and coordination and oversight of efforts to receive all necessary regulatory and permit approvals for the Project.

QUALIFICATIONS AND EXPERIENCE

Q: Please summarize your educational background.

A: I have a Bachelor of Science in Natural Resource Economics

from the University of Massachusetts at Amherst and a Master of Business Administration from Suffolk University.

Q: Please summarize your employment history and work experience.

A: I have eight years of experience in the electric power industry. A summary of my employment and education history is attached as Exhibit _____ (SJF-1).

Upon employment at PG&E Generating in March, 1996 through September, 1998, I was responsible for the development of company policy relating to the restructuring of the electric power industry in New England, as well as various strategic matters relative to the development of merchant generating plants. Since the Fall of 1998, I have been working in the Development Group of PG&E Generating and have been responsible for identifying sites for merchant generating facilities in Florida. I have most recently been responsible for the development of the Okeechobee Generating Project.

Q: What testimony have you previously given before regulatory authorities or courts?

A: I have testified before various legislative bodies and have

participated in a number of regulatory forums. I have not testified as a witness in a docketed case before a state public service commission.

SUMMARY AND PURPOSE OF TESTIMONY

Q: What is the purpose of your testimony?

A: I am testifying on behalf of Okeechobee Generating Company, L.L.C., the applicant seeking the Florida Public Service Commission's affirmative determination of need for the Okeechobee Generating Project. My testimony describes PG&E Generating and its business interests, the Okeechobee Generating Project, and the expected operations and availability of the Project, as well as the anticipated capital costs, financing structure and financial viability of the Okeechobee Generating Project.

Q: Please summarize your testimony.

A: OGC is petitioning the Commission to grant its determination of need for the Okeechobee Generating Project, a nominally rated 550 MW natural gas-fired combined cycle power plant to be located in Okeechobee County, Florida. The Project uses state-of-the-art technology to provide highly efficient and

highly reliable electric power with minimal environmental impacts. The Project will provide a clean, cost-effective power supply option to electric utilities and other wholesale power customers to meet the growing demand for power in Florida. Okeechobee Generating Company, L.L.C. will be responsible for all of the capital investment and assume the operating risk associated with the Project; the development of the Okeechobee Generating Project will not place utility ratepayers at risk. The Project will sell 100% of its output into the wholesale market on a merchant basis.

Q: What is PG&E Generating's history of developing electric generating facilities?

A: PG&E Generating has a long history of successfully developing state of the art, clean, efficient and economically viable electric generating facilities. Nationally, PG&E Generating has a significant interest in 17 fossil fuel power plants and 2 hydro-electric systems consisting of a total of 13 generation facilities, representing approximately 7,300 MW of capacity. Additionally, PG&E Generating is developing a number of merchant plants representing approximately 8,500 MW

of capacity in several states. A detailed list of these facilities is included in Exhibit_____(SJF-2).

Q: What are your responsibilities with respect to the Okeechobee Generating Project?

A: As Manager, Project Development, I am responsible for overseeing all aspects of the development of the Okeechobee Generating Project, including the regulatory and business activities related to the Project.

Q: Are you sponsoring any exhibits to your testimony?

A: Yes, I am sponsoring the following exhibits:

Exhibit No. SJF-1: Employment and education history;

Exhibit No. SJF-2: Portfolio of PG&E Generating facilities;

Exhibit No. SJF-3: OGC's market-based rate tariff issued by FERC;

Exhibit No. SJF-4: Order confirming OGC's EWG status issued by FERC; and

Exhibit No. SJF-5: Excerpt from PSC document depicting declining trends in Peninsular Florida's reserve margins.

I am also sponsoring Figures 1 and 2, the Status with Federal Agencies section of Table 1, and Section II of Table 11 contained in the Exhibits filed with the Petition for Determination of Need for the Okeechobee Generating Project and narrative text at pages 1-3, 5-12, 21, 30, 33-34, 41, 44, 54, 58-59, 63-64 and 69-71 of those Exhibits.

OVERVIEW OF PG&E GENERATING AND THE OKEECHOBEE GENERATING PROJECT

Q: Please describe PG&E Corporation and its business.

A: PG&E Corporation is an energy-based holding company headquartered in San Francisco, California that markets energy services throughout North America. PG&E Corporation has four wholly-owned, unregulated subsidiaries and one wholly-owned regulated subsidiary. The four wholly-owned, unregulated subsidiaries are: PG&E Generating, PG&E Gas Transmission, PG&E Energy Trading, and PG&E Energy Services. PG&E Corporation's regulated subsidiary is Pacific Gas and Electric Company, a regulated utility in the State of California.

Q: Why is PG&E Generating interested in building and operating the Okeechobee Generating Project in Florida?

A: Florida represents a sound business opportunity for the development of a new power plant. The state is experiencing a tremendous need for new generating capacity as illustrated by the shrinking generation reserve margins and the continuing power shortages and interruptions during the hot summer months. (See attached Exhibit_____(SJF-5), a composite exhibit which is an excerpt taken from Florida Public Service Commission Staff documents issued on September 16, 1999 at the Ten-Year Site Plan Workshop. This exhibit depicts declining trends in Peninsular Florida's reserve margins and projects the large amount of firm load that would not be served should a Christmas 1989 low temperature event occur.)

Florida also has a fleet of generating units that is aging and relatively inefficient and costly to operate. This results in higher power supply costs and higher rates to captive customers than if the same amount of electricity were generated from a new, highly efficient, natural gas-fired combined cycle facility, like the Project.

Based on these factors, PG&E Generating is confident that the Okeechobee Generating Project will be a viable resource upon which the participants in the Florida wholesale market can rely. We recognize that no entity is obligated to purchase electricity from the Project and that the Project will bear the full financial and operating risk, thus not putting retail ratepayers at risk. However, we are confident that the Project will be one of the lowest-cost supply options available and will help lower the wholesale price of electricity in Florida.

Q: Do any of PG&E Generating's merchant power plant affiliates sell electricity at retail in other jurisdictions?

A: No. All of PG&E Generating's merchant power plant affiliates sell electricity only in the applicable wholesale markets.

Q: Please describe the Okeechobee Generating Project.

A: The Okeechobee Generating Project is a nominally rated 550 MW natural gas-fired combined cycle power plant. The plant will consist of two combustion turbine generators, two heat recovery steam generators equipped with selective catalytic reduction and two steam turbines. The project's rated summer

capacity is 514.3 MW and its rated winter capacity is 561.3 MW. The Project is scheduled to achieve commercial in-service status by April 2003, and is expected to have a life-span of 30 years. Gas transportation will be arranged pursuant to a Precedent Agreement between OGC and the Gulfstream Natural Gas System ("Gulfstream"). Gulfstream has committed to provide sufficient firm gas transportation service to operate the project at full capacity for a term of 20 years.

The Project will satisfy all applicable environmental permitting requirements. Natural gas-fired combined cycle technology is the most efficient and environmentally favorable method of generating commercially viable electricity using fossil fuels. Because of this, OGC expects that the Project will help to reduce the amount of total emissions from power plants in the state.

Detailed technical information regarding the Okeechobee Generating Project is presented in the testimony of William Sullivan, P.E. (project engineering), George Lehner, P.E. (project operations), Roger Clayton, P.E. (electric transmission), Norman Karloff (fuel supply and

transportation), Frederick Sellars (environmental permitting), and Dale Nesbitt, Ph.D. (project economics).

Q: Please describe the regulatory status of Okeechobee Generating Company L.L.C.

A: The Okeechobee Generating Company, L.L.C. is a "public utility" under the Federal Power Act. OGC has received authorization from the Federal Energy Regulatory Commission ("FERC") to sell wholesale power at negotiated, market-based rates. OGC has also been certified by the FERC as an Exempt Wholesale Generator ("EWG") pursuant to the Public Utility Holding Company Act of 1935 ("PUHCA"). Copies of the orders approving OGC's market-based rate tariff and EWG status are presented in Exhibits_____(SJF-3) and _____(SJF-4). Okeechobee Generating Company, L.L.C. will be an "electric utility" under Florida law including the Grid Bill provisions, and will comply with all applicable laws and regulations.

Q: Does Okeechobee Generating Company, L.L.C. plan to participate in the Florida Reliability Coordinating Council?

A: Yes.

PROJECTED OPERATIONS OF THE OKEECHOBEE GENERATING PROJECT

Q: Please give an overview of the projected operations of the Okeechobee Generating Project.

A: An analysis conducted on behalf of Okeechobee Generating Company, L.L.C. of the Florida bulk power supply market and of the sub-regional markets within the overall bulk power supply market, and of the Project's operating economics, concludes that the Project will operate approximately 8,150 hours per year, with an availability factor of 93 percent. We anticipate that the Project will provide approximately 514.3 MW (summer) and 561.3 MW (winter) of capacity and approximately 4.3 million MWH per year of cost-effective electric energy into the wholesale power market in Peninsular Florida.

Q: Is OGC planning to make wholesale sales from the Project to utilities for use outside Florida?

A: No. The Okeechobee Generating Project has been developed to provide low-cost, reliable power for use in the wholesale market in Florida and OGC does not anticipate making wholesale sales for use outside the State of Florida.

If the Okeechobee Generating Project were planning to make sales into any region other than Florida, the Project would be located in that region. It is not logical to develop a plant in Florida to make sales to another market (i.e. Georgia, Alabama, or Mississippi). Electricity generated in Florida would have to incur the expense of being wheeled through the state to the other markets, an expense electricity generated in those markets would avoid. In addition, the clearing price for electricity is lower in those markets than in Florida as is the cost of fuel transportation. In short, developing a merchant plant in Florida to serve a market outside Florida which has lower embedded costs than Florida does not make economic sense. Because the Project is designed to makes sales into the Florida wholesale market, OGC has chosen a site in Florida and petitioned the Florida Public Service Commission to approve a determination of need for the Project.

Q: Does Okeechobee Generating Company, L.L.C. plan to sell electricity at retail in Florida?

A: No, OGC would lose its EWG status if it were to make retail sales in any market.

Q: Does OGC plan to bid to provide energy and capacity to investor-owned utilities with captive retail ratepayers if these investor-owned utilities solicit bids in accordance with Commission Rule 25-22.082, Florida Administrative Code?

A: Yes. OGC would be interested in responding to requests for proposals issued by utilities with retail ratepayers, as set forth in the Commission Rule. Projects like OGC's will enhance a robust, competitive wholesale market and help fulfill the purpose of Commission Rule 25-22.082.

PROJECT FINANCE, CAPITAL COST, AND VIABILITY

Q: What is the projected capital cost of the Okeechobee Generating Project?

A: The direct construction cost of the Okeechobee Generating Project is expected to be $190 million.

Q: What is the Project's direct construction cost on a dollar per installed kW basis?

A: The direct construction cost equates to approximately $345 per kW of installed capacity (based on 550 MW).

Q: Please give an overview of the financing plan for the Okeechobee Generating Project.

A: The Project will be constructed and brought into commercial service with a combination of equity and debt that will be used to pay construction and development costs. PG&E Generating is confident of its ability to finance the Okeechobee Generating Project given its track record in financing generating facilities, its strong financial position vis-à-vis its existing projects and its well-capitalized parent company organization. Regardless of the financial structure of the Okeechobee Generating Project, no retail ratepayers will be placed at financial risk.

Q: Please comment on the financial viability of the Okeechobee Generating Project.

A: The financial viability of the Okeechobee Generating Project is strong given the superior economic and efficiency advantage of natural gas-fired combined cycle technology, the anticipated operating characteristics and project economics, and PG&E Generating's experience in providing competitively priced energy and capacity to the wholesale market.

As previously mentioned, natural gas-fired combined cycle technology is the most highly efficient and environmentally preferred method of generating commercially viable electricity using fossil fuels. Furthermore, as illustrated by the economic analysis prepared by Altos Management Partners, Inc., the Project is expected to operate approximately 8,150 hours per year and will have an availability factor of 93 percent. The Project is financially viable.

CONSEQUENCES OF DELAY

Q: What would be the consequences of delaying the Project?

A: There would be a number of negative consequences of delaying the Project. Every day that the Project is delayed means:

(1) The State's reserve margins, which are already thin, will not be enhanced by the presence of the Okeechobee Generating Project;

(2) The absence of cost-effective power from the Project that would provide downward pressure on wholesale prices;

(3) Postponement of the realization of reductions in air pollution emissions, that will result from the

significantly greater efficiency of the Project, and its use of clean natural gas, as compared to the efficiency and emission rates of power supply resources that will be displaced by the Project; and

(4) The Commission's goal of ensuring a robust, competitive wholesale power market is frustrated by delaying the Project's reliable, cost-effective capacity and energy from serving the market.

REQUESTED COMMISSION ACTION

Q: What action is Okeechobee Generating Company, L.L.C. asking the Commission to take in this proceeding?

A: Okeechobee Generating Company, L.L.C. is asking the Commission to issue an order granting its determination of need petition for the Okeechobee Generating Project. There is a need for additional generating capacity in Florida. The Project is a viable, clean, reliable, highly available, highly efficient, and cost-effective power plant. The Okeechobee Generating Project will increase the reliability of the electric power system in the state as well as assist in reducing the overall cost of electricity to Floridians.

Q: Does this conclude your direct testimony?

A: Yes.

Sean J. Finnerty

EMPLOYMENT AND EDUCATION HISTORY

1996 - Present PG&E Generating Boston, MA

I joined the company's Government Affairs Department in March 1996 to guide the company's legislative and regulatory efforts in the Northeast through the restructuring of the electric utility industry. In this endeavor, I worked with state officials, special interest groups, utility companies and other competitive power suppliers.

I was actively involved in PG&E Generating's acquisition of the New England Electric Systems (NEES) generating facilities. I was the Company's principal negotiator on the restructuring settlement with NEES that resulted in the divestiture.

Most recently, I have been involved in the development of the Millennium Power Project in Charlton, Massachusetts, and the Lake Road Generating Plant in Killingly, Connecticut.

Currently, I am a member of the Company's Project Development department and am responsible for managing the development of the Okeechobee Generating Project, a 550 MW natural gas-fired merchant plant proposed for Okeechobee County, Florida. My duties include overseeing all aspects of the development of the project including regulatory and business activities related to the project.

1991 - 1996 Massachusetts State Senate Boston, MA

1993-1996 Post Audit and Oversight Bureau

My main function was to research public policy related to the electric and natural gas utility industries and its impact of economic development. In this capacity, I analyzed rate impacts of uneconomic electric generating facilities and developed a method for calculating and recovering stranded costs. I also examined potential impacts of the federal Clean Air Act Amendment of 1991 on electric generation in Massachusetts, and developed amendments to the electric facilities siting process as well as prepared recommendations to the General Court relative to the restructuring of the electric utility industry.

1991 - 1993 Office of the Chair of Bills in Third Reading

In this role I was primarily responsible for analyzing legislative issues concerning energy and environmental matters. I was the office's principal liaison to governmental and industry representatives.

EDUCATION

M.B.A. Suffolk University, 1994
B.S. Natural Resource Economics, University of Massachusetts at Amherst, 1991

ASSOCIATIONS

Northeast Energy and Commerce Association; Director 1997-Present; Secretary 1998

Massachusetts Energy Facilities Siting Study Commission; Governor's Appointee 1998-Present

International Association of Energy Economics, New England Chapter

Battleship Massachusetts; Board of Directors 1994-96

Conservation and Load Management Task Force - MA DPU 91-80; Member 1992-1993

Suffolk University Alumni Admissions Advisory Board

Figure 2
PG&E Generating Portfolio of Generating Assets

Operating Plants -- PG&E Gen Management

Plant		MWs	Fuel	Location	Commercial Service	Electricity Customers	Steam Customer	O&M
Bear Swamp Facility	Pumped Storage 2 Units	588	Water	Massachusetts	1974	Standard Offer; Merchant Market	N/A	PG&E Gen
	Fife Brook	10	Water		1974	Standard Offer; Merchant Market	N/A	PG&E Gen
Brayton Point Station	Unit Nos. 1, 2 and 3	1,130	Coal	Massachusetts	1963, '64, '69	Standard Offer; Merchant Market	N/A	PG&E Gen
	Unit No. 4	446	Oil/Gas		1974	Standard Offer; Merchant Market	N/A	PG&E Gen
	Diesel Generators	10	Diesel Oil		N/A	Standard Offer; Merchant Market	N/A	PG&E Gen
Carneys Point		260	Coal	New Jersey	1994	Conectiv DuPont PG&E Energy Trading-Power	DuPont	PG&E Gen
Cedar Bay		250	Coal	Florida	1994	Florida Power & Light	Smurfit Stone	PG&E Gen
Connecticut River	Hydroelectric 6 Units	484	Water	New Hampshire/Vermont	1909-1957	Standard Offer; Merchant Market	N/A	PG&E Gen
Deerfield River	Hydroelectric 7 Units	84	Water	Massachusetts/Vermont	1912-1927	Standard Offer; Merchant Market	N/A	PG&E Gen
Hermiston		474	Natural Gas	Oregon	1996	PacifiCorp	Lamb-Weston	PG&E Gen
Indiantown		330	Coal	Florida	1995	Florida Power & Light	Caulkins Citrus	PG&E Gen
Logan		225	Coal	New Jersey	1994	Conectiv PG&E Energy Trading-Power	Solutia	PG&E Gen
Manchester St. Station	3 Combined Cycle Units	495	Natural Gas	Rhode Island	1995	Standard Offer; Merchant Market	N/A	PG&E Gen
MASSPOWER		240	Natural Gas	Massachusetts	1993	Boston Edison, Commonwealth Electric, W. Mass. Electric, Mass. Muni Wholesale Electric PG&E Energy Trading-Power	Solutia	GE
Northampton		110	Waste Coal	Pennsylvania	1995	GPU Energy PG&E Energy Trading-Power	Ponderosa Fibres	PG&E Gen
Pittsfield		165	Natural Gas	Massachusetts	1990	New England Power, Comm. Electric, Cambridge Electric	General Electric	PG&E Gen
Salem Harbor Station	Unit Nos. 1, 2 and 3	314	Coal	Massachusetts	1952, '52, '58	Standard Offer; Merchant Market	N/A	PG&E Gen
	Unit No. 4	400	Oil		1972	Standard Offer; Merchant Market	N/A	PG&E Gen
Scrubgrass		83	Waste Coal	Pennsylvania	1993	GPU Energy	None	PG&E Gen
Selkirk		345	Natural Gas	New York	1992 1994	Niagara Mohawk Consolidated Edison PG&E Energy Trading-Power	General Electric	GE
MWs/Operating Plants		6,443						

FIGURE 2 (continued)

Operating Plants -- PG&E Gen Affiliate Investment

Plant	MWs	Fuel	Location	Commercial Service	Electricity Customers	Steam Customer	O&M
Colstrip	37	Waste Coal	Montana	1990	Montana Power	None	UCOS
Panther Creek	83	Waste Coal	Pennsylvania	1992	GPU Energy	None	UCOS
MWs from Investments	120						
Total MWs in Operation	6,563						

Power Contracts--Marketing Control

	MWs						
MWs from Contracts	789				Standard Offer; Merchant Market	N/A	
Total MW Ops & Contracts	7,352						

In Construction

Plant	MWs	Fuel	Location	Commercial Service	Electricity Customers	Steam Customer	O&M
Lake Road	792	Natural Gas	Connecticut	2001	Merchant Market	N/A	PG&E Gen
Millennium	370	Natural Gas	Massachusetts	2000	Merchant Market	N/A	PG&E Gen
MWs (in construction)	1,162						
Total Financed MWs	8,514						

In Development

Plant	MWs	Fuel	Location	Commercial Service	Electricity Customers	Steam Customer	O&M
Athens	1,080	Natural Gas	New York	projected 2001	Merchant Market	N/A	PG&E Gen
Badger	1,022	Natural Gas	Wisconsin	projected 2002	Merchant Market	N/A	PG&E Gen
Brayton Point V	477	Natural Gas	Massachusetts	projected 2002	Merchant Market	N/A	PG&E Gen
Covert	1,022	Natural Gas	Michigan	projected 2002	Merchant Market	N/A	PG&E Gen
Harquahala	1,000	Natural Gas	Arizona	projected 2003	Merchant Market	N/A	PG&E Gen
La Paloma	1,020	Natural Gas	California	projected 2001	Merchant Market	N/A	PG&E Gen
Liberty	1,080	Natural Gas	New Jersey	projected 2002	Merchant Market	N/A	PG&E Gen
Mantua Creek	800	Natural Gas	New Jersey	projected 2001	Merchant Market	N/A	PG&E Gen
Okeechobee	550	Natural Gas	Florida	projected 2003	Merchant Market	N/A	PG&E Gen
Otay Mesa	516	Natural Gas	California	projected 2002	Merchant Market	N/A	PG&E Gen
MWs (in development)	8,567						

88 FERC ¶ 61,219

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FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 15, 1999

Docket Nos. ER99-3637-000
ER99-3643-000
ER99-3668-000
ER99-3677-000
ER99-3693-000
ER99-3822-000
ER99-3911-000
ER99-4081-000

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767560

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Dear Sirs and Madams:

You submitted for filing with the Commission rate schedules under which applicants will engage in wholesale electric power and energy transactions at market-based rates. Your submittals, as modified below, comply with the Commission's requirements for market-based rates and are accepted for filing. They are designated and made effective as indicated in Appendix A to this order.

Okeechobee Generating Company (Okeechobee) requests authority to engage in sales of ancillary services (regulation, energy imbalance, spinning reserves and supplemental reserves) at market-based rates. Duke Energy Merchants, LLC (Duke) also requests authority to engage in sales of ancillary services at market-based rates. In these filings, Okeechobee and Duke request permission to make sales of ancillary services subject to the conditions set forth in Avista Corporation, 87 FERC ¶ 61,223 (1999)

(Avista), with respect to similarly situated entities which are unable to develop a reliable market power analysis for ancillary services. Because Okeechobee's and Duke's rate schedules do not reflect all of the requirements of Avista, e.g., they do not contain all of the limitations identified as necessary and appropriate in Avista, we will deny their requests for authorization to make sales of ancillary services at market-based rates without prejudice to resubmittal.

We will grant the request of Oswego for authority to make sales of ancillary services at market-based rates into the PJM Power Exchange, the New York ISO market and the ISO New England market.[1]

We will grant the request of Casco Bay Energy Company, LLC (Casco Bay) for authority to make sales of ancillary services at market-based rates into the ISO New England market.[2]

We will grant the request of Northbrook New York, LLC (Northbrook) for authority to sell ancillary services at market-based rates under its proposed rate schedule, provided it amends its proposed rate schedule to specify that it will sell ancillary services into the PJM Power Exchange, the New York ISO market or the ISO New England market.[3]

Any waivers or authorizations requested by the applicants, other than Northbrook, are granted to the extent specified in Appendix B to this order. As to Northbrook, it is a licensee that is presently required, among other things, to comply with 18 C.F.R. §§ 141.14, .15 (1999)(providing for the filing both of the Form No. 80, Licensed Hydropower Development Recreation Report and of the Annual Conveyance Report). We will grant Northbrook the waivers and authorizations requested by Northbrook, with the exception of 18 C.F.R. §§ 141.14, .15 (1999), to the extent specified in Appendix B to this order. Northbrook thus will still be required to file the Form No. 80s and the Annual Conveyance Reports. Waiver of the prior or advance notice requirements, if requested, is

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[1]See Atlantic City Electric Company, et al., 86 FERC ¶ 61,248 (1999); Central Hudson Gas & Electric Corporation, et al., 86 FERC ¶ 61,062 (1999); New England Power Pool, 85 FERC ¶ 61,379 (1998).

[2]See id.

[3]See id.

granted to the extent specified in Appendix A. The applicants must comply with the reporting requirements or other requirements specified in Appendix B to this order. [4]

The codes of conduct submitted by the applicants are accepted if consistent with Appendix C, which reflects requirements adopted in previous Commission orders. Because the code of conduct submitted by CMS Generation Michigan Power, L.L.C. is inconsistent with Appendix C, it is hereby rejected. As to this applicant, Appendix C has been designated as the applicable code of conduct.

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (1999), an entity's filing of a timely notice of intervention or a timely, unopposed motion to intervene in a proceeding makes it a party to that proceeding.

Should an applicant or any of its affiliates deny, delay, or require unreasonable terms, conditions, or rates for natural gas fuel or services to a potential electric competitor in bulk power markets, then that electric competitor may file a complaint with the Commission that could result in the applicant's or its affiliate's authority to sell power at market-based rates being suspended. [5]

Sales of accounts receivable are not dispositions of jurisdictional facilities and are not within the scope of section 203 of the FPA. To the extent an applicant seeks a case-specific finding on this or any related point, it may file a petition for a declaratory order with the Commission.

Oswego, Duke, Midwest Generation, L.L.C (Midwest), Casco Bay and Northbrook seek Commission approval to reassign transmission capacity. We find their requests to be consistent with our requirements.

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[4]On May 27, 1999, the Commission issued an order in which it modified the reporting requirements for long-term transactions applicable to public utilities without ownership or control over generation or transmission facilities that are authorized to sell power at market-based rates (power marketers). Southern Company Services, et al., 87 FERC ¶ 61,214 (1999), reh'g pending (Southern). Specifically, with respect to any long-term transaction agreed to by a power marketer after 30 days from the date of issuance of a final order in the Southern case, the power marketer must file a service agreement with the Commission within 30 days after service commences, rather than reporting transactions thereunder in its quarterly transaction summaries.

[5]See, e.g., Louisville Gas & Electric Co., 62 FERC ¶ 61,016 at 61,148 (1993).

767563

Oswego, Okeechobee, Midwest, Casco Bay and Northbrook must inform the Commission of the date service commences or the date of acquisition of the facility, as appropriate.

By direction of the Commission.

Linwood A. Watson, Jr.,
Acting Secretary.

767564

APPENDIX A

Applicants are hereby informed of the following rate schedule designations:

Oswego Harbor Power, L.L.C.
Docket No. ER99-3637-000
Rate Schedule Designation
Effective Date: Date of Commencement of Service

Designation	Description
FERC Electric Tariff, Original Volume No. 1 (Original Sheet Nos. 1 - 4)	Market-Based Rate Tariff with Code of Conduct

Okeechobee Generating Company
Docket No. ER99-3643-000
Rate Schedule Designation
Effective Date: Date of Commencement of Service

Designation	Description
FERC Electric Tariff, Original Volume No. 1 (Original Sheet Nos. 1-3)	Market-Based Rate Tariff and Code of Conduct

Duke Energy Merchants, LLC
Docket No. ER99-3668-000
Rate Schedule Designations
Effective Date: August 11, 1999

	Designation	Description
(1)	Rate Schedule FERC No. 1	Market-Based Rate Schedule
(2)	Supplement No. 1 to Rate Schedule FERC No. 1	Code of Conduct

CMS Generation Michigan Power, L.L.C.
Docket No. ER99-3677-000
Rate Schedule Designation
Effective Date: September 20, 1999

Designation	Description
FERC Electric Tariff Original Volume No. 2 (Original Sheet Nos. 1- 4)	Market-Based Rate Tariff and Code of Conduct (Appendix C)

Midwest Generation, L.L.C.
Docket No. ER99-3693-000
Rate Schedule Designation
Effective Date: Date of Commencement of Service

Designation	Description
FERC Electric Tariff, Original Volume No. 1 (Original Sheet Nos. 1 - 2)	Market-Based Rate Tariff and Code of Conduct

Casco Bay Energy Company, LLC
Docket No. ER99-3822-000
Rate Schedule Designation
Effective Date: Date of Commencement of Service

Designation	Description
FERC Electric Tariff Original Volume No. 1 (Original Sheet Nos. 1 - 4)	Market-Based Rate Tariff and Code of Conduct

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Northbrook New York, L.L.C.
Docket No. ER99-3911-000
Rate Schedule Designation
Effective Date: Date of Acquisition of Facility

Designation	Description
FERC Electric Tariff, Original Volume No. 1 (Original Sheet Nos. 1-3)	Market-Based Rate Tariff and Code of Conduct

Bay State GPE, Inc.
Docket No. ER99-4081-000
Rate Schedule Designation
Effective Date: September 13, 1999

Designations	Description
FERC Electric Tariff, Original Volume No. 1 (Original Sheet Nos. 1-3)	Market-Based Rate Tariff and Code of Conduct

APPENDIX B

(1) If requested, waiver of Parts 41, 101, and 141 of the Commission's regulations, with the exception of 18 C.F.R. §§ 141.14, .15 (1999), is granted. Licensees remain obligated to file the Form No. 80 and the Annual Conveyance Report.

(2) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by those applicants who have sought such approval should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214.

(3) Absent a request to be heard within the period set forth in Paragraph (2) above, if the applicants have requested such authorization, the applicants are hereby authorized to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(4) If requested, until further order of this Commission, the full requirements of Part 45 of the Commission's regulations, except as noted below, are hereby waived with respect to any person now holding or who may hold an otherwise proscribed interlocking directorate involving the applicants. Any such person instead shall file a sworn application providing the following information:

(a) full name and business address; and

(b) all jurisdictional interlocks, identifying the affected companies and the positions held by that person.

(5) The Commission reserves the right to modify this order to require a further showing that neither the public nor private interests will be adversely affected by continued Commission approval of the applicants' issuances of securities or assumptions of liabilities, or by the continued holding of any affected interlocks.

(6) If requested, waiver of the provisions of Subparts B and C of Part 35 of the Commission's regulations, with the exception of sections 35.12(a), 35.13(b), 35.15 and 36.16, is granted for transactions under the rate schedules at issue here.

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(7) (a) Applicants who own generating facilities may file umbrella service agreements for short-term power sales (one year or less) within 30 days of the date of commencement of short-term service, to be followed by quarterly transaction summaries of specific sales (including risk management transactions if they result in actual delivery of electricity). For long-term transactions (longer than one year), applicants must submit the actual individual service agreement for each transaction within 30 days of the date of commencement of service. To ensure the clear identification of filings, and in order to facilitate the orderly maintenance of the Commission's files and public access to documents, long-term transaction service agreements should not be filed together with short-term transaction summaries. For applicants who own, control or operate facilities used for the transmission of electric energy in interstate commerce, prices for generation, transmission and ancillary services must be stated separately in the quarterly reports and long-term service agreements.

(b) Applicants who do not own generating facilities must file quarterly reports detailing the purchase and sale transactions undertaken in the prior quarter (including risk management transactions if they result in actual delivery of electricity). Applicants who are power marketers should include in their quarterly reports only those risk management transactions that result in the actual delivery of electricity.

(8) The first quarterly report filed by an applicant in response to Paragraph (7) above will be due within 30 days of the end of the quarter in which the rate schedule is made effective.

(9) Each applicant must file an updated market analysis within three years of the date of this order, and every three years thereafter. The Commission reserves the right to require such an analysis at any time. The applicants must also inform the Commission promptly of any change in status that would reflect a departure from the characteristics the Commission has relied upon in approving market-based pricing. These include, but are not limited to: (a) ownership of generation or transmission supplies; or (b) affiliation with any entity not disclosed in the applicants' filing that owns generation or transmission facilities or inputs to electric power production, or affiliation with any entity that has a franchised service area. Alternatively, the applicants may elect to report such changes in conjunction with the updated market analysis required above. Each applicant must notify the Commission of which option it elects in the first quarterly report filed pursuant to Paragraph (7) above.

APPENDIX C

[APPLICANT]
SUPPLEMENT NO. _ TO RATE SCHEDULE NO. _

STATEMENT OF POLICY
AND CODE OF CONDUCT
WITH RESPECT TO THE RELATIONSHIP BETWEEN
[POWER MARKETER] AND [PUBLIC UTILITY]

Marketing of Power

1. To the maximum extent practical, the employees of [Power Marketer] will operate separately from the employees of [Public Utility].

2. All market information shared between [Public Utility] and [Power Marketer] will be disclosed simultaneously to the public. This includes all market information, including but not limited to, any communication concerning power or transmission business, present or future, positive or negative, concrete or potential. Shared employees in a support role are not bound by this provision, but they may not serve as an improper conduit of information to non-support personnel.

3. Sales of any non-power goods or services by [Public Utility], including sales made through its affiliated EWG's or QF's, to [Power Marketer] will be at the higher of cost or market price.

4. Sales of any non-power goods or services by the [Power Marketer] to [Public Utility] will not be at a price above market.

Brokering of Power

To the extent [Power Marketer] seeks to broker power for [Public Utility]:

5. [Power Marketer] will offer [Public Utility's] power first.

6. The arrangement between [Power Marketer] and [Public Utility] is non-exclusive.

7. [Power Marketer] will not accept any fees in conjunction with any Brokering services it performs for [Public Utility].

FPSC Docket No. 991462-EU
OGC
Witness: Finnerty
Exhibit ____ (SJF-4)
Page 1 of 1

WASHINGTON, D.C. 20426

764541

AUG 24 1999

Ms. Laurel W. Glassman
Dewey Ballantine LLP
1775 Pennsylvania Avenue, N.W.
Washington, D.C. 20006-4605

Re: Docket No. EG99-188-000

Dear Ms. Glassman:

On July 13, 1999, you filed an application for determination of exempt wholesale generator status on behalf of Okeechobee Generating Company pursuant to section 32 of the Public Utility Holding Company Act of 1935 (PUHCA). Notice of the application was published in the Federal Register, 64 Fed. Reg. 39,973 (1999), with interventions or comments due on or before August 6, 1999. None was filed.

Authority to act on this matter is delegated to the General Counsel. 18 C.F.R. 375.309(g). Based on the information set forth in the application, I find that Okeechobee Generating Company is an exempt wholesale generator as defined in section 32 of PUHCA.

A copy of this letter will be sent to the Securities and Exchange Commission.

Sincerely,

Douglas W. Smith
General Counsel

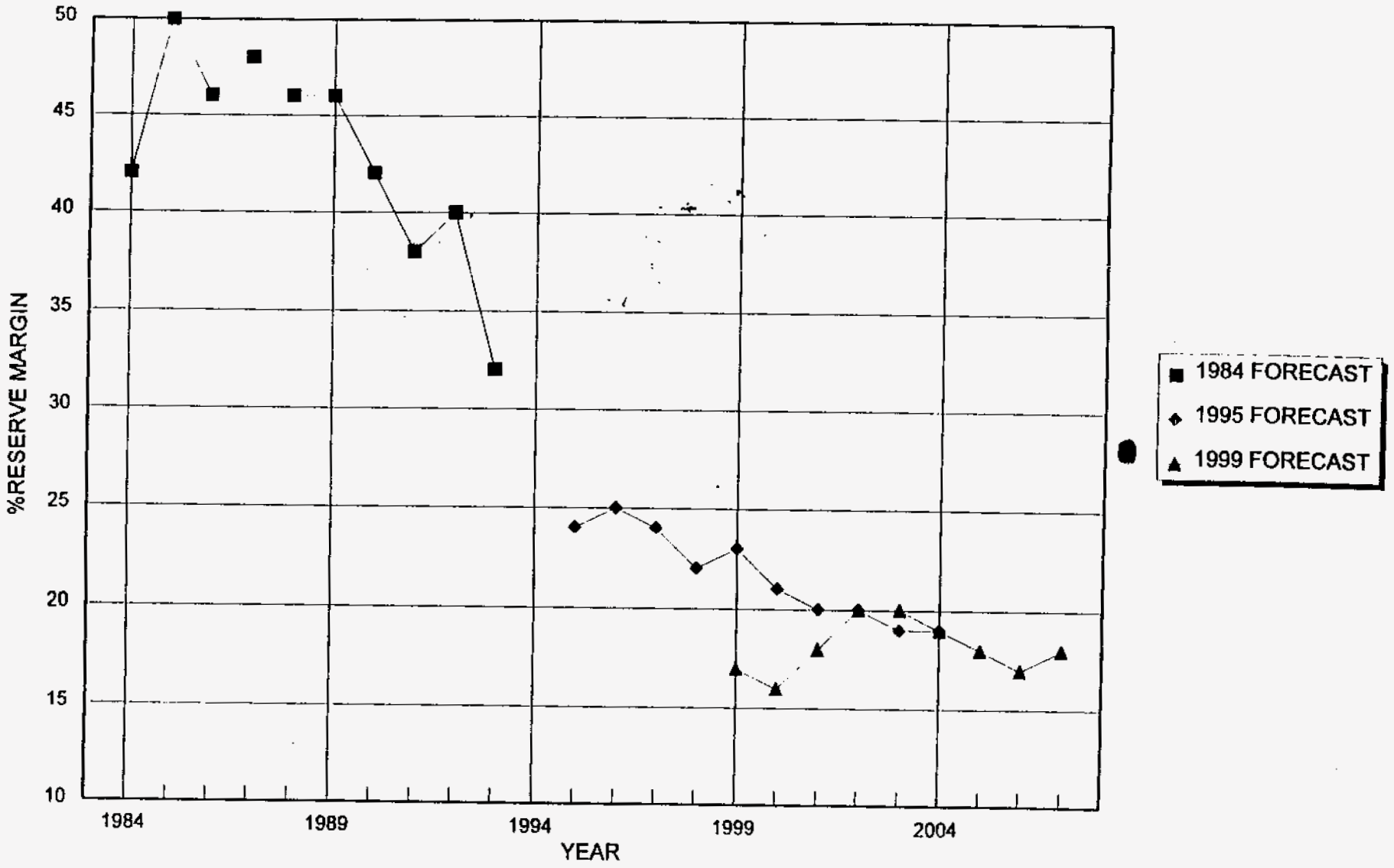
Staff Documents for

1999 Ten-Year Site Plan Workshop

September 16, 1999

DECLINING TRENDS IN PENINSULAR FLORIDA RESERVE MARGINS

AT TIME OF SUMMER PEAK

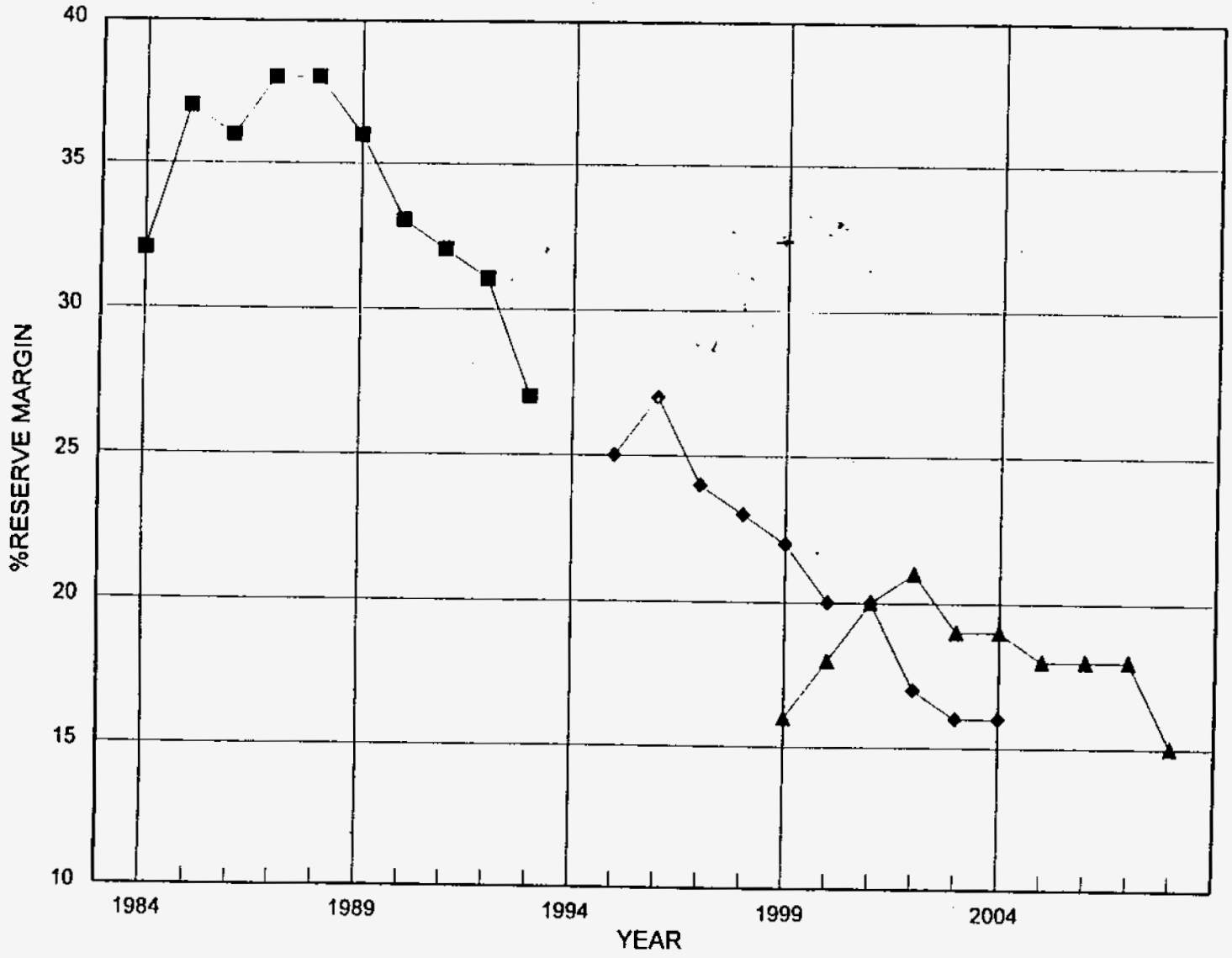


Data Source: FCG/FRCC Aggregate Plans
Docket No. 981890-EU, Exh. No. ____(TEB-1) Page 1 of 2

DECLINING TRENDS IN PENINSULAR FLORIDA RESERVE MARGINS

AT TIME OF WINTER PEAK

FPSC Docket No. 991462-EU
OGC
Witness: Finnerty
Exhibit _____ (SJF-5)
Page 3 of 5



Data Source: FCG/FRCC Aggregate Plans
Docket No. 981890-EU, Exh. No. ____ (TEB-1) Page 2 of 2

Extent of 2001/2002 Capacity Shortage Should A Christmas 1989 Low Temperature Occur

(Firm Imports and QF capacity 100% available, utility generation 92.4% available after planned maintenance, fourth week of December)

		Christmas 1989	FRCC 1999 Load & Resource Plan	FRCC 1999 Load & Resource Plan @ 15% Reserve Margin
	Capacity (MW)			
a	Utility Capacity Available	33,973	41,549	39,662
b	Utility Capacity Unavailable (Maintenance)	3,566	0	0
c	Utility Capacity Unavailable (Forced Outage)	4,333	3,158	3,014
d	Total Capacity Unavailable (b+c)	7,899	3,158	3,014
e	Total Capacity Unavailable (%) (d/a)*100	23.3%	7.6%	7.6%
f	Firm Imports	2,400	1,671	1,671
g	Frim QF Contracts	247	2,129	2,129
h	Total Capacity Available (a-d+f+g)	28,721	42,191	40,448
	Load (MW)			
i	Forecast Firm Peak	29,752	37,793	37,793
j	Actual Firm Peak	34,776	44,180	44,180
k	Forecast Error (%) [(j-i)/i]*100	16.9%	16.9%	16.9%
l	Firm Load Not Served	4,744 (actual)	1,989	3,732
m	Planned Reserve Margin	23%	20%	15%

Extent of 2001/2002 Capacity Shortage Should A Christmas 1989 Low Temperature Occur

(Firm Imports and QF capacity 100% available, utility generation 92.4% available after planned maintenance, third week of December)

		Christmas 1989	FRCC 1999 Load & Resource Plan	FRCC 1999 Load & Resource Plan @ 15% Reserve Margin
	Capacity (MW)			
a	Utility Capacity Available	33,973	41,549	39,662
b	Utility Capacity Unavailable (Maintenance)	3,566	2,955	2,955
c	Utility Capacity Unavailable (Forced Outage)	4,333	2,933	2,790
d	Total Capacity Unavailable (b+c)	7,899	5,888	5,745
e	Total Capacity Unavailable (%) (d/a)*100	23.3%	14.2%	14.5%
f	Firm Imports	2,400	1,671	1,671
g	Frim QF Contracts	247	2,129	2,129
h	Total Capacity Available (a-d+f+g)	28,721	39,461	37,717
	Load (MW)			
i	Forecast Firm Peak	29,752	37,793	37,793
j	Actual Firm Peak	34,776	44,180	44,180
k	Forecast Error (%) [(j-i)/i]*100	16.9%	16.9%	16.9%
l	Firm Load Not Served	4,744 (actual)	4,719	6,463
m	Planned Reserve Margin	23%	20%	15%