

1 BEFORE THE
2 FLORIDA PUBLIC SERVICE COMMISSION

3 -----

4	In the Matter of	:	DOCKET NO. 990001-EI
5	Fuel and purchased	:	
6	power cost recovery	:	
7	clause and generating	:	
	performance incentive	:	
	factor.	:	

8 -----

9 VOLUME 4

10 Pages 524 through 694

11 PROCEEDINGS: **HEARING**

12 BEFORE: COMMISSIONER J. TERRY DEASON
13 COMMISSIONER SUSAN F. CLARK
 COMMISSIONER B. LEON JACOBS, Jr.

14 DATE: Tuesday, November 23, 1999

15 TIME: Commenced at 9:00 a.m.

16 PLACE: Betsy Easley Conference Center
17 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

18 REPORTED BY: JOY KELLY, CSR. RFR
19 Chief, Bureau of Reporting
20 FPSC Commission Reporter

21 APPEARANCES: (As heretofore mentioned.)

22
23
24
25

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P R O C E E D I N G S

(Transcript continues in sequence from Volume 2.)

COMMISSIONER DEASON: Call the hearing back to order. Mr. Willis.

MR. WILLIS: Commissioner, just before the break Commissioner Clark asked us to get the materials with respect to the prior proceeding on economy interchange, and I've got that material to distribute at this point. (Hands out documents)

- - - - -

WILLIAM LYNN BROWN

was called as a witness on behalf of Tampa Electric Company and, having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WILLIS:

Q Could you please state your name and address?

A William Lynn Brown. 702 North Franklin Street, Tampa, Florida 33602.

MR. WILLIS: Commissioner, in order to speed this along, we would propose to present both Mr. Brown's direct and his rebuttal at this point.

COMMISSIONER DEASON: Any objection to hearing direct and rebuttal? (No response.) Very

1 well.

2 **Q** **(By Mr. Willis)** Mr. Brown, did you prepare
3 and cause to be prefiled Direct Testimony on October
4 the 1st, which is stated "Prepared Direct Testimony of
5 W. L. Brown"?

6 **A** Yes.

7 **Q** Do you have any additions or corrections to
8 that testimony?

9 **A** Yes, I do. I have two corrections. The
10 first one is on Page 3, Line 11 (sic). The date
11 "September 30th, 2000," should be changed to
12 "December 31, 2000." The second correction is on
13 Page 9, Line 4 (sic). The word "is" after the word
14 "broker" should be changed to "was." Should read
15 "broker was limited to." Those are all of the
16 corrections.

17 **Q** Okay. If I were to ask you those questions
18 with those corrections, would your answers be the
19 same?

20 **A** Yes.

21 **MR. WILLIS:** We'd ask that Mr. Brown's
22 Prepared Direct Testimony be inserted into the record
23 as though read.

24 **COMMISSIONER DEASON:** Without objection it
25 shall be so inserted.

1 Q (By Mr. Willis) Mr. Brown, did you also
2 prepare and cause to be prefiled Prepared Rebuttal
3 Testimony of W. L. Brown?

4 A Yes.

5 Q Do you have any additions or corrections to
6 that testimony?

7 A No.

8 Q If I were to ask you the questions contained
9 in that document, would your answers be the same
10 today?

11 A Yes.

12 MR. WILLIS: We'd ask that Mr. Brown's
13 rebuttal testimony be inserted into the record as
14 though read.

15 COMMISSIONER DEASON: Without objection it
16 shall be so inserted.

17 MR. WILLIS: I'd also request an exhibit
18 number be provided for Mr. Brown's exhibit, which is
19 attached to his Rebuttal Testimony.

20 COMMISSIONER DEASON: Exhibit 34.

21 (Exhibit 34 marked for identification.)
22
23
24
25

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 PREPARED DIRECT TESTIMONY

3 OF

4 W. L. BROWN

5 Q. Please state your name, address, occupation and employer.

6
7 A. My name is Lynn Brown. My business address is 702 North
8 Franklin Street, Tampa, Florida 33602. I am employed by
9 Tampa Electric Company ("Tampa Electric" or "company") as
10 Director-Wholesale Marketing and Sales.

11
12 Q. Please provide a brief outline of your educational
13 background and business experience.

14
15 A. I received a Bachelors degree in Electrical Engineering
16 from Louisiana State University in 1972 and subsequently
17 joined Tampa Electric. I have held various engineering,
18 operations and managerial positions in Energy Delivery
19 from 1973 through 1997. I became Manager of Short Term
20 Wholesale Trading in April 1997 and was promoted to
21 Director-Wholesale Marketing and Sales in August of last
22 year. I am responsible for short and long-term wholesale
23 power purchases.

24
25 Q. What is the purpose of your testimony in this proceeding?

DOCUMENT PREPARED BY
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FPC-RECORDS/REPORTING

1 A. The purpose of my testimony is to provide an overview of
2 the purchased power agreements that Tampa Electric has
3 entered into and is seeking to recover through the Fuel
4 and Purchased Power Cost Recovery and Capacity Cost
5 Recovery Clauses. I will also provide an overview of the
6 wholesale energy market, its changes over the past
7 several years and its impact on purchased power costs.

8
9 Q. Has Tampa Electric entered into any purchased power
10 agreements that were not included in the company's last
11 purchased power projections?

12
13 A. Yes. Tampa Electric has signed several agreements for
14 the purchase of firm capacity and energy for 1999, 2000
15 and beyond. The company is also in the process of
16 negotiating for additional capacity and energy for the
17 year 2000 to achieve desired operating reserves.

18
19 The company has entered into five contracts with four
20 suppliers of capacity and energy. Three of the suppliers
21 are qualifying facilities: Okeelanta Corporation,
22 Farmland Hydro, and Auburndale Power Partners. The
23 fourth supplier is Hardee Power Partners Limited ("HPP").
24 The Company's purchase from HPP was accomplished through
25 an amendment to the purchased power agreement originally

1 signed on July 27, 1989 and approved by this Commission
2 in Docket No. 880309-EC and Order No. 22335.

3
4 Q. What are the terms of these agreements?

5
6 A. The terms of the agreements are as follows:

7
8 Okeelanta Corp. (1) May 1, 1999 - June 30, 1999
9 Farmland Hydro June 1, 1999 - September 30, 2000
10 Auburndale Power July 1, 1999 - ^{Dec. 31} ~~September 30~~, 2000
11 Okeelanta Corp. (2) September 1, 1999 - March 31, 2000
12 Hardee Power Partners May 15, 2000 - December 31, 2012
13

14 Q. Why did Tampa Electric enter into these five purchased
15 power agreements?

16
17 A. Tampa Electric entered into these five agreements in
18 order to maintain overall system reliability for its
19 retail ratepayers. As the company has reported in its
20 Ten-Year Site Plan, retail load has increased since 1997
21 at a higher than expected rate causing a significant
22 increase in the use of demand-side management ("DSM")
23 programs. Accordingly, the company has modified its
24 planning criteria to not only plan for a minimum 15
25 percent reserve margin but to improve the quality of its

1 reserve margin by planning for a minimum of 7 percent
2 supply-side resources. The company plans to achieve the
3 desired system reliability for its retail customers by
4 accelerating new generating unit construction and
5 acquiring firm capacity purchases. This enhanced
6 planning criteria is described in detail in Tampa
7 Electric witness Mark D. Ward's testimony filed in Docket
8 No. 981890-EU.

9
10 Q. How did the company determine that the terms of the
11 purchased power agreements were prudent?

12
13 A. In determining the appropriateness and need for purchased
14 power agreements, it is important to understand the
15 wholesale market in Florida and the rest of the country.
16 This market has changed significantly over the past few
17 years. From a State perspective, retail demand and
18 energy usage have increased at higher-than-expected rates
19 and existing generation and DSM resources have been
20 utilized at high capacity factors and frequency. The
21 State is experiencing lower planning and operating
22 reserve margins, there is greater reliance on DSM
23 resources and there are limited import capabilities.
24 Until recently, utilities have deferred construction of
25 capacity additions. The same is true in the southeast

1 and several other regions of the United States. Some
2 affected utilities, including Tampa Electric, have
3 recognized State and jurisdictional needs. Resource
4 plans have been modified to meet this growth in demand,
5 but until additional capacity is constructed, utilities
6 have had to rely heavily on DSM and purchased power at
7 higher costs to meet the needs of their retail customers.

8
9 Additionally, an energy shortage in another geographic
10 region can affect the price and availability of energy
11 within our state. Hence, Florida utilities are now
12 concerned with both the balance of in-state and out-of-
13 state supply and demand. For example, when price spikes
14 occur in other regions, Florida utilities may find that
15 significant amounts of wholesale energy have been
16 exported out of state to more lucrative markets. This
17 means that if a Florida utility requires energy during
18 such times, it must be willing to pay high spot prices,
19 contract for firm purchases, or build additional
20 generation resources to mitigate its exposure to such
21 prices. Tampa Electric has found that forward energy
22 prices for the eastern United States trading hubs such as
23 Cinergy are good indicators of prices in Florida. These
24 prices have increased rapidly over the last 18 months.

25

1 The nature of these purchases has also changed. Today,
2 utilities must balance firm and non-firm "block"
3 purchases and hourly purchases to serve their retail
4 load. "Blocks" of firm or non-firm energy transactions
5 are typically purchased and sold for periods of eight to
6 16 hours per day. The amount of energy available to be
7 purchased and sold on an hourly basis on a given day is
8 impacted by the quantity of block purchases and sales
9 conducted on that day. Several years ago, most non-firm
10 energy bought and sold on the wholesale market was "next-
11 hour," cost-based economy energy. Today less of this
12 type of energy is available for purchase. Whenever Tampa
13 Electric anticipates a shortfall, it generally purchases
14 a combination of blocks and hourly energy to meet native
15 load requirements.

16
17 Given these market characteristics and the lead time
18 needed to construct new generating units, Tampa Electric
19 recognized the need to secure purchased power agreements
20 for its native load needs and to mitigate costs and
21 availability risks. In early 1999, Tampa Electric
22 solicited bids from potential power suppliers for
23 specific periods for 1999, 2000 and beyond. Based upon
24 the responses, Tampa Electric negotiated the five
25 purchases mentioned above. Each purchase is for firm

1 capacity and energy priced at the best available market
2 price for the required periods of time.

3
4 Q. Please describe the availability of purchased power in
5 late July 1999.

6
7 A. At the end of July, the New England and Midwest regions
8 of the United States were experiencing generation
9 shortfalls. As a result, most of the available energy in
10 Florida was being exported to this lucrative market.
11 Tampa Electric was in need of purchased power to serve
12 its native load customers on July 29, 30 and 31. In an
13 effort to mitigate the high market price of purchased
14 power, the company offered to cogenerators in its service
15 area to purchase any energy they could make available and
16 export to the company's system. The offer was made to
17 every Tampa Electric cogeneration customer based on a
18 fixed price for a fixed period of time with advance
19 notice given by the company. The purchase price offer
20 was higher than standard cogeneration firm and as-
21 available energy rates but was lower than the prevailing
22 market price. Several of the cogenerators took advantage
23 of this offer and were able to provide needed energy to
24 Tampa Electric's system.

25

1 Q. How were these transactions treated?

2

3 A. These transactions were treated in the same manner as
4 other non-firm, short-term purchases and were included in
5 the company's purchased power expense for July 1999.

6

7 Q. Are the capacity and energy costs associated with these
8 purchased power transactions included in the company's
9 Fuel and Purchased Power Cost Recovery and Capacity Cost
10 Recovery factors for 2000?

11

12 A. Yes. The capacity and energy costs are included in the
13 schedules submitted by Tampa Electric witness Karen O.
14 Zwolak in Schedule E-7.

15

16 Q. As you described the wholesale market, you indicated that
17 hourly availability of energy has changed. Please
18 describe how Tampa Electric utilizes Florida's Energy
19 Broker Network ("broker") for short-term, non-firm
20 transactions?

21

22 A. From time to time, Tampa Electric utilizes the broker to
23 make short-term, non-firm sales and purchases. At one
24 time, the broker was the most effective available method
25 of matching buyers and sellers but that has changed.

1 Today, many utilities either make hourly or block energy
2 sales off the broker at market-based prices. Since the
3 broker ^{was} ~~is~~ limited to cost-based transactions, it has
4 experienced a steady decline in usage due to greater
5 profit opportunities elsewhere for those seeking to sell
6 power.

7
8 Q. What is the most effective means of conducting economy
9 energy transactions today?

10
11 A. While the broker can be the best means for a buyer to
12 enter into a cost-based hourly transaction, other more
13 lucrative opportunities exist for sellers in today's
14 market. These include market-based, hourly, off-broker
15 transactions and same day or next day market-based block
16 sales.

17
18 Q. Please describe the types of economy sales that Tampa
19 Electric has entered into that are made with or without
20 the use of the broker.

21
22 A. Tampa Electric has entered into FERC-approved non-
23 separated, economy sales transactions arranged with and
24 without the use of the broker. Economy sales, either
25 Schedule C (Economy Interchange Service) or Schedule X

1 (Extended Economy Interchange Service) sales, are short-
2 term, non-firm sales. Schedule C sales are traditional,
3 cost-based, "split the savings," hourly economy sales
4 transactions that can be made either with or without the
5 use of the broker. Schedule X sales are traditional,
6 cost-based, "split the savings," multi-hour, economy
7 sales transactions that can not be made with the use of
8 the broker.

9
10 Q. In general, how are Schedule C and X transactions made?

11
12 A. These transactions are based upon matching a buyer's quote
13 of higher incremental costs to a seller's quote with lower
14 incremental costs. The transaction price results in a
15 50/50 sharing of the difference between the quotes.
16 Schedule C and X transactions are subject to immediate
17 cancellation by the seller if the capacity is needed to
18 meet other commitments.

19
20 Q. Does the "split the savings" concept for economy sales
21 change if the broker is not utilized?

22
23 A. No. The method utilized for matching the buyer and seller
24 is different, however, the same cost-based, "split the
25 savings" schedules are employed. Therefore, there is no

1 need to make a differentiation between non-separated
2 energy sales made with or without the use of the broker.

3 Q. Does Tampa Electric enter into other non-firm sales
4 transactions?

5
6 A. Yes. Tampa Electric also enters into intermediate-term
7 (less than one year), non-firm sales under Schedule J
8 (Negotiated Interchange Service) letters of commitment.
9 Schedule J sales are not "split the savings" transactions.
10 These sales are negotiated, non-firm energy transactions.
11 All proceeds from these sales are currently credited
12 through the Fuel and Purchased Power Cost Recovery Clause.
13 No Schedule J sales are made through the broker and these
14 are not an issue in this proceeding.

15
16 Q. Please summarize your testimony.

17
18 A. In order to maintain its overall system reliability for
19 its retail ratepayers, Tampa Electric entered into five
20 purchased power agreements beginning in 1999. Although
21 four of the agreements affect only 1999 and 2000, the
22 fifth is a long-term purchased power agreement with HPP.
23 This cost-based agreement was contemplated as an option
24 in the original agreement with HPP and Seminole Electric
25 Cooperative entered into in 1989 that was reviewed by

1 this Commission and approved by the FERC. Based upon
2 changing market conditions and a diligent evaluation of
3 alternatives, these agreements were deemed to provide
4 firm capacity and energy at the best available prices for
5 the periods of time needed.
6

7 Q. Does this conclude your testimony?

8
9 A. Yes, it does.
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

PREPARED REBUTTAL TESTIMONY

OF

W. L. BROWN

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3
4
5
6 Q. Please state your name, address, occupation and employer.

7
8 A. My name is Lynn Brown. My business address is 702 North
9 Franklin Street, Tampa, Florida 33602. I am employed by
10 Tampa Electric Company ("Tampa Electric" or company") as
11 Director-Wholesale Marketing and Sales.

12
13 Q. Are you the same Lynn Brown who filed direct testimony in
14 this docket?

15
16 A. Yes.

17
18 Q. What is the purpose of your rebuttal testimony?

19
20 A. The purpose of my rebuttal testimony is to address the
21 issues raised by FIPUG witness Kent D. Taylor with
22 respect to the Hardee Power Partners purchased power
23 agreement ("HPP agreement").
24
25

1 Q. Have you prepared an exhibit in supporting your rebuttal
2 testimony?

3
4 A. Yes. Exhibit __ (WLB-2) contains two documents.

5
6 Q. Has the HPP agreement been available for review by FIPUG?

7
8 A. Yes. The underlying agreement between HPP and Tampa
9 Electric dated July 27, 1989 has been on file with and
10 approved by the Federal Energy Regulatory Commission
11 ("FERC") for nearly a decade. Subsequent amendments to
12 the agreement dated September 29, 1999 and December 13,
13 1990 were also approved by the FERC and are on file and
14 available for public inspection.

15
16 The third and fourth amendments to the HPP and Tampa
17 Electric agreement, both dated as of September 15, 1999
18 and filed with the FERC on that date, were approved by
19 the FERC on October 15, 1999 in Docket Nos. ER99-4453-000
20 and ER99-4454-000. These amendments are also on file and
21 available for public inspection. They are also available
22 through the FERC's Internet web site. Tampa Electric has
23 notified this Commission each time its agreement with HPP
24 has been amended. The most recent amendments to the
25 agreement are included in Document 1 of my exhibit. Also

1 included in my exhibit as Document 2 is the petition HPP
2 filed with FERC regarding the HPP agreement.

3
4 Q. How did the opportunity to purchase firm power under the
5 HPP agreement arise?

6
7 A. This opportunity arose by virtue of HPP's having the
8 ability to use Seminole Electric Cooperative's ("SEC")
9 Hardee site for the Phase II build out. HPP's ability to
10 use this site together with its opportunity to purchase a
11 75-megawatt ("MW") combustion turbine ("CT") provided a
12 unique opportunity to obtain a critical firm 75-MW
13 purchase without using Tampa Electric's Polk site. This
14 is important since the company already has accelerated
15 its plans to build out the Polk site which includes two
16 180-MW CT additions between now and May 2002.

17
18 Q. Please describe the basic provisions of the HPP
19 agreement.

20
21 A. In Order No. 22335 issued in Docket No. 890309-EC on
22 December 22, 1989, this Commission determined the need
23 for construction of the Hardee Power Station to serve the
24 needs of SEC with the project also serving the needs of
25 Tampa Electric's customers. The project was to be

1 constructed by Tampa Electric's affiliate, TECO Power
2 Services Corporation, in two phases. Phase I of the
3 project, consisting of one 220-MW combined cycle unit and
4 one 75-MW CT, was constructed and placed in service in
5 1993. SEC retained the option to call for the
6 construction of Phase II consisting of an additional 145
7 MWs of capacity (one 75-MW CT and two heat recovery steam
8 generators with associated steam turbines) scheduled to
9 be placed in service in 2003.

10
11 On May 24, 1999 SEC waived its option under its agreement
12 with HPP to require construction of Phase II.
13 Accordingly, Tampa Electric exercised its option under
14 the agreement to require HPP to begin construction. The
15 first phase of the Phase II build out will consist of the
16 construction of a 75-MW CT next to the existing CT which
17 HPP expects to have in service by May 15, 2000. Tampa
18 Electric has the ability to complete the Phase II build
19 out and is required to notify HPP of this option by
20 December 1, 2000. The first phase of the Phase II build
21 out is reflected in the fourth amendment to the agreement
22 for the sale and purchase of capacity and energy between
23 HPP and Tampa Electric.

24

25

1 The purchased power agreement in the fourth amendment
2 becomes effective May 15, 2000 and expires December 31,
3 2012. Capacity payments are \$6.23 per kilowatt month and
4 energy charges are priced similar to those of the
5 original agreement. Tampa Electric and SEC entered into
6 a subsequent agreement whereby SEC has a non-firm, second
7 call on the unit and pays a daily capacity charge and
8 energy charge whenever they exercise their call. These
9 charges are the same as those paid by Tampa Electric to
10 HPP and all revenues from sales to SEC will be credited
11 to Tampa Electric's retail customers.
12

13 Q. What are alternatives that Tampa Electric would consider
14 under the circumstances?
15

16 A. A Florida utility requiring energy in the current market
17 has the option of: (1) being willing to pay high spot
18 prices for non-firm energy and take the risk that the
19 power may not be available, (2) building additional
20 generation resources to mitigate its exposure to such
21 prices, or (3) entering into short and long-term
22 contracts for capacity and energy purchases.
23

24 Q. What approach has Tampa Electric taken under these
25 circumstances?

1 A. Tampa Electric has taken a balanced approach using
2 several different strategies to meet its customers'
3 needs. Provision of reliable service is paramount. The
4 company believes it is extremely important to immediately
5 address the reliability needs of the company's customers
6 in ways that provide reasonable assurance that the
7 resources will be available. With that in mind, the
8 company determined that it would be beneficial and
9 prudent to accelerate its Polk Unit 2 construction, a
10 180-MW CT from January 2001 to October 2000 and its Polk
11 Unit 3, a 180-MW CT from January 2003 to May 2002. Next,
12 the company negotiated several short-term firm agreements
13 with Okelanta Corp., Farmland Hydro Inc., and Auburndale
14 Power Partners. Finally, the company negotiated with HPP
15 for the purchase of firm power from May 15, 2000 to
16 December 31, 2012.

17
18 Q. How did Tampa Electric evaluate the terms of the HPP
19 agreement to other market opportunities?

20
21 A. With respect to the HPP agreement, Tampa Electric
22 received responses to its solicitation from Florida Power
23 and Light and Florida Power Corporation and both proposed
24 higher pricing than the HPP agreement pricing. This
25 analysis is supported in the rebuttal testimony of Tampa

1 Electric witness Mark D. Ward. The company also received
2 a proposal from the City of Lakeland that initially
3 appeared to have the potential to provide a lower price
4 than the HPP agreement but it was subsequently withdrawn.
5

6 Q. Have you looked at the energy futures market to compare
7 the prices to be paid under these purchased power
8 agreements with the published forward energy prices for
9 the eastern United States trading hubs?
10

11 A. Yes. Tampa Electric found that the HPP contracted prices
12 are below the competitive bid price for the twelve-year
13 term. The contracted prices for each purchased power
14 agreement the company entered into for 1999 and 2000 were
15 also lower than published forward prices for specific
16 periods in 1999 and 2000.
17

18 Q. How does Tampa Electric justify the prudence of the
19 purchase of power under the HPP agreement?
20

21 A. As described in Mr. Ward's testimony, the company
22 performed several production cost analyses to ensure the
23 HPP agreement was a cost effective and prudent investment
24 that met the company's integrated resource plan.
25

1 Q. How do the total costs of this additional 75 MW compare
2 to the total costs of the original HPP agreement?

3
4 A. The costs are lower.

5
6 Q. Does this conclude your rebuttal testimony?

7
8 A. Yes.

9

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1 BY MR. WILLIS:

2 Q Could you please summarize both your direct
3 and rebuttal testimony?

4 A Yes. Good afternoon, Commissioners.

5 My Direct Testimony describes five
6 agreements Tampa Electric has signed with four
7 suppliers for the purchase of firm capacity and energy
8 for 1999, 2000 and beyond. Four of the contracts are
9 for varying terms over the period, May 1, '99, through
10 as late as December 31, 2000. The fifth agreement is
11 a long-term purchased power agreement that Hardee
12 Power Station has with Tampa Electric's affiliate,
13 Hardy Power Partners Limited, or HPP.

14 In entering into this agreement with HPP,
15 Tampa Electric took advantage of an opportunity to
16 acquire the output of a firm 75-megawatt combustion
17 turbine prior to the summer of 2000 by exercising an
18 option as provided in the original agreement with HPP
19 and Seminole Electric. Tampa Electric entered into
20 these five agreements in order to maintain overall
21 system reliability for its retail customers.

22 As my testimony indicates, Tampa Electric's
23 retail load has increased since 1997 at a higher than
24 expected rate. The company plans to achieve the
25 desired system reliability for its retail customers by

1 accelerating new generating unit construction and
2 acquiring firm capacity purchases.

3 My testimony also describes significant
4 changes in the wholesale market in Florida and the
5 rest of the country over the past few years. These
6 include an overall tightening of the wholesale market,
7 the volatility of market prices due to shortages
8 outside the state and the changes in the manner in
9 which wholesale power is offered for hourly
10 transactions to block purchases.

11 It is in view of these market
12 characteristics, and the lead time needed to construct
13 new generating units, that Tampa Electric recognized
14 the need to secure purchased power agreements for its
15 native load to mitigate costs and availability risk.

16 My testimony describes Tampa Electric's
17 successful efforts to mitigate the high market price
18 of purchased power through the negotiation of
19 short-term firm purchases at rates lower than the
20 prevailing market price.

21 Finally, my testimony describes the types of
22 economy sales that Tampa Electric has entered into
23 that are made with and without the use of the Florida
24 Broker system; that is, the Energy Broker Network.
25 These economy sales are priced on a cost based

1 split-the-savings basis whether or not the broker is
2 utilized.

3 That concludes my direct summary.

4 Q Proceed with your rebuttal summary.

5 A My rebuttal testimony addresses issues
6 raised by FIPUC regarding the Hardee Power Partners
7 purchased power agreement that Tampa Electric entered
8 into for 75 megawatts of firm power beginning in May
9 of 2000. This opportunity arose by virtue of HPP, or
10 Hardee Power Partners, having the ability to use
11 Seminole Electric Cooperative's Hardee site.

12 On May 24th, 1999, Seminole waived its
13 option under its agreement with HPP to require
14 construction of an additional 145 megawatts of
15 capacity. Accordingly, Tampa Electric exercised its
16 option under the agreement to require HPP to begin
17 construction of a 75-megawatt CT, which HPP expects to
18 have into service by May 15, 2000.

19 A Florida utility requiring energy in the
20 current market has the option of, one, being willing
21 to pay high market spot prices for nonfirm energy and
22 take the risk that the power may not be available.
23 Two, building additional generation resources to
24 mitigate its exposure to such prices. Or three,
25 entering into short and long-term contracts for

1 capacity and energy purchases.

2 In evaluating the reliability needs of our
3 customers, Tampa Electric has taken a balanced
4 approach using several different strategies.

5 Provision of reliable service is paramount.
6 With that in mind, the company determined that it
7 would be beneficial and prudent to accelerate its Polk
8 Unit 2 construction, a 180-megawatt CT, from January
9 of 2001 to October of 2000, and its Polk Unit 3, a
10 180-megawatt CT from January 2003 to May 2002.

11 Next, the company negotiated several
12 short-term firm purchase agreements with Okeelanta
13 Corporation, Farmland Hydro, Incorporated and
14 Auburndale Power Partners. Finally, the company
15 negotiated with HPP for the purchase of firm power
16 from May 15, 2000, to December 31, 2012.

17 In reviewing the HPP purchase option, Tampa
18 Electric made a solicitation of proposals. Tampa
19 Electric received responses to its solicitation for
20 peaking capacity comparable to HPP's 75 megawatts from
21 Florida Power Corporation, Florida Power & Light, both
22 of which proposed higher pricing than HPP.

23 The company also received a proposal from
24 the City of Lakeland that initially appeared to have
25 the potential to provide a lower price than HPP, but

1 it was subsequently withdrawn.

2 The company performed production cost
3 analyses concerning the HPP pricing and determined it
4 was a cost-effective and prudent investment that met
5 the company's Integrated Resource Plan. Furthermore,
6 the total cost of this 75 megawatts are lower than
7 those of the original HPP agreement.

8 That concludes my summary.

9 **MR. WILLIS:** We tender the witness.

10 **COMMISSIONER DEASON:** Mr. McWhirter.

11 **CROSS EXAMINATION**

12 **BY MR. McWHIRTER:**

13 **Q** Mr. Brown, you are the head of Tampa
14 Electric's marketing arm?

15 **A** That's correct. I'm Director of Wholesale
16 Marketing and Sales.

17 **Q** And are you an employee of Tampa Electric
18 Company?

19 **A** Yes.

20 **Q** When a transaction is performed, are the
21 transactions always by Tampa Electric or do you act,
22 in some instances, as a marketer for other parties?

23 **A** The Marketing Department acts as the
24 marketing agent for Hardee Power Station as well as
25 all of the Tampa Electric resources.

1 Q When Tampa Electric Company sells power in
2 the wholesale market, is it routed in some fashion
3 through the Hardee operation?

4 A I don't quite understand your question.

5 Q Well, does the transaction go directly from
6 Tampa Electric to the purchaser without any
7 involvement whatsoever of Hardee or does Hardee have a
8 involvement in each wholesale transaction?

9 A They do not have any involvement unless we
10 sell generation from the Hardee Power Station.

11 Q The purpose of your testimony is stated on
12 Page 2, Line 1, of your Direct Testimony, and it was
13 to provide an overview of the Purchased Power
14 Agreements.

15 What responsibility does Tampa Electric
16 have, in your opinion, if you understand regulatory
17 affairs, to provide the Commission with basic
18 information so that it can determine the prudence of a
19 transaction?

20 A Well, I'm not a regulatory person. I'm not
21 certain of the total required information that's --
22 total information that's required to justify these
23 purchases.

24 Q Your rebuttal testimony criticized
25 Mr. Taylor because he requested the underlying

1 contracts that support this contract, TECO's agreement
2 with Hardee Power Partners and the other entities.
3 And you stated that he could have gone to Washington,
4 the Federal Energy Regulatory Commission, and look up
5 the contracts, and he shouldn't have to rely on Tampa
6 Electric to provide it as part of this proceeding.
7 That's how I read the testimony. Is that what you
8 really meant?

9 A I don't believe that's what I said in my
10 testimony.

11 Q What did you say? What did you mean to say?

12 A I basically said that the Purchased Power
13 Contracts, the five Purchased Power Contracts that we
14 entered into were prudent and cost-effective. As far
15 as the Hardee contract is concerned, I did describe
16 the Hardee contract.

17 Q But you didn't supply a copy of it or the
18 amendments or the petition supporting it or anything
19 until after Mr. Taylor presented his testimony, did
20 you?

21 A As I recall, when -- as a result of my
22 deposition, I did supply copies of the agreements, the
23 Hardee purchase agreements, as well as the other
24 contracts.

25 Q I'd like first to talk about the capacity

1 that's available to the Tampa Electric retail
2 customers as a result of these transactions.
3 Mr. Hernandez gave us some background but said you
4 knew more about it so I'm going to ask you.

5 With respect to the capacity of the Hardee
6 plant, am I correct in assuming that for the first 295
7 megawatts Seminole has first call on that capacity?

8 A No.

9 Q What is the circumstance?

10 A Seminole only has a call on the 295
11 megawatts if they lose one of their resources.
12 Otherwise, it is Tampa Electric's to use.

13 Q All right. Would you look at your exhibit
14 and look at the petition of Hardee Power Partners
15 filed with the Federal Energy Regulatory Commission on
16 September 15th, 1999? (Witness complies.)

17 A This is exhibit WLB-2 you're referring to?

18 Q Yes, sir. It's one of the documents
19 attached.

20 A And what page?

21 Q I'd like you to look at page -- first of
22 all, look at the petition of Hardee Power Partners for
23 an order accepting rates. The first page of that
24 petition is not numbered, and it's the third set of
25 documents in your exhibit. (Pause)

1 A Is this the petition for the third amendment
2 or the petition for the fourth amendment?

3 Q It's entitled "WLB-2, Document 2, Page 1 of
4 39" and it's dated September 15th, 1999, with a Bates
5 stamp from the Federal Energy Regulatory Commission.

6 A All right. This is the petition for the
7 third amendment.

8 Q Okay. Now, that petition was filed on
9 behalf of Hardee Power Partners, Tampa Electric and
10 Seminole by a law firm representing the three
11 entities?

12 A Yes.

13 Q All right. The petition, at Page 6,
14 describes the Seminole agreement. And on Page 7, I'd
15 like you to read, if you will, the sentence that
16 begins with "This capacity and contract" beginning on
17 line 2.

18 A "This capacity and energy can be called upon
19 by Seminole without regard to outages by its own units
20 but is subject to specified annual energy
21 limitations."

22 Q That meant to me that it could call on that
23 power at any time whether its units were up and
24 running or not.

25 A I believe if you refer to the previous

1 page --

2 Q All right.

3 A -- next to last line -- and this is Page 6
4 I'm referring to, the sentence that begins with "The
5 Seminole" -- do you see that?

6 Q Yes.

7 A "The Seminole agreement also provides for
8 HPP sale to Seminole of 145 megawatts of Big Bend 4,
9 or BB4, capacity and corresponding energy purchased by
10 HPP from Tampa Electric for a ten year period
11 commencing on January 1, 1993. That is the capacity
12 that that sentence refers to on Page 7.

13 Q All right. So with respect to Big Bend 4,
14 if there's a need by Tampa Electric's retail load and
15 there's a need by Seminole for the power, Seminole has
16 prior rights to it?

17 A That is correct.

18 Q Now, with respect to the 295 megawatts, who
19 has prior rights to that?

20 A The rights are as I described. Seminole
21 only has a right to it if they lose one of their
22 resources. And I might add providing they have not --
23 excuse me, if they lose one of their resources.

24 Q Okay. There's an energy requirement
25 connected with it; they can only use so much energy?

1 A Under the Big Bend 4 agreement there is.

2 Q And what percentage of the total output of
3 that 145 megawatts is Seminole entitled to?

4 A They're entitled to the entire 145 megawatts
5 providing they do not exceed their energy.

6 Q What is the energy relationship? 145 times
7 8750 would give you total output.

8 A I don't have that energy number in megawatt
9 hours with me.

10 Q What percentage is it?

11 A I don't recall.

12 Q Is it more or less than half?

13 A I don't recall offhand but I can get the
14 information.

15 Q That's all right.

16 And in simplified terms, unless Seminole has
17 one of its plants out of operation, it is not entitled
18 to first call on the 295 megawatts of Hardee; Tampa
19 Electric has first call?

20 A That is correct also. The 13 megawatts that
21 Seminole has with Crystal River 3 is included in that
22 resource list.

23 Q Are you casting aspersions upon Crystal
24 River 3?

25 A No. I would never do that.

1 Q But any time Crystal River 3 is down, they
2 can call on this 295 megawatt?

3 A No. They can only call on 13 megawatts.

4 Q I see. With respect to the new contracts,
5 the 70 megawatts that will come in in May of this
6 year, Tampa Electric Company will have first call on
7 that?

8 A It's a 75-megawatt contract, and yes, the
9 answer is yes.

10 Q And the way the contract reads, as I read
11 it, it says Tampa Electric Company will have -- have
12 the right to dispatch it but it doesn't limit it only
13 to the retail load, it can dispatch it anywhere it
14 wants to; is that correct?

15 A Yes, we can.

16 Q Is it your testimony in this case that Tampa
17 Electric Company at this time commit itself to pay
18 for -- or at least that the retail customers of Tampa
19 Electric Company at this point in time be committed to
20 pay the capacity charges with respect to the new
21 Hardee construction for the next 12 years?

22 A The case is to pay for the capacity charges
23 and the energy charges for the next twelve and a half
24 years.

25 Q And so if a decision is made today, that

1 essentially becomes a stranded investment in the
2 event, say, deregulation should occur?

3 **MR. WILLIS:** I object to that question. It
4 calls for a legal conclusion. I think it's
5 inappropriate.

6 **COMMISSIONER DEASON:** Mr. McWhirter, there's
7 been an objection.

8 **MR. McWHIRTER:** I'll concur in the
9 objection. It does call for a legal conclusion, and
10 this may as well.

11 **Q** **(By Mr. McWhirter)** Is it your intention
12 that Tampa Electric Company be bound on this contract
13 and that the ratepayers be bound to pay for the
14 capacity charges that are contained in that contract
15 for the next 12 years under the capacity surcharge
16 cost recovery system and the fuel cost recovery
17 adjustment clause?

18 **A** Yes.

19 **Q** All right. Now, you said that you went out
20 and looked for other power and you went to Florida
21 Power Corporation and Florida Power & Light. Your
22 company has previously contracted with Florida Power
23 Corporation to supply the requirements of the FMPA
24 contract; is that not correct?

25 **A** Part of the requirements, yeah.

1 Q And do you know what the potential for
2 renewing that agreement with Florida Power was for the
3 forthcoming period, for the forthcoming year?

4 A To my knowledge the agreement expired at the
5 end of this year and was nonrenewable.

6 Q Okay. Does Florida Power have available
7 capacity to supply 70 megawatts to Tampa Electric
8 Company for the next twelve and a half years; 75
9 megawatts for the next twelve and a half years?

10 A We received a response to our request that
11 indicated that they have capacity beginning 2001. But
12 it was not available -- according to their written
13 response, it was not available beginning May of 2000.

14 Q And what response did you get from Florida
15 Power & Light?

16 A They did have the capacity beginning May of
17 2000.

18 Q And you initially solicited Lakeland but
19 found that that was not a viable alternative?

20 A Lakeland withdrew their response.

21 Q I see. Did you solicit Duke?

22 A No.

23 Q Did you solicit Constellation?

24 A No.

25 Q Did you solicit PG&E?

1 A No.

2 Q Did you solicit Sythe?

3 A No.

4 Q Did you solicit any independent power
5 producers seeking to do business in the state of
6 Florida?

7 A No.

8 Q If Tampa Electric Company built 75 megawatts
9 and didn't need the power for its own load and sold it
10 on the wholesale market, what would happen to the
11 proceeds of that sale with respect to how the revenue
12 is accounted for by Tampa Electric Company?

13 A That depends on how we sold it, under what
14 contract and --

15 Q Well, if you sold it as a firm wholesale
16 sale?

17 A If we built a unit for the purpose of making
18 firm wholesale sales and separated those sales, then
19 all of the revenues from those sales, I would assume,
20 go to the bottom line.

21 Q If you made a nonseparated sale and the
22 purpose of the plant was -- you put it in your retail
23 rate base because you intended it for retail customers
24 but you made a short-term wholesale Schedule J sale
25 from that plant, how would the revenues be treated?

1 A 100% of that would go back to the retail
2 customers.

3 Q Now, let's look at the plant with Hardee
4 constructing it and Tampa Electric Company doesn't
5 have need for the load and Hardee sells it in the
6 wholesale market, what portion of the proceeds does
7 Tampa Electric receive?

8 A For this 75-megawatt CT, Tampa Electric has
9 total call to that CT and we receive 100% of the
10 benefits of the sale.

11 Q So if the Hardee 75-megawatt plant sells
12 power to Seminole or to Florida Power & Light or
13 another entity and receives revenue, is it your
14 testimony that that revenue would flow to the
15 customers of Tampa Electric Company in the same manner
16 that a plant in the retail rate base would flow the
17 revenues?

18 A Yes.

19 Q Are you familiar with the capital structure
20 of the Hardee 75-megawatt plant?

21 A No.

22 Q Are you familiar with the capital structure
23 of the assignee of TECO Power Services who will now
24 own this plant? Is it Hardee Power Partners Limited?

25 A It's Hardee Power Partners Limited, yes.

1 But the question is -- could you please repeat it?

2 Q The capital structure, the ratio of debt to
3 equity of that entity?

4 A No.

5 Q How was the price that Tampa Electric will
6 be charged for -- and Seminole -- charged for the
7 capacity and the energy of this plant developed?

8 A The capacity -- first of all, the capacity
9 piece, it's a cost based, based on the cost of the
10 unit to Hardee Power Partners. Also, there is some
11 charge in there to pay for the common use facilities,
12 that is the plant's common use. And then there is a
13 rate of return that was factored in that was subject
14 to FERC approval and has been approved by FERC.

15 Q How are the dispatching provisions of this
16 new 75 megawatts, how do they compare with the
17 dispatching provisions for the original 295?

18 A The 75 megawatts is totally at Tampa
19 Electric Company's discretion. It is totally under
20 our dispatch. The 295 megawatts is also at our
21 discretion provided that Seminole does not have an
22 outage on one of their units or there's an outage on
23 Crystal River.

24 Q For all intents and purposes then, this
25 plant is exactly the same as if it were constructed by

1 Tampa Electric Company in its rate base, and the only
2 difference is that you get the benefits of
3 co-ownership with Seminole; is that correct?

4 A That is correct. There are benefits of
5 having this unit at the Hardee Power Station.

6 Q Well, that's the only difference then,
7 having it -- say, if it had been built at the Polk
8 station?

9 A I believe that witness Mark Ward can address
10 some of this. But, basically, the Hardee Power
11 Station, as has been previously stated, was designed
12 with this option; that is, the option of building out,
13 essentially, a station that was not built out at the
14 time, at the initial stage, and Tampa Electric Company
15 exercised its option to do so. We exercised it so
16 that we could have capacity available to our customers
17 for the summer of 2000, beginning in the summer of
18 2000. And we entered into a cost-based transaction
19 with Hardee Power Partners that is below the responses
20 to bid that we issued and is much better than the
21 current market.

22 Q How does it compare to the cost of the plant
23 that's being built at the Polk station of similar
24 size?

25 A To the Polk 2 you're referring to?

1 Q Yes.

2 A I do not know.

3 Q Was any independent analysis run not based
4 on the comparison to contract offers you had, but
5 comparison to other cost of construction analyses?

6 A I believe Mark Ward did analyses of that
7 type.

8 MR. McWHIRTER: That's all the questions I
9 have of this witness.

10 COMMISSIONER DEASON: Mr. Burgess.

11 MR. BURGESS: No.

12 COMMISSIONER DEASON: Staff.

13 MR. KEATING: I just a few questions.

14 CROSS EXAMINATION

15 BY MR. KEATING:

16 Q Is it correct that Tampa Electric Company
17 solicited bids for the power that was ultimately
18 provided for Hardee Power Partners?

19 A Yes, sir.

20 Q Was that solicitation limited to certain
21 entities?

22 A The entities that I described, yes.

23 Q For the other four Purchased Power
24 Agreements you discussed in your testimony, did you
25 solicit bids for the power provided under those

1 agreements as well?

2 **A** We did not solicit open bids. We searched
3 out opportunities and negotiated on an individual
4 basis with those.

5 **Q** Over the life of the Hardee Power Partners
6 contract, approximately how much will TECO, on
7 average, pay under that contract on a
8 dollar-per-megawatt-hour basis?

9 **A** The capacity charge is \$5.23 cents per kW
10 month. The energy charge is a pass-through of fuel
11 and O&M.

12 **Q** How much does the energy charge amount to?

13 **A** It varies depending on the fuel price.
14 Because it's a gas-fired unit, it depends on the price
15 of gas. But I don't have the projected average number
16 for the 2000 -- excuse me, for the twelve and a half
17 term. But as I recall, it's approximately \$45, and
18 that includes all O&M. That's over the 12 years.

19 **Q** Can Tampa Electric Company make economy
20 energy sales over the broker using market-based
21 pricing?

22 **A** No. We -- the terms "economy" and "market
23 based" do not agree in our view.

24 **Q** Well, let me rephrase the question. Can
25 TECO make sales over the broker using market-based

1 pricing?

2 **A** We can.

3 **Q** Under what schedules would TECO make those
4 types of sales?

5 **A** Under our market-based schedule.

6 **Q** Which schedule is that?

7 **A** Some refer to it as a market-based J. It
8 actually doesn't have a unique letter or schedule
9 letter of its own. It's a brand-new schedule, of
10 course, that hasn't been around very long.

11 **Q** How long has TECO been able to make those
12 types of sales over the broker.

13 **A** Since approximately June the 1st -- well,
14 excuse me, over the broker?

15 **Q** Yes.

16 **A** Since October the 7th.

17 **Q** And has TECO participated in those types of
18 transactions?

19 **A** No.

20 **Q** Okay. Does it intend to?

21 **A** We may.

22 **Q** If you did, how would you treat the revenue
23 from those sales?

24 **A** If we do a market-based sale over the
25 broker, we would flow 100% of the benefits back to our

1 retail customers.

2 MR. KEATING: I have no further questions.

3 COMMISSIONER DEASON: So you're saying it --
4 the deciding factor of whether you split it 80/20 or
5 you flow it 100% is not dependent on whether it's a
6 broker sale or not, it's dependent on whether it's an
7 incremental cost sale or market-based sale.

8 MS. BROWN: That is exactly right.

9 COMMISSIONER DEASON: Redirect.

10 MR. WILLIS: I have no redirect. Move
11 admission of Exhibit 34.

12 COMMISSIONER DEASON: Without objection
13 Exhibit 34 is submitted.

14 (Exhibit 34 received in evidence.)

15 MR. WILLIS: Call Mark Ward.

16 COMMISSIONER DEASON: While the witness is
17 taking the stand, let me take this opportunity to ask
18 the parties where we feel like we stand.

19 It is now almost 2:00 p.m. of the second
20 day. We still have a number of witnesses to go, and
21 we're probably going to need to make arrangements to
22 possibly work late into the evening, and I need to
23 have persons in the Clerk's office be advised of that
24 if that's what we're going to do.

25 So let me begin with Staff as far as cross

1 examination of the remaining witnesses, do you have a
2 general feel?

3 **MR. KEATING:** Staff will have no cross
4 examination for any of the remaining witnesses, either
5 direct or rebuttal. I'm not sure, we may have one or
6 two questions for this witness, but other than that we
7 have no other cross examination.

8 **COMMISSIONER DEASON:** For none of the
9 remaining witnesses?

10 **MR. KEATING:** Yes.

11 **COMMISSIONER DEASON:** Okay. Mr. Burgess.

12 **MR. BURGESS:** I had intended just a few
13 questions, a couple of minutes, for Mr. Hernandez and
14 Mr. Howell on rebuttal. And then, of course, we have
15 the direct testimony of Dr. Dismukes.

16 **COMMISSIONER DEASON:** We have the what?

17 **MR. BURGESS:** Sponsor the Direct Testimony
18 of Dr. Dismukes.

19 **COMMISSIONER DEASON:** Mr. McGee.

20 **MR. MCGEE:** I have limited cross for the two
21 intervenor witnesses and Staff witness. Very limited.

22 **COMMISSIONER DEASON:** Very limited.
23 Mr. McWhirter.

24 **MR. McWHIRTER:** I have a few questions for
25 this witness and maybe one or two questions for

1 Mr. Black when he comes back on rebuttal, but nothing
2 else.

3 COMMISSIONER DEASON: Nothing extensive; is
4 that correct?

5 MR. McWHIRTER: Nothing extensive. Or maybe
6 expensive.

7 COMMISSIONER DEASON: I'm sure it's
8 expensive. (Laughter) Mr. Childs.

9 MR. CHILDS: No questions.

10 COMMISSIONER DEASON: Mr. Stone.

11 MR. STONE: Commissioner, in following
12 Mr. Keating's lead this morning, I was going to
13 suggest that perhaps Mr. Taylor, Mr. Dismukes and
14 Ms. Harlow could be inserted into the record as though
15 read and cross examination be dispensed with, but I
16 don't know if that will work with the other parties.

17 MR. WILLIS: We would agree to that.

18 COMMISSIONER DEASON: Mr. Childs, you have
19 no questions. Mr. McGee, you have some limited
20 questions?

21 MR. MCGEE: If it was understood by other
22 parties they would waive cross, we would waive it as
23 well.

24 COMMISSIONER DEASON: That would be
25 Witnesses Taylor, Dismukes and Staff witness Harlow.

1 **MR. MCGEE:** That's correct.

2 **MR. STONE:** Yes, Commissioner.

3 **COMMISSIONER DEASON:** We may be in better
4 shape than I thought.

5 Okay. That gives me an idea. We'll
6 continue.

7 **MR. WILLIS:** We would also like to present
8 both the direct and rebuttal of Mark Ward at one
9 sitting.

10 **COMMISSIONER DEASON:** Any objection to
11 hearing direct and rebuttal for witness Ward? (No
12 response.) Hearing no objection, that will be fine.

13

- - - - -

14

MARK D. WARD

15 was called as a witness on behalf of Tampa Electric
16 Company and, having been duly sworn, testified as
17 follows:

18

DIRECT EXAMINATION

19

BY MR. WILLIS:

20

Q Would you state your name and address,

21

please?

22

A Mark D. Ward, Tampa Electric Company, 702

23

North Franklin Street, Tampa, Florida, zip code 33602.

24

Q Did you prepare and cause to be prefiled

25

prepared Direct Testimony of Mark D. Ward that was

1 submitted in this proceeding?

2 A Yes, I did.

3 Q Do you have any additions or corrections to
4 that testimony?

5 A Yes, I do.

6 Q Could you please provide that.

7 A Page 5, Direct Testimony, Line 11, I'd like
8 to change the word "firm" to "total." It would read
9 "total load."

10 My next change is Page 5, Line 13. Again
11 change the word "firm" to "total." And my third
12 correction is again Page 5 and on Line 24, after the
13 sentence ending with "determination" I'd like to
14 insert the following. "In this proceeding Tampa
15 Electric Company is seeking recovery of \$2,837,092.
16 This amount represents the net recoverable fuel from
17 the purchased power cost of the Gannon 6 accident, and
18 is the difference between the \$5,073,526 of the total
19 fuel purchased power replacement costs and the
20 estimated purchased power cost of the interruptible
21 customer buy-through provision."

22 Q With those changes, would your answers be
23 the same to the testimony?

24 A Yes, sir, they would.

25 MR. WILLIS: We request that the prepared

1 Direct Testimony of Mark D. Ward be inserted into the
2 record as though read.

3 COMMISSIONER DEASON: Without objection, it
4 shall be so inserted.

5 MR. WILLIS: He has an exhibit attached to
6 his testimony which I would request be marked as a
7 composite exhibit.

8 COMMISSIONER DEASON: It will be identified
9 as Exhibit 35.

10 (Exhibit 35 marked for identification.)

11 Q (By Mr. Willis) Did you prepare and cause
12 to be prefiled in this docket prepared Rebuttal
13 Testimony of Mark D. Ward?

14 A Yes, I did.

15 Q Do you have any additions or corrections to
16 that testimony?

17 A Yes, I do. Two corrections. Page 9,
18 Line 1, I'd like to change the number "297" to "359."

19 And the second change, again Page 9, Line 1,
20 I'd like to change the number "369" to "431."

21 Q Does that complete your corrections?

22 A Yes, it does.

23 Q If I were to ask you the questions contained
24 in this document with those corrections, would your
25 answers be the same today?

1 A Yes, they would.

2 **MR. WILLIS:** We request Mr. Ward's Rebuttal
3 Testimony be inserted into the record as though read.

4 **COMMISSIONER DEASON:** Without objection, it
5 shall be so inserted.

6 **MR. WILLIS:** Request his exhibit attached to
7 his rebuttal testimony be marked on his Exhibit 36.

8 **COMMISSIONER DEASON:** It will be so
9 identified.

10 (Exhibit 36 marked for identification.)

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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 PREPARED DIRECT TESTIMONY

3 OF

4 MARK D. WARD

5 Q. Please state your name, address, occupation and employer.

6
7 A. My name is Mark D. Ward. My business address is 702
8 North Franklin Street, Tampa, Florida 33602. I am
9 employed by Tampa Electric Company ("Tampa Electric" or
10 "company") as Manager, Resource Planning.11
12 Q. Please provide a brief outline of your educational
13 background and business experience.14
15 A. I received a Bachelor of Science Degree in Mechanical
16 Engineering in 1984 from the University of Alabama in
17 Tusculum. Prior to my employment with Tampa Electric,
18 I held a number of engineering positions with various
19 aerospace companies and the Department of Defense. In
20 1996, I began my employment as a Consulting Engineer with
21 Tampa Electric's Generation Planning department. In
22 February 1997, I was promoted to Manager - Resource
23 Planning. I am responsible for managing Tampa Electric's
24 resource planning activities that include energy resource
25 utilization studies, production cost studies, system

1 reliability studies, and the company's integrated
2 resource planning process. As manager of Resource
3 Planning, I also represent Tampa Electric on the Florida
4 Reliability Coordinating Council's Resource Working
5 Group.

6
7 Q. What is the purpose of your testimony in this proceeding?

8
9 A. The purpose of my testimony is to support, for Commission
10 review and approval, replacement fuel and purchased power
11 costs associated with the April 8, 1999 Gannon Unit 6
12 accident.

13
14 Q. Have you prepared an exhibit to support your testimony?

15
16 A. Yes I have. My Exhibit No. 35 (MDW-1) was prepared
17 under my direction and supervision and consists of two
18 documents.

19
20 Q. What was the total cost of replacement fuel and purchased
21 power associate with the Gannon Unit 6 accident?

22
23 A. The total cost of replacement fuel and purchased power
24 was \$5,073,526.
25

1 Q. How do the costs compare to the costs presented to the
2 Commission in Staff's Second Set of Interrogatories No.
3 26 in this docket?

4
5 A. The costs are higher than what was provided in response
6 to Interrogatory No. 26 as submitted on August 19, 1999.
7 The company provided a preliminary estimate of \$1,524,640
8 for the total fuel and purchased power costs associated
9 with the Gannon Unit 6 accident. The company indicated
10 that at that time, it had initiated a detailed study that
11 would benchmark its system for the months of April, May
12 and June of 1999. The company stated that the detailed
13 study would provide more precise results of the
14 incremental costs of fuel and purchased power. The
15 company's response to Staff's Interrogatory No. 26 is
16 provided as Document No. 1 of my exhibit.

17
18 Q. Please describe, in detail, how you determined and
19 calculated the cost of replacement fuel and purchased
20 power.

21
22 A. Gannon Unit 6 was off-line for scheduled spring
23 maintenance at the time of the accident. Unit 6 was
24 originally scheduled to return to service on May 23,
25 1999. The six Gannon units were returned to service as

1 follows:

2 Unit 1 April 10, 1999
3 Unit 2 April 10, 1999
4 Unit 3 April 10, 1999
5 Unit 4 April 12, 1999
6 Unit 5 May 16, 1999
7 Unit 6 June 22, 1999
8

9 Tampa Electric's Resource Planning department, under my
10 direction and supervision, calculated the total cost of
11 replacement fuel and purchased power due to the April 8,
12 1999 Gannon accident by comparing two production cost
13 scenarios. One represented the actual accident
14 conditions and the other represented conditions that
15 would have existed had the accident not occurred. I will
16 refer to these as "recovery case" and "business plan
17 case," respectively. The study period covered from April
18 8, 1999, the date of the accident; through June 22, 1999,
19 the date Gannon Unit 6 was returned to service.
20

21 For each scenario, actual system performance data was
22 used to model Tampa Electric's demand and energy
23 requirements and its average cost for purchased power on
24 an hourly basis for the study period. In the recovery
25 case, the availability of Tampa Electric's generating

1 units was based on actual unit performance and in the
2 business plan case, the availability of the generating
3 units was based on each unit's planned outage schedule
4 and historical forced and maintenance outage rates.
5 Production costs for system generating units in both
6 scenarios were based on each unit's average fuel and
7 variable operating cost.

8
9 Using the information described above and a model
10 developed in-house for this purpose, the cost to serve
11 Tampa Electric's ~~firm~~^{TOTAL} load was calculated for each case.
12 For the business plan case, the scenarios consisted of
13 Tampa Electric resources serving the company's ~~firm~~^{TOTAL} load
14 requirements in the most cost-effective dispatch on an
15 hourly basis. For those hours when a capacity deficiency
16 existed, a power purchase was made at the average price
17 of actual purchased power for that hour. For each case,
18 the total production cost of the simulation was
19 calculated and the differential production costs of the
20 business plan case and the recovery case was determined
21 to be \$5,073,526. This represents the total replacement
22 fuel and purchased power costs associated with the
23 accident. Document 2 of my exhibit shows the results of
24 the production cost determination. In this proceeding Tampa
25 Electric Company is seeking recovery of \$1,837,092. This amount
represents the net recoverable fuel from the purchased power cost
of Gannon 6 accident, and is the difference between the
\$5,073,526 of the total fuel purchased power replacement costs and
the estimated purchased power cost of the interruptible
customer buy-through provision.

1 Q. Does this conclude your testimony?

2

3 A. Yes, it does.

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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 PREPARED REBUTTAL TESTIMONY

3 OF

4 MARK D. WARD

5
6 Q. Please state your name, address, occupation and employer.

7
8 A. My name is Mark D. Ward. My business address is 702
9 North Franklin Street, Tampa, Florida 33602. I am
10 employed by Tampa Electric Company ("Tampa Electric" or
11 "company") as Manager, Resource Planning.

12
13 Q. Are you the same Mark D. Ward who filed pre-filed
14 testimony in this proceeding?

15
16 A. Yes, I am.

17
18 Q. What is the purpose of your rebuttal testimony?

19
20 A. The purpose of my rebuttal testimony is to address the
21 points advanced by FIPUG witness Kent B. Taylor with
22 respect to the Hardee Power Partners purchased power
23 agreement ("HPP agreement").

24
25 Q. Have you prepared an exhibit to support your testimony?

1 A. Yes I have. Exhibit No. 36 (MDW-2) was prepared under
2 my direction and supervision and consists of one
3 document.

4
5 Q. Is the HPP agreement a prudent and cost effective
6 planning option?

7
8 A. Yes.

9
10 Q. How does Tampa Electric justify the prudence of the
11 purchase of power under the HPP agreement?

12
13 A. First, this capacity is needed to provide appropriate
14 planning and generating reserve margins - particularly in
15 the initial years of the agreement. Tampa Electric has
16 experienced sustained economic expansion within its
17 service territory resulting in higher peak demands and
18 energy requirements. This is particularly evident in
19 recent summers as the company has experienced reduced
20 planning reserves. To address this, the company has
21 decided to advance its supply-side resource additions.
22 As explained in Tampa Electric witness Brown's pre-filed
23 direct testimony, there is a tight market for power not
24 only in the Southeast but in several other regions of the
25 country as well. This tight market raises concerns about

1 the availability and price of purchased power. The
2 addition of the cost-based HPP agreement provides Tampa
3 Electric's customers protection against purchased power
4 price volatility while improving the planning reserves
5 for Tampa Electric and peninsular Florida.

6
7 Secondly, the current availability of permitted
8 generating sites and combustion turbines ("CT") is
9 limited. For example, the current delivery lead time for
10 a General Electric 7EA CT is four years and growing,
11 however, a 7EA CT which is the chosen technology for the
12 Hardee Power Station site ("Hardee" or "Hardee site") has
13 a delivery lead time of two years if purchased from the
14 manufacturer. As the result of a unique opportunity HPP,
15 through the secondary market, obtained the right to
16 acquire the only 7EA machine available in the United
17 States for immediate delivery. This unit is dual fuel
18 capable and similar to the three existing 7EA CTs
19 currently operating at the Hardee site.

20
21 Thirdly, like the charges to the existing assets at the
22 Hardee site, the capacity and energy charges for the
23 fourth CT are cost-based and FERC-accepted. On October
24 15, 1999 FERC accepted HPP's petition for cost-based
25 rates pertinent to Amendment 4 of the existing purchased

1 power agreement with Tampa Electric as included in Mr.
2 Brown's rebuttal testimony exhibit.

3
4 Fourthly, a power sale agreement between Seminole
5 Electric Cooperative ("SEC") and Tampa Electric for the
6 new HPP CT provides benefits for the company's customers.
7 Whenever Tampa Electric is not utilizing the CT, SEC has
8 contracted through 2012 for the rights for a back-up call
9 option from this unit. The SEC "back-up call option" is
10 non-firm but pays Tampa Electric a daily capacity charge
11 and energy charge whenever SEC exercises its call. These
12 charges are the same as those paid by Tampa Electric to
13 HPP, further supporting the competitiveness of the
14 pricing for the HPP agreement. All revenues from sales
15 to SEC will be credited to the company's retail
16 customers.

17
18 Finally, all existing 7EA CTs at the Bardee site have
19 been and are expected to continue to be very reliable
20 sources of capacity and energy to satisfy Tampa
21 Electric's needs.

22
23 Q. How did Tampa Electric determine the cost effectiveness
24 of the HPP agreement?

- 1 A. As described in the pre-filed and rebuttal testimony of
2 Mr. Brown, Tampa Electric exercised its option
3 acknowledged in Commission Order No. 22335 to pursue
4 Phase II of the existing purchased power agreement with
5 HPP for firm capacity and energy. Through Tampa
6 Electric's integrated planning process, the company
7 determined that the HPP agreement is the most cost
8 effective alternative based on a present worth revenue
9 requirement analysis comparing it to other alternatives.
10
- 11 Q. Briefly describe the company's integrated resource
12 planning process.
13
- 14 A. Tampa Electric's resource planning process is one in
15 which combinations of demand-side and supply-side
16 resources are evaluated on a fair and consistent basis to
17 satisfy future capacity and energy requirements in a cost
18 effective and reliable manner, while considering the
19 interests of the company's customers. The supply-side
20 resources that the planning process considers include a
21 variety of generating units based on technology and
22 available firm purchased power alternatives. Tampa
23 Electric's integrated resource planning methodology was
24 used in Docket No. 930591-EG, "Adoption of Numeric
25 Conservation Goals and Consideration of National Energy

1 Policy Act Standards.”

2
3 Q. Please describe the analysis Tampa Electric prepared in
4 evaluating the cost effectiveness of the HPP agreement.

5
6 A. The analysis, which was performed under my direction and
7 supervision, considered the two responses to the
8 solicited bid and a base case plan analysis that includes
9 a three-year firm purchased power agreement with capacity
10 and energy priced below market conditions. The two
11 responses to the solicited bid were from Florida Power
12 and Light and Florida Power Corporation and were
13 described in Mr. Brown's rebuttal testimony. Document 1
14 of my exhibit shows the incremental present worth revenue
15 requirements of the two responses and the HPP purchase
16 agreement compared to the base case.

17
18 The present worth revenue requirements for each case
19 included projected capacity and energy payments for firm
20 purchased power agreements, capital and O&M costs for
21 generation expansion and net recoverable fuel and
22 purchased power expenses. The results of the incremental
23 present worth revenue requirements show that the HPP
24 agreement is the most cost-effective option. The HPP
25 agreement is projected to be \$3.2 million less than the

1 base case option that includes a three-year purchase and
2 is \$8.5 million less than the next lowest cost purchased
3 power option. The HPP agreement was chosen as the
4 optimum alternative based on its overall cost
5 effectiveness and since it supports Tampa Electric's
6 short and long term planning requirements.

7
8 Q. Did Tampa Electric evaluate an option of building the 7EA
9 CT at its Polk site?

10
11 A. Yes.

12
13 Q. Please explain the evaluation of the option to build the
14 7EA CT at its Polk site.

15
16 A. The option of building the 7EA CT at the company's Polk
17 site would incur higher costs than costs estimated for
18 HPP constructing the unit at the Hardee site. In
19 addition to lower costs, the Hardee site offered other
20 benefits that were not available at the Polk site. For
21 example, the Hardee site offered an existing
22 infrastructure that includes personnel experienced with
23 operating 7EA technology, an existing GSU transformer,
24 inventory of 7EA spare parts, natural gas pipeline
25 interconnections, and transmission switchyard

1 interconnections. This infrastructure, which currently
2 does not exist at the Polk site, would result in
3 additional costs to the company to support 7EA CT
4 technology. Since the HPP agreement is a cost-based
5 transaction, it became evident that building at the Polk
6 site would be a less cost-effective alternative.

7
8 The other benefit of constructing the 7EA CT at the
9 Hardee site is the economic advantages gained through the
10 back-up power sale agreement between SEC and Tampa
11 Electric. With Tampa Electric and SEC sharing the Hardee
12 site facilities, this agreement could only be contracted
13 from assets at the Hardee site which will help reduce
14 overall costs for Tampa Electric's customers.

15
16 Q. Did Tampa Electric consider any other factors prior to
17 entering into the HPP agreement?

18
19 A. Yes. The company considered the relative size of the
20 purchase from HPP and determined it fit well with the
21 company's strategy of balancing generating resources with
22 firm power purchases over terms of various lengths. This
23 size purchase represents an appropriate commitment for
24 the term of the purchase. The commitment for purchasing
25 75 MWs under the HPP agreement increases the company's

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long-term purchased capacity from ~~290~~ to ~~369~~ MWS which represents approximately 10 percent of Tampa Electric's year 2000 total summer capacity.

Q. Please summarize your rebuttal testimony.

A. Tampa Electric, through its integrated resource planning process, identified the need to add resources both in its short- and long-term planning periods. Acting on the need, Tampa Electric sought input from several supply-side alternatives. The most cost effective and prudent alternative was to exercise an option contemplated in the company's original agreement with HPP. This alternative provides \$7.6 million dollars in cumulative present worth revenue requirements savings through 2002 and \$3.2 million dollars in cumulative present worth savings through 2012.

Q. Does this conclude your testimony?

A. Yes, it does.

1 Q (By Mr. Willis) Please summarize both your
2 Direct and Rebuttal Testimony.

3 A First my direct testimony.

4 Good afternoon, Commissioners. The purpose
5 of my direct testimony is to quantify the costs of
6 replacement fuel and purchased power costs associated
7 with the April 8, 1999, Gannon 6 accident. Tampa
8 Electric's Resource Planning Department, under my
9 direction and supervision, calculated these costs by
10 comparing two production costs scenarios.

11 The first case, which I refer to as recovery
12 case, represented the actual accident conditions. And
13 the second case, which I refer to as the business plan
14 case, represented conditions that would have existed
15 had the accident not occurred. The study period
16 covered from April 8th, 1999, the date of the
17 accident, through June 22nd, 1999, the date Gannon
18 Unit 6 was returned to service. For each scenario,
19 actual system performance data was used to model Tampa
20 Electric demand and energy requirements and its
21 average cost for purchased power on a hourly basis for
22 the study period. For each case the total production
23 cost of assimilation was calculated and the
24 differential production cost of the business plan case
25 and the recovery case was determined to be \$5,073,526.

1 This represents the total replacement fuel and
2 purchased power cost associated with the accident.

3 In this proceeding Tampa Electric Company is
4 seeking recovery of \$1,937,902. This amount
5 represents the net recoverable fuel and purchased
6 power costs of the Cannon 6 accident, and is the
7 difference between the \$5,073,326 of total fuel and
8 purchased power replacement costs and the estimated
9 purchased power cost of the interruptible customer
10 buy-through provision.

11 That concludes the summary of my direct.

12 Q Proceed with your rebuttal summary.

13 A Tampa Electric, through its integrated
14 resource planning process, identified the need to add
15 resources both in its short- and long-term planning
16 periods. Acting on this need, Tampa Electric sought
17 input from supply-side alternatives. The most
18 cost-effective and prudent alternative was an
19 agreement with Hardee Power Partners for firm capacity
20 and energy. This alternative provides \$7.6 million in
21 cumulative present worth revenue requirement savings
22 through 2002 and \$3.2 million in cumulative present
23 worth requirements savings through 2012.

24 Tampa Electric believes that the Hardee
25 Power Partner Purchase Agreement is not only a

1 cost-effective position but is a prudent one for
2 several reasons.

3 One, Tampa Electric has experienced
4 sustained economic expansion within its service
5 territory resulting in higher peak demands and energy
6 requirements. This condition has been, and will be,
7 experienced by the Peninsular Florida market, the
8 southeast and several other regions of the United
9 States.

10 The type power market raises concerns about
11 the availability and price of purchased power. The
12 addition of the cost-based Hardee Power Partner
13 Agreement provides Tampa Electric's customers
14 protection against purchased power price volatility
15 while improving the planning reserves for Tampa
16 Electric and Peninsular Florida.

17 Two, the current availability of combustion
18 turbines is limited. At best, the delivery time from
19 the manufacturer is more than two years. As a result
20 of the unique opportunity, Hardee Power Partners,
21 through the secondary market, obtained the right to
22 acquire a GE 7EA machine available for immediate
23 delivery. This unit is dual fuel capable and similar
24 to the three 7EA CTs currently operating at the Hardee
25 site.

1 Three. The capacity and energy charges for
2 the Hardee Power Partner Agreement are costed based.

3 Four. A power sale agreement between
4 Seminole Electric Cooperative and Tampa Electric for
5 the new Hardee Power Partners CT provides benefits for
6 the company's customers. Whenever Tampa Electric is
7 not utilizing the CT, Seminole has contracted through
8 2012 for the right for a backup call option from this
9 unit. The Seminole Electric backup call option is
10 nonfirm but pays Tampa Electric a daily capacity
11 charge and energy charge whenever Seminole Electric
12 exercises its call. These charges are the same as
13 those paid by Tampa Electric Company to Hardee Power
14 Partners further supporting the pricing of the
15 agreement. All revenues from this sale to Seminole
16 Electric will be credited to the company's retail
17 customers.

18 Five. The Hardee Power Partners station
19 site offered an existing infrastructure that includes
20 personnel experienced with operating 7EA technology
21 and an existing GSU transformer, an inventory of 7EA,
22 spare parts, natural gas pipeline interconnections and
23 a transmission switchyard interconnection.

24 Given these reasons, and the costs of the
25 Hardee Power Partners purchase, Tampa Electric

1 believes it should be considered a cost-effective and
2 prudent resource option for serving its customers.

3 That concludes it.

4 **MR. WILLIS:** Tender the witness.

5 **COMMISSIONER DEASON:** Mr. McWhirter.

6 **CROSS EXAMINATION**

7 **BY MR. McWHIRTER:**

8 Q Mr. Ward, you amended your testimony, your
9 Direct Testimony, on Page 5 to change from the
10 calculated cost to recover the replacement power cost
11 for firm load to total load. What is the impact of
12 that change in your testimony?

13 A The impact of the change -- it's a
14 clarification of what the \$5 million represents.

15 Q And you changed the 5 million to 1 million.
16 What is the significance of that?

17 A The 1.8 million is the fuel and purchased
18 power impacts that we're asking for recovery due to
19 the accident.

20 Q All right. Now, the difference between 1.8
21 and 5 million, is that the cost of the power that was
22 purchased and charged to the nonfirm customers or the
23 IS-1 and IS-3 customers?

24 A That was of the cost that we calculated in
25 our analyses for the IS customers, the buy-through

1 provision.

2 MR. McWHIRTER: My attractive assistant is
3 going to pass out a document. (Document handed out.)

4 MR. WILLIS: What is the source of this
5 document, Mr. McWhirter?

6 MR. McWHIRTER: That was prepared for one of
7 my clients by Tampa Electric Company. I'm going to
8 request that it be marked for identification, and then
9 if we can't verify it with this witness, then we won't
10 use it. This will be Exhibit 36, I believe, for
11 identification, Mr. Chairman.

12 COMMISSIONER DEASON: I believe it's 37.

13 MR. McWHIRTER: 37. I apologize.

14 (Exhibit 37 marked for identification.)

15 Q (By Mr. McWhirter) As I've indicated,
16 Mr. Ward, this is a document prepared for one of my
17 clients by your company dealing with the purchases for
18 the summer. Are you familiar with those numbers? Do
19 they look in any way similar to the ones that you've
20 calculated independently?

21 A I'm not familiar with these numbers.

22 Q They are totally unique to you. You've
23 never seen them before, anything like them?

24 A I've never seen these numbers.

25 Q All right. Never seen anything like them

1 with respect to purchased power?

2 A No, I haven't. (Pause)

3 Q Mr. Ward, in your Direct Testimony you talk
4 about the energy market in Florida and --

5 A Excuse me. My Direct Testimony?

6 Q Yes, sir, did you not? Or maybe it was
7 rebuttal.

8 A I think it's rebuttal.

9 Q All right. Is it your observation that
10 power that was formerly available to you on the spot
11 market has dried up because of more attractive prices
12 for this power in the northern climes?

13 A I received my information from our Wholesale
14 Marketing Department.

15 Q So your information is secondhand and we'd
16 have to look back to Mr. Brown for that?

17 A We have a department that focuses on the
18 wholesale market.

19 Q You are the person that performed the
20 cost-effectiveness study for the new 75-megawatt unit
21 at the Hardee site?

22 A It was under my direction, that's correct.

23 Q In that cost-effectiveness study, did you
24 hear the question I asked Mr. Ward about various
25 independent power producers that have been attempting

1 to provide power to the state of Florida?

2 **A** I think you asked Mr. Brown. Could you
3 repeat the question?

4 **Q** Yes. Would I repeat?

5 I asked him if there had been any attempt to
6 acquire power from companies like Duke, Constellation,
7 PG&E, Sythe or other merchant plant purveyors and he
8 referred that question to you.

9 **A** I don't know of any.

10 **Q** Okay. Did you, in your cost analysis, look
11 at the price that Duke was proposing, or any of these
12 other utilities are proposing, for a sale of their
13 power?

14 **A** No, we didn't.

15 **MR. McWHIRTER:** I have no further questions.

16 **COMMISSIONER DEASON:** Staff.

17 **MR. KEATING:** No questions.

18 **COMMISSIONER JACOBS:** Mr. Ward, in the
19 exhibit attached to your testimony, Document No. 2,
20 the table which goes into detail on the fuel and
21 purchased power costs.

22 **WITNESS WARD:** On my Direct Testimony?

23 **COMMISSIONER JACOBS:** Yes. Your Direct
24 Testimony.

25 **WITNESS WARD:** Exhibit 2.

1 **COMMISSIONER JACOBS:** Yes. I'm sorry,
2 Document No. 2.

3 **WITNESS WARD:** Okay.

4 **COMMISSIONER JACOBS:** You have here a table
5 which lists incremental fuel and incremental purchased
6 power for the months April through June.

7 **WITNESS WARD:** Yes.

8 **COMMISSIONER JACOBS:** And the -- what I had
9 heard before is that the summer months are generally a
10 time of increased usage --

11 **WITNESS WARD:** Typically that is correct.

12 **COMMISSIONER JACOBS:** -- on your system.
13 And when I look at the incremental fuel, what I assume
14 you're saying is that that's an adjustment for the
15 fuel you had anticipated you had used had that unit
16 been operating.

17 **WITNESS WARD:** That's correct. That's --
18 because those units weren't available in the recovery
19 case, they effectively became a credit in this
20 analysis.

21 **COMMISSIONER JACOBS:** Okay. That doesn't
22 square with the analysis I've heard before, that May
23 and June would have been high usage months for you so
24 you would expect there would have been a higher fuel
25 cost in those months.

1 **WITNESS WARD:** There would have been if the
2 units had been available. But remember, we're
3 comparing in one case, the actual case, which is what
4 I term the recovery case, where the Cannon units at
5 various times were suffering outages due to the
6 accident, compared that to a business plan case where
7 we assume that those units, if they weren't on a
8 planned outage, would be available for generation. In
9 that case, in the business planning case, those units
10 did run more resulting in a credit that you're seeing
11 for the three months.

12 **COMMISSIONER JACOBS:** Okay. I see. Is that
13 reflected here?

14 **WITNESS WARD:** Pardon?

15 **COMMISSIONER JACOBS:** That case, that
16 scenario is not reflected in this table, though.

17 **WITNESS WARD:** There is an increment look
18 between the two cases.

19 **COMMISSIONER JACOBS:** I see. I see. Okay.
20 Thank you.

21 **COMMISSIONER DEASON:** Redirect.

22 **MR. WILLIS:** I have no redirect.

23 **COMMISSIONER CLARK:** I would like to ask a
24 question, and, perhaps, I should have asked Mr. Brown.

25 In answer to Mr. McWhirter's question you

1 indicated that you did not solicit bids from merchant
2 power plants; is that correct?

3 **WITNESS WARD:** I don't know that we
4 solicited bids. That's not actually my --

5 **COMMISSIONER CLARK:** Who would it be? Was
6 it Mr. Brown?

7 **WITNESS WARD:** Yes, it would be.

8 **COMMISSIONER DEASON:** Redirect.

9 **MR. WILLIS:** No redirect. Move admission of
10 Exhibits 35 and 36.

11 **COMMISSIONER DEASON:** Without objection
12 Exhibits 35 and 36 are admitted.

13 (Exhibit 35 and 36 received in evidence.)

14 **COMMISSIONER DEASON:** Ms. Kaufman.

15 **MS. KAUFMAN:** FIPUG would call Mr. Kent
16 Taylor.

17 **COMMISSIONER DEASON:** It may be possible
18 that this testimony can be stipulated, as I
19 understand.

20 **MR. STONE:** That was my understanding from
21 the earlier discussion, is that the next three
22 witnesses would be inserted into the record as though
23 read.

24 **COMMISSIONER DEASON:** Any objection?

25 **MR. HART:** We don't have any cross

1 examination. We do have an objection to a couple of
2 lines of testimony being included in the record.

3 **COMMISSIONER DEASON:** For Wilness Taylor?

4 **MR. HART:** Yes. In other words, we have an
5 objection to the introduction of his testimony as read
6 in the record.

7 **COMMISSIONER DEASON:** But you have no cross
8 examination.

9 **MR. HART:** I have no cross examination. But
10 I would like a ruling on the Motion to Strike a
11 portion of his testimony.

12 **COMMISSIONER DEASON:** Let's take that up at
13 this time.

14 **MR. HART:** On Mr. Taylor's testimony, on
15 Page 7, starting with the last word on Line 1, what
16 Mr. Taylor seeks to do in his testimony here and in
17 his exhibit, which we would also object to, is to cite
18 to an OSHA report, and to put a portion of the OSHA
19 report in the record. And we believe that this is a
20 violation of Florida public policy and the Supreme
21 Court rulings on use of reports of this type, that
22 post accident investigations and safety reports are
23 not to be used in these kinds of fault-finding
24 determinations. And I would cite Florida Power Corp
25 versus Public Service Commission. There were two

1 cases. One in 1984 and one in 1982 which I'm sure
2 many people remember, where the NRC report was used in
3 this fashion and the court made it very clear that it
4 was a violation of public policy and the rules of
5 evidence to use these types of reports in these ways.

6 **COMMISSIONER DEASON:** Mr. Hart, refresh my
7 memory. Was that ruling from the Supreme Court that
8 the Commission could not use that type of report at
9 all, or was it that that report could not be the sole
10 basis of a finding by the Commission?

11 **MR. HART:** Well, in this particular case,
12 Mr. Taylor's testimony, that is the sole basis.

13 Second of all, it's not that the Commission
14 might not use this for some purposes but you can't use
15 it for a fault-finding proceeding, which is what this
16 one is. We already have testimony from the company's
17 witness as to the mistake by the employee that led to
18 the accident. But this report in and of itself is not
19 admissible for this purpose. If you're going to put
20 it into the record, you then leave any reviewer of
21 this record of this proceeding without any way to know
22 what weight it was given, whether it was given --
23 whether it influenced people's opinions even if they
24 say in their arguments and briefs that they don't.

25 So it's inappropriate to put it in the

1 record and then say you didn't consider it or didn't
2 base your finding on it. So we think it would be
3 inappropriate to allow this into the record.

4 **COMMISSIONER DEASON:** Mr. McWhirter.

5 **MR. McWHIRTER:** Mr. Chairman, if you'll read
6 the testimony on Page 6, essentially what he's saying
7 is he sees smoke by the OSHA report. He does not
8 suggest that the Commission rely upon the OSHA report
9 in any way with respect to its findings. What he
10 does, because he's seen the smoke and there's evidence
11 of a fire, he says "I recommend that the Commission
12 disallow the fuel replacement cost until TECO comes
13 forward with clear and convincing evidence that it and
14 its employees should bear no responsibility. If that
15 proof is forthcoming, then the Commission should
16 determine the appropriate cost apportionment between
17 the utility and its customers, both of whom were
18 totally without fault."

19 So he's not suggesting that the OSHA report
20 be used as affirmative proof. He's suggesting that
21 the Commission, because of the OSHA report, require
22 Tampa Electric to make clear and convincing proof that
23 it is in no way at fault in this explosion. So we're
24 not relying on it. And I would not suggest to the
25 Commission that you rely on that testimony, the OSHA

1 report, in any fashion, to make your finding in this
2 case.

3 **COMMISSIONER DEASON:** So then why is it
4 included in the testimony if we're not to rely on it?

5 **MR. McWHIRTER:** Newspaper reports and the
6 OSHA report came to his attention and he was concerned
7 about it. He has not had the opportunity to make an
8 independent investigation. His testimony also says
9 that -- I don't want to go into that -- but it's there
10 just to suggest to the Commission that it should take
11 some action with respect to this and demand Tampa
12 Electric to come forward with the evidence.

13 **COMMISSIONER DEASON:** Staff.

14 **MR. KEATING:** One of the exhibits that's
15 been moved into the record already is Mr. Black's
16 deposition transcript. Originally one of the
17 attachments to that transcript was the OSHA report.
18 Staff did not move to include that as part of its
19 exhibit because we did want to steer clear of any
20 problems as far as public policy regarding reliance on
21 these post accident reports for the same reasons that
22 Mr. Hart stated, that basically the Florida Power
23 decisions from the Supreme Court in 1982 and 1984. In
24 that case the Supreme Court faulted the Commission for
25 relying excessively on the post-accident report. And

1 the Nuclear Regulatory Commission's Notice of
2 Violation stated that they should not serve as the
3 primary source of evidence in a fault-finding
4 determination.

5 To Staff it wasn't -- we didn't feel it was
6 necessary to move that into the record. We felt we
7 had developed the facts independent of the OSHA report
8 through the deposition and covered most of those areas
9 as far as whether it should be included or excluded.

10 As a matter of being, I guess,
11 conservatively cautious, I would suggest that it not
12 be included because I'm not sure it adds that much to
13 the record.

14 **MR. McWHIRTER:** Mr. Chairman, based on the
15 Staff's contention, and since we do not rely on the
16 OSHA report for any conclusion that would be binding
17 on the Commission at all, I'll agree to strike the
18 reference from the testimony.

19 **COMMISSIONER DEASON:** Mr. Hart, you're
20 seeking that -- exactly which lines do you wish to
21 have stricken from this testimony?

22 **MR. HART:** On Page 7, the first sentence --
23 first line, at the end of the sentence the word "an
24 excerpt," that sentence and the next sentence that
25 begins "it appears" and of course the exhibit that's

1 referenced there, those two sentences and that exhibit
2 are the only thing that we seek to strike from the
3 testimony. And we would stipulate to the entry of the
4 rest of the testimony as it's written.

5 **COMMISSIONER DEASON:** Okay. That portion as
6 you just identified will be stricken from the
7 testimony. And, of course, the Exhibit KDT-2,
8 likewise, will be removed from the witness's exhibit.

9 And with that, the prefiled testimony will
10 be inserted into the record as though read. And we
11 need to identify the exhibits attached to that
12 testimony.

13 **MS. KAUFMAN:** Commissioner, Mr. Taylor has
14 KDT-1, 3 and 4.

15 **COMMISSIONER DEASON:** KDT-1, 3 and 4
16 attached to the prefiled testimony will be identified
17 as Exhibit 38. And without objection, Exhibit 38
18 shall be admitted into the record.

19 (Exhibit 38 marked for identification and
20 received in evidence.)

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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **DIRECT TESTIMONY AND EXHIBITS**

3 **OF**

4 **KENT D. TAYLOR**

5 **ON BEHALF OF**

6 **FLORIDA INDUSTRIAL POWER USERS GROUP**

7
8 **INTRODUCTION**

9 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

10 A. Kent D. Taylor, 4909 Pearl East Circle, Suite 104, Boulder, Colorado, 80301.

11 **Q. ON WHOSE BEHALF IS YOUR TESTIMONY PRESENTED?**

12 A. The Florida Industrial Power Users Group (FIPUG).

13 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

14 A. I am the Chairman of KTM, an energy consulting firm.

15 **Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND RELEVANT**
16 **BUSINESS EXPERIENCE.**

17 A. The information is shown on Exhibit No. 36 (KDT-1).

18 **Q. HAVE YOU TESTIFIED BEFORE OTHER REGULATORY BODIES?**

19 A. Yes. I have testified before the Federal Energy Regulatory Commission, the Colorado Public
20 Utilities Commission, the Public Service Commission of Nevada, Regie Du Gaz Naturel Du
21 Quebec, and the Florida Public Service Commission.

22 **Q. IN WHAT AREAS HAVE YOU TESTIFIED?**

1 A. I have testified in the areas of cost of service, cost allocation and rate design witness and also
2 as a client management representative.

3 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

4 A. I will discuss FIPUG's position on several generic issues and then specifically address
5 positions advanced by Tampa Electric Company (TECo) for substantive rulings that will
6 adversely affect customers.

7 **Q. ARE YOU PRESENTING EXHIBITS IN SUPPORT OF YOUR TESTIMONY?**

8 A. Time constraints did not allow for detailed quantitative analysis of filings mailed out by
9 numerous utilities on October 1st. These filings are extensive, but contain only summary
10 information. There is inadequate time for discovery or quantitative analysis. I have not
11 prepared independent exhibits, but I have attached an abstract of the findings by the U.S.
12 Occupational Safety and Health Administration that rebuts testimony filed by TECo and an
13 extract from another Commission docket that I believe should be given precedential
14 consideration in this case. Because of the time constraints, the conclusions and positions
15 offered are conceptual rather than specific, but the issues they address are quite material.
16 These issues deserve more than the cursory study that will occur at the three-day hearing in
17 November. I am advised by counsel that the amounts sought for guaranteed cost recovery
18 pass through surcharges in this docket by the four largest investor-owned utilities are over
19 \$3.7 billion. TECo, the next to the smallest utility is projecting a \$ 44 million cost recovery
20 increase over last year's projections, including purchases from affiliated companies, and a
21 404% increase in the environmental surcharge. The \$44 million increase is over twice the
22 amount granted in TECo's 1992 rate case and only \$1 million less than granted in 1985,

1 when Big Bend 4 was placed in service with an authorized return on equity of 14.5%. These
2 comparisons show the relative importance of this truncated procedure when compared to
3 general rate cases, where utilities provide more information and consumers have the
4 opportunity for more time to study the proposals.

5 **Q. WHAT ARE THE GENERIC COST RECOVERY CLAUSE ISSUES YOU WISH TO**
6 **ADDRESS IN YOUR TESTIMONY?**

7 A. FIPUG recommends several changes to the utility proposals. *First*, fuel factors should not
8 be uniform for the whole year. There should be a factor for the shoulder consumption
9 periods and a higher factor for the summer peak periods when the less efficient and more fuel
10 costly generating plants are operating. This approach would: (1) provide a conservation
11 incentive in the summer peak season, (2) more properly reflect cost causing behavior, and
12 (3) allocate costs equitably between high and low load factor customers. *Second*, the now
13 obsolete generic and TECo-related 80/20 net revenue split for economy/broker sales should
14 be eliminated for the reasons cited in this testimony. *Third*, utility filings should be carefully
15 studied to insure that all revenues from unseparated wholesale sales are flowed through the
16 fuel, environmental and capacity cost recovery clauses. The Commission should confirm
17 that all non-separated wholesale sales are recallable for the benefit of retail customers.
18 *Fourth*, all amounts paid by utilities to affiliate companies for ultimate recovery from the
19 retail customers should be publicly disclosed. *Fifth*, when off-system sales and third-party
20 power purchases occur simultaneously utilities should not be allowed to recover greater fuel
21 costs from retail customers than they collect from wholesale customers.

22 **Q. PLEASE CITE THE SPECIFIC AREAS OF TECO'S REQUEST WHICH ARE**

1 **UNACCEPTABLE TO FIPUG.**

2 A. I will discuss (1) the generic and TECo-related 80/20 net revenue split for broker and
3 economy sales, (2) additional fuel costs as a result of the Gannon accident, (3) appropriate
4 treatment of the plant dedicated to FMPA, (4) and the new Hardee Power Station power
5 purchase contract.

6 **80/20 NET REVENUE SPLIT CENTER**

7 **Q. WHAT IS FIPUG'S POSITION ON THE PROPRIETY OF THE 80/20 NET**
8 **REVENUE SPLIT?**

9 A. FIPUG believes that additional compensation for a specific utility management
10 responsibility, wherein the justification revolves around the need for additional incentives,
11 is nonsense. As a fundamental proposition, utilities should prudently manage all aspects of
12 their business and be willing to do so in return for regulated returns. Indeed, the retail nature
13 of utilities' customers places increased emphasis on management prudence.

14 **Q. IS THERE A RISK VS. REWARD IMPLICATION EMBEDDED IN YOUR BELIEF?**

15 A. Yes, the utility experiences no risk related to these sales. There is no entrepreneurial aspect
16 to the sale of power from regulated generation resources. The retail customers are financially
17 responsible. Therefore, 100% of the benefits should flow directly to them.

18 **Q. DO YOU BELIEVE UTILITIES WILL AGGRESSIVELY SEEK THESE POWER**
19 **SALES ABSENT AN ADDITIONAL INCENTIVE?**

20 A. I presume they would if compelled to do so. Perhaps the appropriate inference is a negative
21 incentive so that utility unwillingness to assertively pursue overall cost reduction avenues
22 for its retail customers would be cause for Commission sanction.

1 **Q. UNDER WHAT CIRCUMSTANCES WOULD FIPUG SUPPORT ADDITIONAL**
2 **INCENTIVES FOR BROKER/ECONOMY SALES?**

3 A. FIPUG would temper its position if the utilities were required to bear financial responsibility
4 for such sales.

5 **Q. DOES INCREASED COMPETITION WITHIN THE STATE OF FLORIDA**
6 **TEMPER YOUR POSITION?**

7 A. Perhaps, if there were retail competition in Florida. However, currently, Florida utilities are
8 not in jeopardy of losing their customers through competition. At the ratepayer level,
9 looking up, there are for most customers, no alternatives to incumbent utility service. Retail
10 competition would induce utilities to seek power cost mitigation for retail customers,
11 thereby providing the negative incentive mentioned earlier.

12 **GANNON ACCIDENT FUEL COSTS**

13 **Q. ARE YOU FAMILIAR WITH THE CIRCUMSTANCES SURROUNDING THE**
14 **GANNON EXPLOSION?**

15 A. Only to the extent that I have read the newspaper articles and the OSHA report. I understand
16 that industrial consumer representatives were denied the opportunity to examine the premises
17 or to receive an explanation of the circumstances surrounding the explosion.

18 **Q. WHAT ACTION DO YOU RECOMMEND TO THE COMMISSION WITH**
19 **RESPECT TO THE GANNON PLANT?**

20 A. Mr. Black has testified that the company bears no responsibility for the accident. Mr. Ward
21 has testified that customers should be charged an additional \$5,073,526 to cover the cost of
22 replacement fuel. This approach puts the total risk for the cost of replacement fuel on

1 customers although there is no evidence that they were responsible for the explosion. ~~2~~
 2 ~~except of the CSHP findings is attached as Exhibit No. (KDT-3). It appears that an~~
 3 ~~independent examining body, CSHP, has placed the responsibility for the explosion on~~
 4 ~~TECo.~~ Under the circumstances, I recommend that the Commission disallow the fuel
 5 replacement cost until TECo comes forward with clear and convincing evidence that it and
 6 its employees should bear no responsibility. If that proof is forthcoming, then the
 7 Commission should determine an appropriate cost apportionment between the utility and its
 8 customers, both of whom are totally without fault.

9 **TREATMENT OF COSTS RELATED TO THE FMPA WHOLESALE SALE**

10 Q. **HAVE YOU EXAMINED MR. HERNANDEZ'S TESTIMONY AND THE RATE**
 11 **ORDERS HE REFERS TO?**

12 A. Yes.

13 Q. **IN YOUR PROFESSIONAL OPINION, DOES HIS PROPOSAL APPEAR TO BE IN**
 14 **THE BEST INTEREST OF CONSUMERS?**

15 A. Based on the limited information supplied, it would appear the customers will be better
 16 served if the Commission adheres to the generic policy it prescribed in Order No. PSC-97-
 17 0262-FOF-EL in Docket No. 970001-EL, especially in light of the dramatic changes that have
 18 occurred in the wholesale market in recent years. I can do no better than adopt the testimony
 19 of David P. Wheeler filed in Docket No. 970171-EU. I have attached his testimony as
 20 Exhibit No. ~~38~~³⁹ (KDT-3). He explains the regulatory philosophy adopted by the Florida
 21 Public Service Commission to deal with the burgeoning wholesale market. It is a good
 22 philosophy. For long term wholesale commitments, the rate base dedicated to wholesale

1 sales is separated. For short term wholesale sales, there is no separation, but all revenues
2 flow to customers through the fuel and capacity cost recovery clauses. This approach is
3 designed to prevent gaming and appears to have had a beneficial effect on the customers of
4 F&L and FPC in 1999 and for the prospective year.

5 **Q. DID THE COMMISSION FOLLOW THIS GENERIC POLICY AS**
6 **RECOMMENDED BY MR. WHEELER WHEN THE FMFA SALE CAME BEFORE**
7 **IT?**

8 A. It did in TECo's 1992 rate case. It stated the generic policy for all utilities in the 1997 fuel
9 Docket No. 970001-EU. In Docket No. 970171-EU, the Commission addressed the contract
10 which Mr. Hernandez has brought up again in this docket. As Mr. Hernandez explains, the
11 Commission required TECo to separate the FMFA sale as it had done in the 1992 rate case
12 and determined not to allow TECo to deviate from the generic policy prescribed by Mr.
13 Wheeler. It did, however, give TECo a slight edge in that it only required TECo to make
14 the fuel clause whole to the extent fuel revenues received from FMFA would cover
15 incremental rather than average fuel costs. In that docket, the Commission allowed TECo
16 a benefit that was denounced in Order No. PSC-97-0262-FOF-EI, which made the following
17 finding:

18 Whenever a utility credits an amount which is less than average system fuel
19 costs to the fuel adjustment clause for its separated wholesale sales, the retail
20 ratepayers pay increased (i.e. above average) fuel costs than they would have
21 paid if fuel revenues were credited through the fuel clause based on average
22 fuel costs. When fuel prices are discounted and that discount is automatically

1 passed through to the retail ratepayer, and the other non-fuel revenues go to
2 the utility's shareholders immediately, there is an increased possibility of
3 gaming the system.

4 Mr. Hernandez overstates his case when he suggests that the decision in Docket No. 970171-
5 EU was based "solely" on a Stipulation between TECo, FIPUG and the OPC.

6 **Q. DO YOU AGREE WITH THE COMMISSION'S GENERIC POLICY?**

7 A. It appears to be just and equitable. If utilities are permitted to sell capacity in the wholesale
8 market at less than cost while retail customers pay the full cost there is a potential for two
9 evils. Retail customers are required to pay for something that is not available to them and
10 the utility will have an incentive to engage in predatory pricing in the wholesale market to
11 kill off competition.

12 **Q. WHAT DOES MR. HERNANDEZ PROPOSE IN THIS CASE?**

13 A. He proposes to deviate from the generic policy by keeping the special advantage previously
14 awarded on fuel costs and to enhance that advantage by having customers pick up the full
15 costs of 150 MW of generation that is dedicated to FMPA, a wholesale customer. It appears
16 that the price to FMPA is less than the carrying costs attributable to the capacity. TECo
17 provides no analysis of how it calculates benefits and how the benefits are shared between
18 customers and the company. The problem is exacerbated because the 150 MW is backed up
19 by a first call *vis a vis* retail customers on Big Bend Units 2 and 3 and Gannon Units 5 and 6.
20 Exhibit No. E-4 attached to Ms. Zwolak's testimony in this docket and Exhibit No. KAB-1
21 in Docket No. 970171-EU discloses that the 150 MW commitment is backed up by a first
22 call on 1486 MW of TECo's most efficient generating units. Exhibit No. E-6 in this docket

1 shows that TECo will sell 1,317,600 MWH of firm power to FMPA (7.3% of its total
2 projected generation) during the forthcoming year at a price less than it charges its
3 interruptible customers. In fairness, I must point out that my observations are based upon
4 the October 26, 1996 letter of commitment to FMPA that was filed as an exhibit in Docket
5 No. 970171-BU. Mr. Hernandez has referred to subsequent letter agreements which may
6 have improved retail customers' position, but those have not been provided.

7 **Q. DID TECO ADHERE TO THE MANDATES OF ORDER NO. PSC-97-1273-FOF-EU**
8 **ENTERED IN DOCKET NO. 970171-EU?**

9 A. It is not clear from Mr. Hernandez's testimony. In response to this question, at page 9 he says
10 "To the extent that Tampa Electric's retail resources were being used to supply FMPA...
11 TECo has and will continue to separate the capital and O&M costs..." At page 10 *et seq.* he
12 states that the FMPA contract was served from third-party contracts. On page 11, he says that
13 since "April 28, 1998 none of Tampa Electric's generating units have been used to serve the
14 sale." I conclude from these statements that TECo took the third-party purchase approach
15 so that it would not have to separate 150 MW of capacity from its retail rate base as the order
16 required.

17 **Q. HOW WERE TECO'S NONFIRM CUSTOMERS AND THE FUEL CLAUSE**
18 **AFFECTED BY TECO'S ELECTION TO SERVE FMPA FROM PURCHASED**
19 **POWER CONTRACTS?**

20 A. If TECo's generating capacity was not dedicated to FMPA during most of 1998 and 1999,
21 it is very clear that the sale is not in the best interest of TECo's retail customers, because
22 even with the 150 MW of capacity available for their load there were numerous interruptions

1 and third-party purchases for the interruptible and DSM customers. The current proposal
2 would reinstate FMPA's superior call rights on TECO's generating capacity. Further inquiry
3 may disclose that the third-party purchases for FMPA served to drive up third-party prices
4 for TECO's native load customers in 1998 and 1999.

5 **Q. IN LIGHT OF YOUR FINDINGS FROM THE LIMITED INFORMATION IN THE**
6 **RECORD, WHAT IS YOUR RECOMMENDATION?**

7 A. The FMPA transaction should be separated into another docket and be given thorough study
8 to insure that TECO's retail customers are not being unduly discriminated against by this
9 large wholesale sale. In the interim, the plant should remain separated and the last two years
10 should be studied to ascertain the precise impact of this contract on retail customers.

11 **Q. DO YOU HAVE OTHER OBSERVATIONS CONCERNING WHOLESALE SALES?**

12 A. Yes. Capacity shortages in the country have resulted in very high prices for spot market
13 capacity in peak periods. There is an incentive for utilities to take advantage of this
14 circumstance by setting up their own commodity trading floors and making short term sales.
15 The Commission should aggressively reinforce its generic Order No. PSC-97-0262-FOF-EI
16 pertaining to wholesale sales by adopting a rule on the subject. The rule should, at a
17 minimum, mandate that:

- 18 1. Nonfirm customers shall not be interrupted for economic reasons to enable greater
19 wholesale profits for the utility. I am led to believe that this does not presently occur,
20 but a Commission policy on the subject for the protection of retail customers is in
21 order;
- 22 2. If wholesale sales are being made contemporaneously with third-party purchases,

1 retail customers should be charged no more than the imbedded costs for the period;

- 2 3. To avoid conflicts of interest, utilities should not be granted exclusive agency rights
3 to purchase power for nonfirm customers when the reserve margins between installed
4 capacity and total system demand fall below 15%;
- 5 4. All short-term wholesale sales shall be recallable.

6 **Q. IS FIPUG CONCERNED THAT TECO WILL AVOID SERVING THIS MARKET**
7 **FROM ITS POWER GENERATION ASSETS, THEREBY ELIMINATING**
8 **REVENUE CREDITING FOR THE RETAIL CUSTOMERS ENTIRELY?**

9 A. No. I am confident that crediting opportunities will emerge on more advantageous terms if
10 the Commission embraces FIPUG's other recommendations.

11 **HARDEE POWER STATION POWER PURCHASE CONTRACT**

12 **Q. WHAT IS FIPUG'S POSITION WITH RESPECT TO THE NEW LONG-TERM**
13 **POWER CONTRACT FROM HARDEE POWER PARTNERS?**

14 A. It is FIPUG's position that the burden is on TECO to prove the prudence of this contract as
15 it did in the 1992 rate case. An extract of the relevant portion of the order in that case is
16 attached as Exhibit No. 32 (KDT-4). In order to do so, TECO must put the contract into
17 evidence and provide information as to why this is the most prudent course of action to take.
18 TECO has not presented the contract for review nor justified its prudence. Further, FIPUG
19 representatives have been unable to examine the contract. Nonetheless, the long term nature
20 of the agreement and the potential for affiliate abuse greatly concern FIPUG. Consequently,
21 FIPUG is opposed to the inclusion of this contract in the cost recovery adjustments at this
22 time until a review has been accomplished and the prudence of the contract has been

1 determined.

2 **Q. IS THERE A BROADER REGULATORY IMPLICATION FOR CONTRACTS OF**
3 **THIS TYPE?**

4 A. Yes, all material utility transactions with affiliates, for which the rate payers are financially
5 responsible, should be subjected to public scrutiny. The potential for abuse among affiliates
6 should be acknowledged and therefore, such transactions should be open for public review.

7 **Q. WHAT DOES FIPUG RECOMMEND THE COMMISSION DO IN REGARD TO**
8 **THIS CONTRACT?**

9 A. FIPUG recommends that the contract not be approved at this time and that it be
10 considered in a separate docket.

11 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

12 A. Yes.

1 **MR. McWHIRTER:** Mr. Chairman, Mr. Taylor is
2 a colorful fellow that's come halfway across the
3 country to be here and speak to you today. And I
4 understand that nobody wants to cross examine him but
5 I'd like you to have the opportunity to hear a summary
6 of his wisdom. It won't take you more than a minute
7 and 37 seconds, and respectfully request that he be
8 allowed to give his summary.

9 **COMMISSIONER DEASON:** Is there any objection
10 to the summary?

11 **MR. STONE:** Commissioner, it has been normal
12 practice, as evidenced yesterday, that when testimony
13 is stipulated into the record that the summary is
14 dispensed with. In fact, particularly yesterday we
15 asked for the opportunity to allow Ms. Ritenour to
16 present her summary and I was advised that that was
17 not appropriate.

18 **COMMISSIONER DEASON:** Okay.

19 **MR. McWHIRTER:** As colorful as he is, if
20 it's not appropriate for Ms. Ritenour, we'll give up
21 on Mr. Taylor.

22 **COMMISSIONER DEASON:** Very well. Thank you,
23 Mr. McWhirter.

24 Okay. Next witness is Public Counsel's
25 witness; is that correct?

1 **MR. BURGESS:** Yes, sir. I call to the
2 witness stand Dr. Dismukes.

3 **MR. STONE:** I believe we also talked about
4 stipulating his testimony into the record as though
5 read.

6 **COMMISSIONER DEASON:** I believe that is
7 correct. Is there any objection to stipulating the
8 testimony into the record and waiving cross
9 examination? (No response)

10 Hearing none, then if we can -- we'll simply
11 insert the testimony of Dr. Dismukes into the record.
12 Are there exhibits attached to the testimony?

13 **MR. BURGESS:** No, sir. There's an
14 attachment that's a statement of his professional
15 qualifications.

16 **COMMISSIONER DEASON:** Would it be
17 appropriate to have it identified as an exhibit?

18 **MR. BURGESS:** Either way. It could just
19 stand as part of the testimony or an exhibit.

20 **COMMISSIONER DEASON:** Let's identify it as
21 Exhibit No. 39. This is Appendix 1 to the testimony.

22 **MR. BURGESS:** It is identified as Appendix
23 1.

24 **COMMISSIONER DEASON:** We'll identify it as
25 Exhibit 39, and it likewise will be admitted into the

1 record.

2 (Exhibit 39 marked for identification and
3 received in evidence.)

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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 DOCKET NUMBER 990001-EI

3 DIRECT TESTIMONY OF DAVID E. DISMUKES, PH.D.

4 ON BEHALF OF THE CITIZENS OF THE STATE OF FLORIDA

5

6 Q State your name and business address.

7 A My name is David E. Dismukes. My business address is 6455 Overton Street, Baton Rouge,
8 Louisiana 70808.

9 Q What is your current occupation?

10 A I am a Consulting Economist and Principal in the Acadian Consulting Group. I also serve as
11 an Assistant Professor at the Center for Energy Studies, and as an Adjunct Assistant Professor in the
12 E. J. Ourso College of Business Administration at the Louisiana State University.

13 Q Have you prepared an appendix outlining your professional qualifications?

14 A Yes, Appendix I was prepared for this purpose.

15 Q What is the purpose of your testimony?

16 A I have been retained by the Office of Public Counsel (OPC), on behalf of the Citizens of the
17 State of Florida (the Citizens), to recommend the removal of the 20 percent incentive return allowed
18 to Florida's electric utilities on gains from sales of purchased power. The Citizens recommend that
19 100 percent of the gain on these sales be credited to ratepayers through the fuel adjustment clause.20 Q Would you please explain how the existing sharing mechanism for broker sales was
21 established?22 A Yes. The broker system was established in 1978 during a period of significant change in
23 energy markets, particularly the electric power industry. In the same year, Congress passed the
24
25

1 National Energy Act (NEA) which was composed of five different statutes.¹ The general purpose
2 of the NEA was to ensure sustained economic growth during a period in which the availability and
3 price of future energy resources was becoming increasingly uncertain. The two major themes of the
4 legislation were to: (1) promote the use of conservation and renewable/alternative energy, and (2)
5 reduce the country's dependence on foreign oil.

6 Florida was not exempt from the economic and energy crises occurring during this period.
7 The state relied heavily on large steam generation, a large portion of which was oil-fired. In the later
8 part of this volatile period, the Florida Energy Efficiency and Conservation Act (FEECA) was enacted
9 to explicitly promote energy conservation and energy reliability. It was out of this environment that
10 the state of Florida explored a broker system as a means to increase power exchanges, coordination,
11 and reliability.

12 Earlier in this proceeding, it was noted that the origins of the Florida broker system were
13 based on an early investigation by the Commission regarding the possibilities of optimized generation
14 expansion within peninsular Florida. [Howell Deposition, Docket Number 990001-EI, January 14,
15 1999, 17:15-21]. In addition to increased generation planning, the Commission explored the idea of
16 creating a state-wide central dispatch organization. The centralized broker system, which works like
17 a loose power pool arrangement, appears to be the compromise solution to enhance state-wide bulk
18 power system coordination. At the time the Florida broker system was created, it was recognized as
19 a unique coordination arrangement between different types of utilities. In many ways, the
20 arrangement can be thought of as an early precedent for today's competitive spot wholesale markets.

21 Between 1978 and 1984, the Commission considered the effects of economy (broker system)
22 sales on retail revenue requirements in the electric utilities' base rate cases. Gains on economy sales

24 ¹The Public Utilities Regulatory Policy Act (PURPA); the National Energy Tax Act; the National Energy
25 Conservation Policy Act; the Power Plant and Industrial Fuels Act (PIFA); and the Natural Gas Policy Act.

1 were recognized either as an increase to test year revenues or as a reduction in test year expenses.
2 Under either approach, the effect of the adjustment was to increase test year net operating income
3 (NOI), which reduced the magnitude of the rate increase, or increased the magnitude of any rate
4 decrease. An adjustment had to be made because, to do otherwise, would ignore wholesale revenues
5 acquired by the use of retail transmission and generation assets.

6 The uncertainty associated with economy sales from year to year, however, created a
7 regulatory problem. Test year retail rates would be unnecessarily high if actual gains from economy
8 energy sales were greater than those estimated for the test year. The opposite would hold if gains
9 from economy sales were less than anticipated.

10 In order to eliminate the uncertainty associated with economy energy sales, the Commission
11 decided in 1984, to move the ratemaking treatment of gains from base rates to the fuel adjustment
12 clause. In addition to this move, the staff witness in this proceeding, Mr. C. K. Hvosik,
13 recommended that there be a sharing of the gain on economy sales between utility shareholders and
14 ratepayers. Instead of reducing fuel and purchased power costs by the full amount of the gains, the
15 Commission approved the recommendation to apply 80 percent of those gains to ratepayers and
16 allowed the remaining 20 percent of the gain to flow through to utility shareholders. The 20 percent
17 incentive was given to utilities to encourage them to participate in the broker system since under the
18 old regulatory recovery regime, utilities had incentives to participate so that they could retain earnings
19 from unforecasted gains from economy energy sales.

20 Q Why should the Commission remove the 20 percent incentive return?

21 A. For the reasons outlined in the testimony and recommendations filed earlier in this docket by
22 Commission Staff witness Tom Ballinger. In his testimony, Mr. Ballinger noted the extensive
23 industry changes that have occurred since the inception of the incentive program in 1984. These
24 changes are the result of a confluence of economic, technical, and public policy factors that have had
25 the net result of making the power industry more open and competitive than it was in 1984. The

1 competitive nature of these markets, and the signals they send to market participants, should be
2 enough to encourage Florida's utilities to take full advantage of all available market opportunities
3 including increased sales on the Florida broker system.

4 Mr. Ballinger recommended that the 20 percent incentive return be removed because of the
5 increased competitive nature of the industry. I agree with this recommendation and its rationale. The
6 continued use of these incentives is not only anti-competitive, it denies ratepayers the full benefits of
7 enhanced wholesale competition envisioned in the Energy Policy Act of 1992 and FERC Order 888.

8 Q. Won't the removal of these incentives discourage utilities from participating in competitive
9 wholesale markets?

10 A. No. Since economy energy sales are opportunistic in nature it is a questionable proposition
11 as to whether utilities can strategically (and consistently) manipulate their economy sales for profit.
12 In fact, it is important to keep in mind that the whole issue of the uncertainty associated with
13 forecasting these gains was one of the main reasons for moving their ratemaking treatment from base
14 rate cases to fuel adjustment proceedings.

15 However, even if you assume that utilities have a reasonable amount of control over the level
16 of their economy sales, there are still a number of incentives to participate in these competitive
17 wholesale markets including the Florida broker system. Indeed, the competitive nature of the industry
18 gives Florida's utilities a number of incentives to participate in these markets without an additional
19 incentive adder. These incentives include:

- 20 (1) Opportunities to reduce rates through credits to the fuel adjustment clause;
- 21 (2) Greater bulk power system efficiencies; and
- 22 (3) Increased name recognition as a reliable competitive player in bulk power markets.

23 Q. How will rates be reduced through increased economy energy sales, and if so, what incentives
24 do utilities have to reduce rates when retail competition is currently not allowed in Florida?

25

1 A. Gains from economy energy sales are used to reduce fuel expenses within the fuel adjustment
2 clause. If 100 percent of the gains from these sales were passed through to customers, average retail
3 rates would be lowered via reductions in the fuel adjustment clause (other things being equal).
4 Utilities should be in a position in the current environment to take full advantage of every opportunity
5 to reduce rates. Two forms of competition, existing and anticipated, provide utilities with strong
6 incentives to make rates as competitive as possible.

7 Existing competitive threats, while limited, typically take the form of self-generation and
8 cogeneration opportunities. These opportunities have traditionally been restricted to large electricity
9 users and particularly those that have combined heat and power applications. However, technological
10 innovations, and the advent and rapid promotion of small scale generation capabilities at the 1 MW
11 level and less, are providing utilities with a greater number of threats at the distribution level as well.
12 Failure to address rate competitiveness with commercial customers and potentially residential
13 customers could lead to a loss of these customers through self-generation opportunities available with
14 distributed energy resources (DER).

15 The threat of future competition gives utilities additional incentives to reduce their rates. Rate
16 comparisons between utilities within and between various regions are being made on an almost daily
17 basis. In some states, these comparisons have been used to sound the clarion call for retail
18 restructuring. Utilities must be cognizant of this fact, particularly those that have rates that may be
19 greater than state, regional, and national averages.

20 Other competitive threats include the potential siting of competitive merchant facilities. The
21 power industry trade press report regularly on the legal battles in Florida over the siting of
22 competitive merchant facilities. In most all cases, Florida's investor-owned utilities (IOUs) have
23 protested these applications. I believe that it is unreasonable for Florida's IOUs to, on the one hand,
24 protest these competitive wholesale merchant facilities, and on the other hand, ask for incentives to
25 participate in wholesale power markets. It would appear from recent events that if Florida's IOUs

1 are unwilling to participate in these markets without an incentive, there are plenty of other
2 competitors that will do so without a regulatory entitlement.

3
4 Q. How would enhanced operating efficiencies serve as an incentive to utilities to make economy
5 wholesale transactions?

6 A. Increased economy sales will have the effect of increasing overall system capacity utilization.
7 As a result, there is the strong possibility that this increased capacity utilization will increase overall
8 operating efficiencies by reducing average system heat rates. In the absence of a base rate case
9 proceeding, these increased efficiencies gains can be flowed-through to shareholders. Thus, utilities
10 that make additional economy sales have the potential to offer their retail customers additional rate
11 decreases through reduced fuel adjustments and their shareholders higher earnings through increased
12 profits. If utilities are serious about getting ready for competition, then they should need no
13 additional incentives to take advantage of this "win-win" opportunity.

14 Q. Why would gaining name recognition be important to a utility?

15 A. Wholesale and retail markets are becoming more and more competitive on a daily basis. New
16 entrants enter and old participants are merging into new players. More and more we see electric
17 utility companies advertising and coming up with creative tag lines to define themselves as
18 competitive and full service energy providers. Actively participating in wholesale markets, whether
19 through the broker system, other spot transactions, forward market, or other long term wholesale
20 contracts establishes Florida's utilities as experienced, flexible, and reliable providers of wholesale
21 electricity. Utilities in Florida can point to their expertise and historic participation in the Florida
22 broker system as evidence of their credibility as a wholesale power provider. This experience and
23 reputation is an "intangible" asset in many respects, but clearly participation in a wholesale market
24 like the broker system at the least helps to maintain this solid reputation, and at best, only serves to
25 enhance it.

1 Q. Would you please summarize your testimony?

2 A. Yes. In my testimony, I have made the following points:

3 (1) the development of the Florida broker system was a unique and precedent setting
4 development for wholesale markets not only in Florida, but the rest of the United
5 States;

6 (2) the broker system was established in a era of energy uncertainty when policy
7 measures were being taken at the federal and state level to secure cost effective and
8 reliable power supplies;

9 (3) over the years, the power industry has experience a confluence of economic,
10 technical, and public policy changes that have increased the number of market
11 participants and the overall competitiveness of the industry;

12 (4) the competitiveness of the industry is such that incentive returns on wholesale
13 power transactions are not needed and they deprive ratepayers of the full wholesale
14 benefits envisioned by the Energy Policy Act and Orders 888 and 889; and

15 (5) the competitive marketplace gives utilities incentives to facilitate economy energy
16 opportunities. These incentives include the opportunities to reduce overall customer
17 rates, increase generator efficiency, increase profitability, and increase name
18 recognition.

19 Because of the increased competitive nature of the industry, and the market-based incentives
20 prevalent in wholesale markets today, I recommend that the Commission remove the 20 percent
21 incentive return on gains from economy sales and flow-through 100 percent of these gains to
22 ratepayers.

23 Q. Does this conclude your testimony pre-filed on October 18, 1999?

24 A. Yes.

25

1 **MR. KEATING:** Based on the parties'
2 representations I believe we can also stipulate
3 Ms. Harlow's prefiled testimony into the record.

4 **COMMISSIONER DEASON:** Is there any objection
5 to stipulating Witness Harlow's testimony into the
6 record and waiving cross examination? (No response.)

7 Seeing no objection, that prefiled testimony
8 will be inserted into the record.

9 **MR. KEATING:** There are two exhibits, JGH-1,
10 JGH-2. I'd like those marked for identification and
11 moved into the record.

12 **COMMISSIONER DEASON:** That will be
13 identified as Exhibit 40 and without objection shall
14 be admitted into the record.

15 (Exhibit 40 marked for identification and
16 received in evidence.)

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DIRECT TESTIMONY OF JUDY G. HARLOW

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

3 A. My name is Judy G. Harlow. My business address is 2540 Shumard Oak
4 Boulevard, Tallahassee, Florida, 32399-0650.

5 Q. By whom are you employed and in what capacity?

6 A. I am employed by the Florida Public Service Commission (FPSC) as an
7 Economic Analyst in the Bureau of System Planning/Conservation and Electric
8 Safety in the Division of Electric and Gas.

9 Q. Please describe your educational and professional background.

10 A. I attended Louisiana State University and received a B.S. in Business
11 Administration with an Economics major in 1980; a M.S. in Economics in 1982;
12 and completed the course work and general exams toward my Ph.D. in Economics
13 with a minor in Finance in 1985. I was employed by the FPSC in November, 1991
14 as a Research and Planning Economist in the Division of Research and
15 Regulatory Review. In August, 1996, I transferred to my current position as
16 an Economic Analyst in the Bureau of System Planning/Conservation and Electric
17 Safety.

18 Q. What is the purpose of your testimony?

19 A. The purpose of my testimony is to recommend that the current 20 percent
20 stockholder incentive for investor-owned utilities selling economy energy,
21 approved in Commission Order No. 12923, be discontinued.

22 Q. Please provide a history of how the current stockholder incentive came
23 into existence.

24 A. Economy sales are hourly non-firm sales made primarily to take advantage
25 of production cost differences between utilities. Florida's Energy Broker

1 System was created in 1978 to facilitate economy sales within the state.
2 Prior to this time, wholesale sales were limited in Florida and some utilities
3 were reluctant to participate in an economy energy sales market.

4 Prior to April 1, 1984, gains on economy sales were treated as operating
5 revenue in base rates. Therefore, economy sales were projected in each rate
6 proceeding and revenue requirements were reduced to reflect these projected
7 broker revenues. Between rate cases, if a utility could sell more economy
8 energy than projected, or make these sales at a higher margin than projected,
9 the revenues in excess of the rate case projection would increase the
10 utility's rate of return. This gave utilities an incentive to underestimate
11 economy sales during a rate case. Forecasting these sales involves the
12 projection of multiple utility loads and costs. Therefore, these sales were
13 very difficult to predict and it was difficult to detect if these sales were
14 underestimated during a rate case.

15 To eliminate the difficulty in forecasting these sales and the potential
16 for utilities to underestimate these sales during a rate case proceeding, on
17 January 24, 1984, the FPSC issued Order No. 12923, which changed the
18 regulatory treatment of gains made on economy sales. The FPSC ordered that,
19 beginning on April 1, 1984, the investor-owned utilities remove the gains from
20 economy sales from base rates and flow these gains through the Fuel and
21 Purchased Power Cost Recovery Clause, and apply a 20 percent stockholder
22 incentive to these gains. The 20 percent incentive was applied below the line
23 as an incentive to encourage economy sales, while the remaining 80 percent
24 benefitted ratepayers by reducing the fuel charge.

25 Q. Do you believe that an incentive was needed in 1984?

1 | A. Yes. Compared with present market conditions, the wholesale market for
2 | electricity in Florida was very different in 1984. Investor-owned electric
3 | utilities were not exposed to the competition for wholesale customers
4 | experienced in the electric market today. Non-utility generators were
5 | virtually non-existent. Also, industrial customers did not have the self
6 | generation options available today. Therefore, utilities had less incentive
7 | to make economy sales which benefit ratepayers and result in lower rates.

8 | Also, the arrangement of economy sales was a peripheral function of the
9 | system dispatcher. The result was that utilities did not vigorously pursue
10 | economy sales. During the transition period toward a more fully developed
11 | wholesale market, the stockholder incentive encouraged utilities to more
12 | aggressively participate in the economy market. This resulted in a benefit
13 | to the utilities' ratepayers.

14 | Q. Why do you believe the incentive is no longer necessary?

15 | There are four primary reasons why I believe the incentive is no longer
16 | necessary:

17 | 1) The electric industry has changed dramatically since the incentive
18 | was approved in 1984. Changes have occurred in both the wholesale and retail
19 | markets for electricity which have increased utility incentives to make
20 | wholesale economy sales in order to keep rates as low as possible.

21 | The wholesale market has developed dramatically since 1984. The Energy
22 | Policy Act of 1992 reduced regulatory barriers to entry for additional
23 | wholesale generators, or Exempt Wholesale Generators. Plans for several
24 | Exempt Wholesale Generators located in Florida are currently being developed.
25 | Also, the Federal Energy Regulatory Commission's (FERC) open access

1 requirements set forth in Orders 888 and 889, issued in 1996, have reduced
2 barriers to transmission access for wholesale competitors. These changes in
3 the wholesale market have resulted in a greater incentive for utilities to
4 complete economic wholesale sales in order to keep rates as low as possible
5 and retain wholesale customers.

6 The retail market for electricity has also changed. Utilities are under
7 added pressure from large industrial customers to keep rates low. Stable
8 natural gas prices and technological developments in power generation have
9 increased the opportunity for these large retail customers to self-generate.
10 Utilities therefore have more incentive in today's market to make economy
11 wholesale sales which provide credits to customers through the fuel clause.
12 This reduces the potential for these large industrial customers to self-
13 generate and leave a utility's system.

14 2) Making wholesale sales, including economy sales, is no longer a
15 peripheral function for the system dispatcher. FERC has recently required
16 that the operations function be unbundled from the marketing function for
17 investor-owned utilities. Therefore, Florida's investor-owned utilities now
18 have a marketing department dedicated to making cost-effective wholesale
19 purchases and sales. For many utilities, one or more employees are now
20 dedicated solely to making economy sales.

21 3) At the time the stockholder incentive was approved by the FPSC,
22 economy sales made outside the broker network were rare. However, in recent
23 years, utilities' efforts to make economy sales outside the broker network
24 have increased. This has resulted in an increase in non-broker economy sales.
25 This has led to a decline in sales on the Energy Broker network, not because

1 | utilities need a greater incentive to make additional broker sales, but
2 | because economy sales made outside the broker network are more flexible and
3 | often more profitable for the utilities and/or their salesayers. As noted on
4 | page nine of the testimony of Tampa Electric Company's (TECO) witness Lynn
5 | Brown, prefiled October 1, 1999, in this docket:

6 | oday, many utilities either make hourly or block energy sales off
7 | the broker at market-based prices. Since the broker is limited
8 | to cost-based transactions, it has experienced a steady decline
9 | in usage due to greater profit opportunities elsewhere for those
10 | seeking to sell power. While the broker can be the best means for
11 | a buyer to enter into a cost-based hourly transaction, other more
12 | lucrative opportunities exist for sellers in today's market.
13 | These include market based, hourly, off-broker transactions and
14 | same day or next day market-based block sales.

15 |
16 | Florida Power Corporation's (FPC) witness, Karl Wieland, discussed FPC's
17 | increased efforts to make off-broker economy sales in the "transmission
18 | reconsideration" hearing in Docket No. 980001-EE, held on February 12, 1999.
19 | Mr. Wieland describes a "very open market where a lot of communication takes
20 | place between all the parties, and the arrangements [for wholesale economy
21 | sales] are just made basically over the phone between brokers." When asked
22 | whether off-broker economy sales will start to reduce the sales made by FPC
23 | on the broker network, Mr. Wieland stated that only four years ago, 90% of
24 | FPC's economy sales were made on the broker network, while currently
25 | approximately 90% of FPC's economy sales are made outside the broker network.

1 The portion of the hearing transcript containing Mr. Wieland's statements is
2 included as Exhibit No. (JGH-1).

3 It is important to note that while these off-broker economy sales have
4 been increasing, Florida Power and Light Company (FPL) and FPC do not apply
5 the 20 percent stockholder incentive to these off-broker economy sales.
6 Therefore, an incentive does not appear to be necessary in order to encourage
7 economy sales.

8 4) The FPSC's order establishing the stockholder incentive on economy
9 sales was interpreted differently by Gulf Power Company (Gulf) and TECO than
10 by FPL and FPC. According to Gulf's response to staff's first set of
11 interrogatories in Docket No. 990001-EI, Gulf does not make economy energy
12 sales through the Energy Broker Network. However, Gulf applies the 20 percent
13 stockholder incentive to "all of its non-separated wholesale economy energy
14 sales." TECO applies the incentive to all Schedule C and Schedule X, "split-
15 the-savings," economy sales made on and off the broker network. FPL and FPC
16 responded that the 20 percent stockholder incentive is only applied to economy
17 energy sales made on the Energy Broker Network. The interrogatory responses
18 of Gulf, TECO, FPL, and FPC are included as Exhibit No. (JGH-2).

19 As economy sales made outside the broker system increase for FPL and
20 FPC, the disparity in the application of the shareholder incentive for Gulf
21 and TECO versus FPL and FPC will also increase. Removing the stockholder
22 incentive would rectify this disparity in regulatory treatment in the future.

23 Q. Does this conclude your testimony?

24 A. Yes.

25

1 **COMMISSIONER DEASON:** I believe we can go
2 into the rebuttal phase of the case. Staff, you have
3 indicated you have no cross for any of the rebuttal
4 witnesses?

5 **MR. KEATING:** That's correct.

6 **COMMISSIONER DEASON:** Mr. Burgess, you have
7 no cross for the rebuttal witnesses.

8 **MR. BURGESS:** No. I had a couple of
9 questions for Mr. Howell.

10 **COMMISSIONER DEASON:** Mr. Howell.

11 **MR. BURGESS:** I had indicated a couple of
12 questions for Mr. Hernandez as well, but I may rethink
13 that.

14 **COMMISSIONER DEASON:** And Mr. McWhirter, you
15 do have some questions?

16 **MR. McWHIRTER:** No. I'll waive my
17 questions.

18 **COMMISSIONER DEASON:** You have no questions
19 for any rebuttal witnesses?

20 **MR. McWHIRTER:** No.

21 **COMMISSIONER DEASON:** Mr. Stone, you may
22 call Mr. Howell. And I believe that Mr. Burgess does
23 have some questions.

24 **MR. STONE:** Thank you, Commissioner.

25 - - - - -

1 M. W. HOWELL

2 was called as a rebuttal witness on behalf of Gulf
3 Power Company, having been duly sworn, testified as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. STONE:

7 Q Mr. Howell, you previously have testified
8 today. Did you prefile rebuttal testimony dated
9 11-1-99 consisting of 14 pages?

10 A Yes.

11 Q And there was no exhibit attached to your
12 rebuttal testimony; is that correct?

13 A That's correct.

14 Q Are there any changes or corrections to your
15 prefilled rebuttal testimony?

16 A No.

17 Q If I were to ask you the questions, would
18 the answers be the same as contained therein?

19 A Yes, they would.

20 MR. STONE: I move admitting his prefilled
21 rebuttal testimony into the record as though read.

22 COMMISSIONER DEASON: Without objection, it
23 will be shall be so inserted.

24

25

GULF POWER COMPANY

Before the Florida Public Service Commission
Rebuttal Testimony of
M. W. Howell
Docket No. 990001-EI
Date of Filing: November 1, 1999

Q. Please state your name, business address and occupation.

A. My name is M. W. Howell, and my business address is One Energy Place, Pensacola, Florida 32520. I am Transmission and System Control Manager for Gulf Power Company.

Q. Have you previously testified before this Commission?

A. Yes. I have testified in various rate case, cogeneration, territorial dispute, planning hearing, need determination, fuel clause adjustment, and purchased power capacity cost recovery dockets. I have prefiled direct testimony in this proceeding dated October 1, 1999.

Q. What is the purpose of your rebuttal testimony in this proceeding?

A. The purpose of my testimony is to respond to portions of the direct testimony offered respectively by Judy G. Harlow of the Florida Public Service Commission (FPSC) Staff, Kent D. Taylor of the Florida Industrial Power

1 Users Group (FIPUG), and David E. Diamikes of the
2 Citizens of the State of Florida (Citizens) in
3 connection with the issue in this proceeding regarding
4 the 20 percent (8) shareholder incentive for economy
5 sales.

6
7 Q. What general concerns do you have regarding the
8 testimony you are addressing in this rebuttal?

9 A. In general, the witnesses are proposing that this
10 Commission accept their troubling thesis that the 20%
11 shareholder incentive currently associated with economy
12 energy sales does not provide an inducement or incentive
13 for utilities to continue their efforts to maximize
14 economy sales. Their thesis is in conflict with the
15 basic characteristics of human nature and business
16 practices. An incentive is just that - it provides a
17 motivation to behave in a certain way. In other words,
18 incentives are effective mechanisms to encourage the
19 performance of desired actions. For example, this
20 Commission has for years continued an incentive
21 mechanism in the fuel cost recovery clause known as the
22 Generation Performance Incentive Factor.

23 The witnesses for Staff, FIPUG and Citizens have
24 all confused the concept of an incentive. They would
25 have the Commission believe that as long as a utility is

1 motivated in general terms to keep its rates to retail
2 customers low, additional direct incentives supporting
3 the goal of lowering customer costs are inappropriate.
4 The fallacy in their thesis is that they deem the
5 general motivation to keep rates low to be equivalent in
6 impact to the more focused incentive provided by the 20%
7 shareholder incentive currently associated with economy
8 energy sales.

9 I certainly agree that utilities today have an
10 incentive to keep rates as low as reasonable. But if an
11 additional incentive is provided, human nature and all
12 business practices dictate that there will be a response
13 to the additional incentive. In the case of the 20%
14 shareholder incentive associated with economy energy
15 sales, the response takes the form of increased effort
16 to maximize these sales. Conversely, removal of an
17 existing incentive will send a signal that the utility
18 resources devoted to this activity are not as important
19 to the Commission today as they once were.

20 The second general concern I have is that the
21 witnesses sponsored by Staff, FIPIS and Citizens have
22 either misunderstood or mischaracterized the
23 relationship of today's more competitive market with the
24 need for an incentive. They assert that the more
25 competitive market negates the need for an incentive. I

1 submit that the opposite is true. The only reason a
2 more competitive wholesale market exists today is that
3 the sellers have a direct incentive to make these sales.
4 That direct incentive is the opportunity to make a
5 profit. In fact, for any of the new non-utility players
6 in the wholesale arena, profit is the only reason
7 driving these sales. They certainly are not motivated
8 to keep prices low simply for the sake of low prices. I
9 assert to you that if these new players knew they would
10 not make any profits from their efforts, they clearly
11 would not be in the game. The primary driving force
12 behind the more competitive market in Florida today is
13 the opportunity for increased profits. If profits are
14 OK for non-regulated players who find ways to increase
15 sales, then it hardly seems fair to deny a portion of
16 the profit margin to regulated utilities.

17
18 Q. Are there specific concerns you have about the Staff's
19 reasons for elimination of the 20 percent stockholder
20 incentive?

21 A. Yes. The testimony stated that the 50/20 incentive
22 encouraged utilities to more aggressively (emphasis
23 added) participate in the economy market. This
24 statement underscores my previous point that regardless
25 of what other motivations may exist, an added incentive

1 will affect behavior, in this case motivating utilities
2 to more aggressively pursue economy sales. The
3 testimony goes on to summarize changes that have
4 occurred in the electricity business since the incentive
5 was originally offered, asserting that these changes
6 negate the need for the incentive, but ignoring the more
7 important and correct characterization that these
8 changes cannot change fundamental laws of behavior.

9 The testimony states that because the FERC has
10 recently required unbundling of operations and
11 marketing, that Florida utilities now have a marketing
12 department to handle transactions. Carefully avoided is
13 the point that if utilities have any added incentive to
14 make sales, it will be just that - an added incentive,
15 which will increase sales, and likely provide lower
16 rates to the retail customer, because giving them 80% of
17 a larger pie is better than 100% of a smaller pie. In
18 fact, if the incentive were removed, then utilities
19 would have an incentive to shut down these marketing
20 departments whose operating costs would represent a
21 drain on profits. This is clearly an example of how the
22 general motivation to keep rates low is not necessarily
23 equivalent to the direct incentive associated with the
24 opportunity to share the profits on economy sales.
25 Whatever benefits are associated with near-term economy

1 sales may be lost to ratepayers due to the change in
2 focus that would come with the loss of the direct
3 incentive.

4
5 Q. Are you saying that if the direct incentive were
6 removed, a utility might lose its motivation to make
7 these sales?

8 A. Absolutely not. Clearly, a utility has a motivation to
9 keep rates low, and it will certainly pursue some level
10 of sales absent a direct shareholder incentive. But
11 today's market requires knowledge of market prices and
12 conditions that only comes from spending dollars and
13 effort to acquire that knowledge. Without the direct
14 incentive, a utility is de-motivated to expend the money
15 and resources to more aggressively pursue sales.
16 Without that incentive, these costs come straight out of
17 operating profits. This is not a desirable situation
18 when we are in competition with players who keep all the
19 profits. It becomes increasingly difficult to justify
20 programs when only indirect incentives are associated
21 with successful efforts.

22
23 Q. What additional concerns do you have?

24 A. The Staff testimony also seems to conclude that the
25 existing 80/20 incentive does not appear to be

1 necessary in order to encourage economy sales" for all
2 Florida utilities just because FPL and FPC do not apply
3 the 20% stockholder incentive to their off-broker
4 economy sales. Gulf Power Company (Gulf) contends there
5 are many financial and operating considerations each
6 utility must make in order to best determine how and
7 when to participate in the economy sales market, as well
8 as how to treat the gains. A predominant seller has a
9 lot to lose if the incentive were eliminated. A
10 predominant buyer is basically indifferent.

11 The conclusion of the testimony is that removal of
12 the stockholder incentive is necessary to alleviate a
13 perceived "disparity in the application of the
14 shareholder incentive" which is apparently occurring in
15 Florida because Gulf and TECO apply the 80/20 mechanism
16 to all of their economy sales. This is not the only way
17 to eliminate this perceived disparity. The Commission
18 could either order FPL and FPC to apply the incentive to
19 all of their economy sales, or, even better, make it
20 optional if the utilities apply it.

21 Gulf does not agree that things that are different
22 among the utilities necessarily represent disparities.
23 They are correctly characterized as simply differences.
24 The utilities have differing levels of cost in their
25 various areas of operations, very different customer

1 programs based on other driving differences, different
2 pool and dispatch operations, and particularly,
3 differences related to whether they are predominantly a
4 buyer or a seller in the market. To characterize these
5 as disparities would not be correct - they are just
6 differences.

7
8 Q. What concerns do you have about FIPUG's testimony on the
9 use of incentives in a competitive setting?

10 A. The testimony completely avoids use of the term
11 "incentive," rather stating that a utility should manage
12 all aspects of their business in return for regulated
13 returns. This seems to contradict Staff's position,
14 which asserts that there is now more of a competitive
15 environment. The testimony does not address the nature
16 of or need for incentives in a competitive environment.
17 And, clearly, without incentives, no unregulated players
18 will enter the market. Neither, then, should a
19 regulated utility be expected to operate without
20 reasonable incentives.

21
22 Q. What about FIPUG's comments related to risk?

23 A. The testimony states that the utility experiences no
24 risk related to these sales, that there is no
25 entrepreneurial aspect to the sale of the power. While

1 this may be true in the theoretical world, which assumes
2 full knowledge of all inputs, it does not apply to Gulf
3 in the real world. When demand is high and supply is
4 low, the market becomes fast-paced and intense. Costs
5 and selling prices may be constantly changing as
6 different units become available and needs of purchasing
7 utilities change. We do not always know exact costs
8 until after the sale is committed. If there were not
9 some profit incentive for us to make sales where the
10 margin is tight, we might easily forego opportunity that
11 was not a clear-cut winner. That would likely result in
12 far fewer overall sales, giving the customer less
13 overall benefit, since he would be getting 100% of a
14 small number rather than 80% of a larger number.

15 The testimony also seems to rebut the testimony of
16 Staff in stating that increased competition within the
17 state of Florida doesn't change FIPUG's position because
18 Florida utilities are not in jeopardy of losing retail
19 customers as a result of the increased competition.
20 This statement on competitive options runs counter to
21 one of the reasons for elimination of the incentive
22 given by Staff and Citizens.

1 Q. What concerns do you have about the Citizens' testimony
2 regarding the competitive nature of the wholesale
3 market?

4 A. The testimony states that a more competitive Florida
5 market today sends signals to market participants which
6 should be enough to encourage taking advantage of all
7 available market opportunities. This ignores two
8 important points in making that assertion. First, the
9 market is more competitive because there are now more
10 participants, all of whom are driven by a profit motive,
11 and their incentive to make these sales is profit. It is
12 particularly noteworthy that the non-utility
13 participants keep 100% of the profits, not just 20%.

14 If we remove the incentive which is currently
15 available to utilities to make these sales, we are
16 creating an uneven playing field. The change in policy
17 would serve to discourage utilities from taking
18 reasonable risks in making sales, resulting in lower
19 shared profits for our customers. It has nothing to do
20 with an incorrect theory of utilities' ability to
21 manipulate their economy sales.

22 Additionally, the increased competition will have
23 the effect of driving down what prices would otherwise
24 be. As prices drop, so do the profit margins on the
25 sales. If any incentive to make these sales were

1 eliminated, then utilities would have a counter
2 incentive to not offer sales that might marginally bring
3 a profit. They would then forego these marginal sales,
4 and the customer would likely lose.

5
6 Q. Are all the generating assets that make these sales in
7 the rate base supported by retail customer rates?

8 A. Perhaps for other Florida utilities, but certainly not
9 for Gulf. As part of the Southern electric system power
10 pool, Gulf participates with the other Southern
11 operating companies in making economy sales, and economy
12 sales are made out of the generation assets of all five
13 operating companies. Even if Gulf's generating units
14 were not the units that pick up generation in a given
15 period to make the economy sales, we would still get our
16 share of profits, since the gain on these sales is split
17 among the Southern operating companies, regardless of
18 which units actually made the sale. In other words,
19 under the present system, Gulf's customers receive a
20 portion of the profit on economy sales produced by
21 generating units that are not in Gulf's rate base. This
22 participation in the Southern electric system power pool
23 highlights a significant difference between Gulf and the
24 other Florida utilities.

25

1 Q. What about Citizens' testimony regarding bulk power
2 efficiencies?

3 A. The discussion of bulk power efficiencies shows a
4 misunderstanding not only of system operations, but also
5 the cost accounting involved in economy transactions.
6 First, the assertion is that economy sales' effect of
7 increasing capacity utilization will increase overall
8 operating efficiencies by reducing average system heat
9 rates, whereas the opposite is really true. Most
10 economy sales occur when loads are high and capacity is
11 short. It is the more efficient units that operate to
12 serve base load, and the less efficient units that are
13 called on in times of high demand. Increasing the
14 demand on our generating units through economy sales
15 will call on more generation from the less efficient
16 units, raising average system heat rates. Also, the
17 testimony is void of any reference to the relationship
18 between average and incremental system heat rates, which
19 is the true measure of the value of economy sales.

20 The testimony then makes the remarkable statement
21 that "these increased efficiencies gains" can be flowed
22 through to shareholders. And all this is in the
23 framework of the argument against retaining the 80/20
24 incentive. If, in fact, 100% of the gain is passed to
25 the customer as proposed, then there is ZERO gain left

1 to be passed to the stockholder. What is also missing
2 from the discussion is that if utilities have an
3 additional profit incentive to make sales in a
4 competitive market where prices are tight, there is a
5 huge additional incentive to reduce overall costs to
6 make all generation more competitive. This benefits the
7 customer on every kilowatt-hour generated, not just the
8 relatively small portion that makes up off system sales.
9 In other words, elimination of the direct incentive
10 currently associated with economy sales may result in a
11 reallocation of resources, because the general
12 motivation to keep rates low in the long term may become
13 more dominant.

14

15 Q. What about the discussion on name recognition?

16 A. The testimony throws out a novel theory that increased
17 name recognition will be an incentive for utilities to
18 engage in wholesale sales. This position confuses
19 utilities' efforts at name recognition with how the bulk
20 power market really operates. Any market player is well
21 aware that the Southern Company, FP&L, FPC, and TECO are
22 known by all in the market, with a proven reputation to
23 deliver what is promised. The competitive electricity
24 market is interested primarily in only two things -
25 deliverability and price. The Florida utilities have

1 the deliverability reputation. But if, in any hour,
2 they are not competitive on price, then they do not get
3 the business, their customers do not get the 80%
4 savings, and every customer in Florida loses to
5 unregulated players who profit from the lost opportunity
6 of the regulated utility.

7
8 Q. Should the Commission eliminate the 20 % shareholder
9 incentive?

10 A. No. The Commission should not take any action to remove
11 or reduce the existing direct incentives to utilities
12 for participating in this market. By establishing the
13 existing 20% direct shareholder incentive, the
14 Commission recognized the need for and overall benefit
15 of increased sales of economy energy. The competitive
16 market changes that have recently occurred have only
17 increased the importance of this incentive to encourage
18 electric utilities to continue participation in this
19 market, to give Florida's retail customers an
20 opportunity to receive greater near term benefits than
21 if this incentive were removed.

22
23 Q. Does this conclude your testimony?

24 A. Yes.

25

1 BY MR. STONE:

2 Q Mr. Howell, would you please summarize your
3 rebuttal testimony?

4 A Yes. And it will be brief, Commissioners, I
5 assure you.

6 Good afternoon. As I said earlier this
7 morning, we're convinced you did the right thing when
8 you established the 80/20 incentive mechanism on
9 economy energy sales back in the '80s. We believe it
10 would be the wrong thing to do to now eliminate this
11 incentive.

12 The witnesses who testified in favor of
13 eliminating the incentive avoided addressing what we
14 think is the most basic element of this issue. That
15 element is that an incentive takes advantage of the
16 most fundamental law of human behavior. It provides a
17 motivation to behave in a certain way, a motivation to
18 achieve a desirable result.

19 The question has been asked many times this
20 morning; would utilities engage in economy
21 transactions which benefit their customers but do not
22 offer any benefits to their stockholders? The answer
23 is absolutely yes. They did that before the existence
24 of the incentive and will do it again if the incentive
25 is removed by you. But we're talking about degrees of

1 sales here. One of the witnesses stated that the
2 Commission originally approved the incentive so that
3 utilities would more aggressively pursue these
4 beneficial economy sales. I think that acknowledges
5 that the removal of the incentive would then result in
6 less aggressiveness. Why is this true? Simply
7 because we cannot change the nature of human behavior
8 and the costs that a business faces.

9 If a utility can no longer benefit from
10 making economy sales, they have less justification to
11 maintain a staff of sales personnel whose cost will
12 come out of operating profits. Without the incentive
13 mechanism which you instituted, a utility is actually
14 demotivated to expend the energy and resources
15 necessary they have to acquire to get the knowledge of
16 today's market.

17 Does the existence of this staff really make
18 a difference? Absolutely. In today's market, only
19 those who track the market, who understand how it
20 works, who know which utilities have needs, who know
21 which utilities have available capacity for sale,
22 those are the ones that will be able to take advantage
23 of those transactions.

24 If our customers get to keep 80% of today's
25 pie, but then we remove the incentive and that results

1 in them getting all of a much smaller pie in the
2 future, they are going to lose and we don't want that
3 to happen.

4 As I said this morning, I believe right now
5 we have a win-win situation. I don't at all agree
6 with those who feel that we can make this a win-lose.
7 I think we'll make it a lose-lose. I believe if we
8 maintain the incentive we'll have a win-win. Both the
9 company and the customer will benefit.

10 Does the existence of this competitive
11 market that so many have talked about, does that
12 eliminate the need for the incentive? No, the
13 opposite is true. More competition will drive down
14 prices reducing profits. If anything, an incentive is
15 even more necessary today in this more highly
16 competitive market. The new players who make this
17 market today have entered it because of one reason:
18 They have an incentive to make a profit. You remove
19 their profit incentive and they are gone.

20 We believe these are the real issues in the
21 docket. Many of the other items raised by the
22 parties, entrepreneurial risk, retail choice,
23 manipulation of economy sales, bulk power
24 efficiencies, name recognition, these are not real
25 issues. Some of the assertions made are actually in

1 error. The real question is does the incentive
2 mechanism work? Do human beings respond to
3 motivation? Do businessess make rational decisions?
4 We firmly assert that the answer to all three of these
5 questions is yes. We ask that you take no action to
6 remove the incentive you instituted many years ago.

7 This completes my summary.

8 MR. STONE: We tender the witness.

9 COMMISSIONER DEASON: Mr. Burgess.

10 CROSS EXAMINATION

11 BY MR. BURGESS:

12 Q Mr. Howell, as I heard from a number of the
13 questions, both from the Commission and the parties,
14 it appears that a great deal of the concern is it
15 seems like it's an one-way incentive. Do you
16 understand it that way? That is, that the company, no
17 matter how bad its effort, no matter how little it
18 makes an effort to try to make these sales, it cannot
19 be hurt, it will not be hurt by this particular
20 incentive factor; is that correct?

21 A I'm sorry, I didn't follow that at all in
22 the earlier questions by the witness. Would you
23 repeat that, please?

24 Q Yes. Is it correct that a company could
25 make less than a satisfactory effort at optimizing

1 these sales and, nevertheless, garner an additur to
2 its already reasonable rate of return on its
3 investment?

4 **A** Well, there's a lot of "ifs" there and I'll
5 tick them off.

6 The assumption is if they are making a
7 reasonable return, and we sure don't want to get into
8 that because I'm not a rate-of-return witness -- but
9 if there's the assumption that they are making a
10 reasonable rate of return and they make a poor effort,
11 that's another "if"; and then they make some profits
12 off those and that's another if, they will get 20% of
13 those profits. That's right. That's a lot of "ifs."
14 And I assure you that Gulf Power is not going to be
15 guilty of that and the Southern Company is not going
16 to be guilty of that.

17 **Q** It's not an "if" if it's part of the
18 conceptual system, is it? As part of this process, a
19 company that makes less than a satisfactory effort at
20 these will nevertheless get an increase above what
21 it's earning in base rates; is that correct? It will
22 never be hit with a decrease as a result of poor
23 performance in this area; is that correct?

24 **A** I'm going to say yes, if we agree with your
25 hypothesis. And then I'm going to explain my answer.

1 I go back to we can't change human beings,
2 the way they operate. And if you really have somebody
3 who does a really lousy job at that, I think they are
4 going to do a lousy job at everything else they do.
5 They will not be able to control costs. They are
6 going to lose in the long run. You're coming up with
7 a hypothesis that I just don't see would happen. But
8 if those conditions were there, certainly.

9 Q And you said at the beginning, when you were
10 answering a question to one of the Commissioners, that
11 one needed to set a standard for effort in optimizing
12 these sales. And if you set the bar too low it's
13 unfair to the customers, and if you set the bar too
14 high it's unfair to the utilities; is that correct?

15 A Well, it's close. I said if you set the bar
16 too high and if you set the bar too low, and I went on
17 to explain why we shouldn't set the bar because we
18 don't know what the right place for the bar is.

19 Q Right now the bar is set at zero, though, is
20 it not?

21 A Well, I believe the questioning came along
22 the lines of should we eliminate the incentive and
23 should we establish a certain amount of transactions
24 that should be considered normal. And I was pointing
25 to the exhibit that the Staff passed out. And we see

1 how those sales vary. So it's very difficult to set
2 some level of sales that would be a bar, if you will.

3 Q But the bar at the current point, the amount
4 that's considered normal at this point, is zero.

5 A No, sir. I wouldn't say the bar that we
6 have now, the amount that we expect, is zero. I think
7 we've seen substantial sales in all of the prior
8 years. And I certainly don't think that we assume
9 that that's going to go to zero. I wouldn't assume
10 that.

11 Q But zero is the point above which you begin
12 making money through this process; isn't that correct?

13 A Oh, certainly.

14 Q If you look at Page 7, Line 2 --

15 A Could I answer the question first?

16 Q Beg your pardon?

17 A Let me answer the question, then I'll go on.

18 Q Oh, I thought you were finished. Excuse me.
19 Go ahead.

20 A Certainly if we assume there aren't going to
21 be any sales and then there are some, and we get 20%
22 of the gain on that, then we're going to make some
23 money. But, again, I go back and say I don't think
24 it's a practical assumption; it's certainly a
25 hypothetical but it's not a practical assumption to

1 assume there wouldn't be any. Because we've seen
2 substantial economy sales in all of the years in the
3 staff's exhibit. And I point out that the incentive
4 was in place in all of those. And I go back to what I
5 had this morning, I don't know how we would ever
6 determine how much there would be if the incentive
7 were removed because a "what if" game is a losing
8 game.

9 Q Mr. Howell, I think you're missing the point
10 on that. I'm not speaking of how much has the
11 incentive increased the amount of sales. What I'm
12 saying is if we start with the assumption that a
13 company is earning a reasonable return to the
14 regulatory process, then we add a system by which you
15 cannot lose any money, you can only make money
16 regardless of how much effort you put forward, then we
17 have a situation where a normality is set, which is
18 zero, and any effort above that, even if it's not
19 reasonable, you gain money. And that's the problem
20 that I have in representing the consumers.

21 If you would look at Page 7 of your
22 testimony, Line 2.

23 A Can I respond to that?

24 Q No, that wasn't a question.

25 MR. STONE: If it wasn't a question, then

1 I'm not sure what place it has in this proceeding.

2 **COMMISSIONER DEASON:** MR. Burgess, we'll
3 either have to strike the comment or at least allow
4 the witness to respond to your --

5 **MR. BURGESS:** I withdrew the comment.

6 **MR. STONE:** Well, then I would move that it
7 be stricken from the record.

8 **MR. BURGESS:** I withdrew the comment. It's
9 stricken on the record.

10 **MR. STONE:** I believe it takes a ruling.

11 **COMMISSIONER DEASON:** The comments that did
12 not constitute a question will be stricken from the
13 record.

14 **MR. STONE:** Thank you.

15 **BY MR. BURGESS:**

16 **Q** Mr. Howell, would you look at Page 7 of your
17 prefiled rebuttal testimony, please? And here you
18 refer to Florida Power & Light and Florida Power Corp
19 and the 20% stockholder incentive. Are you familiar
20 with Florida Power & Light's treatment of their
21 nonbroker economy sales? (Pause)

22 **A** I believe I heard them say that on their
23 nonbroker economy sales they did not apply any 20%
24 incentive. I believe that's what I heard.

25 **Q** Yes. Do you know -- are you familiar with

1 the proportionality of their nonbroker sales to their
2 broker sales on economy sales?

3 A I am familiar with what the approximate
4 relationship was in the '80s when this was set up,
5 when they initially made their call to go with that.
6 And, subject to check, the great bulk of their sales
7 were on the broker. There were not that many that
8 were off the broker.

9 Q When this began?

10 A When this began. And, therefore, if they
11 are applying the 20% incentive to only broker sales,
12 the amount of nonbroker sales are very small and
13 probably wouldn't be an issue; there wouldn't be much
14 money involved. That's my recollection of the
15 situation when they made the decision as to how they
16 would treat the incentive. Of course, they did apply
17 the incentive to broker sales which represented the
18 bulk of their economy transactions.

19 Q Do you know what the current proportion is
20 between their broker sales and nonbroker sales?

21 A It's my understanding from Florida Power
22 Corp that most of their transactions at this time --
23 it's my understanding that most of their transactions
24 at this time are off the broker, and they want the
25 incentive applied to it. And I think that confirms

1 what I said earlier. They now see that their
2 incentive, if it were applied to the bulk of their
3 sales, they would continue to get the incentive.

4 If most of their sales are going off the
5 broker where they apply the incentive to an area where
6 they don't apply the incentive, then they are losing
7 that incentive. And it's my understanding that their
8 position is they want the incentive applied to all
9 economy sales. And I believe that's true of Power
10 Corp also.

11 Q I was asking about Florida Power & Light.

12 A It's my understanding that's what Florida
13 Power & Light did, too, if I read -- I scanned the
14 material. I know they didn't put a witness on to that
15 effect. But I believe their position was that the
16 incentive should be expanded to nonbroker transactions
17 also.

18 Q Now, wouldn't the fact that their nonbroker
19 transactions are increasing without an incentive
20 relative to the broker sales would the incentive
21 undermine your argument that an incentive must be
22 there in order to assure that we have aggressive
23 treatment of these economy sales?

24 A No, I don't think so. I think what you're
25 seeing there is they are like other utilities, they

1 feel the incentive is necessary. That's why they are
2 asking for it.

3 Q Nevertheless, their behavior up to this
4 point would belie that particular assumption, would it
5 not?

6 A I don't think so. I think their behavior up
7 to this point is just as I said earlier, there really
8 wasn't that much money involved and it wasn't a big
9 issue. Now that it is a big issue, they are saying
10 the incentive is appropriate for them to get.

11 MR. BURGESS: Thank you, Mr. Howell. That's
12 all I have.

13 COMMISSIONER DEASON: Redirect.

14 MR. STONE: Just one question.

15 **REDIRECT EXAMINATION**

16 BY MR. STONE:

17 Q Mr. Howell, if you take Mr. Burgess's
18 hypothetical to heart, wouldn't it, in effect, be that
19 a utility that sits on its laurels --

20 MR. BURGESS: Object to the question as
21 being leading.

22 BY MR. STONE:

23 Q Mr. Howell, if a utility were to sit on its
24 laurels and not hustle to make sales, would it still
25 gain the 20% on those sales that didn't take place?

1 A No. A utility who had the incentive
2 available to them and the bar were set at zero, and
3 didn't do a very good job but got a little bit of
4 sales, would have a small benefit. And that was what
5 I was saying earlier. I don't think you're going to
6 find utilities do that because those utilities that
7 recognize there are profits to be made for the
8 company -- and, Commissioners, far more importantly,
9 savings to the customers. Because the customers get
10 80% of these increased sales; the customers get 100%
11 of the gain from these increased purchases -- I think
12 you'd find that those utilities would go after them
13 just as hard as they could.

14 MR. STONE: That's all I have.

15 COMMISSIONER DEASON: Okay. Thank you,
16 Mr. Howell.

17 MR. WILLIS: Call Mr. Hernandez.

18 MR. BURGESS: Commissioner, I have no cross
19 examination for Mr. Hernandez.

20 COMMISSIONER DEASON: I believe
21 Mr. Hernandez's Rebuttal Testimony may be inserted
22 into the record without objection.

23 Is there an exhibit to the rebuttal
24 testimony, Mr. Willis?

25 MR. WILLIS: No, there is not.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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PREPARED REBUTTAL TESTIMONY

OF

THOMAS L. HERNANDEZ

1
2
3
4
5
6 Q. Please state your name, address, occupation and employer.

7
8 A. My name is Thomas L. Hernandez. My business address is
9 702 North Franklin Street, Tampa, Florida 33602. I am
10 the Vice President of Regulatory Affairs for TECO Energy,
11 Tampa Electric Company's ("Tampa Electric" or "company")
12 parent.

13
14 Q. Are you the same Thomas L. Hernandez who submitted
15 testimony in this proceeding on October 1, 1999?

16
17 A. Yes, I am.

18
19 Q. What is the purpose of your rebuttal testimony?

20
21 A. The purpose of my testimony is to point out that the
22 positions advanced by FPSC Staff witness Judy Marlow,
23 Office of Public Counsel ("OPC") witness David E.
24 Dismukes, and Florida Industrial Power Users Group
25 ("FIPUG") witness Kent D. Taylor regarding the 20 percent

1 incentive for economy transactions are flawed and are
2 short-sighted in failing to recognize the overall
3 benefits of the incentive to ratepayers of Florida
4 utilities. I will also point to inaccuracies made by Mr.
5 Taylor in his direct testimony relative to the FMPA
6 wholesale agreement and other wholesale generalizations.

7
8 Incentives

9 Q. What issues do you disagree with in Staff witness
10 Harlow's testimony?

11
12 A. Ms. Harlow accurately acknowledges that changes have
13 occurred in the wholesale market and that making
14 wholesale sales is an important function within
15 utilities' organizations. She also acknowledges that
16 economy transactions have declined over the years as
17 utilities have engaged in more off-broker, non-firm
18 wholesale sales. These sales are entered into with
19 buyers both within and outside Florida. What she fails
20 to acknowledge are the benefits that would accrue if this
21 energy could be retained within the state, especially now
22 during times of potential generation deficiencies within
23 Florida, and that this could be accomplished through
24 incentives. In the past, the broker accomplished this as
25 Florida utilities were encouraged to make economy

1 transactions within the state via appropriately
2 established incentives by this Commission. This
3 certainly does not suggest eliminating incentives; it
4 suggests that incentives may need to be revised and
5 enhanced to keep lower cost energy in the state for the
6 overall benefit of Florida's ratepayers.

7
8 A key point Ms. Harlow argues is that Florida Power and
9 Light Company ("FP&L") and Florida Power Corporation
10 ("Florida Power") treat economy transactions made off-
11 broker differently than Gulf Power Company ("Gulf") and
12 Tampa Electric and, therefore, by eliminating the 20
13 percent incentive, this will eliminate the difference in
14 treatment. Her conclusion is not accurate since she
15 seems to confuse the term "economy" transactions.
16 Economy transactions can be accomplished through several
17 types of transaction schedules. It appears that Tampa
18 Electric and Gulf refer to Schedule C and X transactions
19 as "split the savings" or "economy" transactions whereby
20 FP&L and Florida Power include Schedule OS and J
21 transactions in their definition of "economy"
22 transactions. It appears that all utilities consistently
23 retain the 20 percent incentive on transactions made
24 through the broker. It also appears that all utilities
25 flow gains from Schedule OS and J back to ratepayers at

1 100 percent. The only "economy" transactions that the
2 Florida utilities may be treating differently are
3 Schedule C and X transactions conducted off-broker. In
4 Order No. 12923, the Commission ordered that:

5
6 . . . economy energy sales profits are to be
7 divided between ratepayers and the shareholders
8 on an 80%/20% basis, respectively . . .

9
10 Clearly Tampa Electric's treatment of economy "split the
11 savings" sales is consistent with that ordered by this
12 Commission regardless of how other utilities choose to
13 treat them. To suggest that incentives should be
14 eliminated to ensure consistent treatment between
15 utilities is invalid and unreasonable.

16
17 Q. Why should economy transactions made off-broker include
18 an incentive for the seller?

19
20 A. As discussed in Tampa Electric witness Brown's and my
21 prefiled testimony, these "split the savings"
22 transactions simply by-pass the automated system and
23 allow the selling utility to obtain the best price for
24 its ratepayers. There are no other differences.

25

1 Q. What do you disagree with in OPC witness Dismukes'
2 testimony?

3
4 A. Mr. Dismukes arguments against the 20 percent incentive
5 are flawed. He argues that "the whole issue of
6 uncertainty associated with forecasting these gains was
7 one of the main reasons for moving their ratemaking
8 treatment from base rate cases to fuel adjustment
9 proceeding." Although it was a consideration in the
10 change of treatment, it was not the main reason for the
11 change. In 1983 when this Commission recognized the need
12 and importance of an incentive for utilities to engage in
13 short-term, non-firm transactions within Florida, one of
14 the main reasons for this action was to encourage
15 utilities to engage in these types of transactions to
16 benefit Florida ratepayers, not simply to change
17 ratemaking treatment because it was difficult to forecast
18 sales.

19
20 Mr. Dismukes inaccurately concludes that since Florida
21 utilities have protested "competitive wholesale merchant
22 facilities" proposed to be built within the state, they
23 are contradicting themselves by suggesting incentives
24 remain appropriate. He ignores the fact that until the
25 capacity is committed on a firm basis to serve Florida

1 ratepayers, the merchant energy could be exported and
2 sold without any benefit to Florida's ratepayers while
3 using Florida's natural resources, utilizing allocated
4 imported fuels, and impacting the state's environment.

5
6 Another inaccurate conclusion by Mr. Dismukes is that
7 increased economy sales yield increased overall system
8 capacity utilization which yields lower heat rates which
9 yields higher earnings for shareholders. It is clear by
10 these statement that Mr. Dismukes does not fully
11 understand Florida broker and economy transactions. To
12 enter into an economy transaction, both seller and buyer
13 must have the capacity available since the transaction is
14 non-firm and immediately recallable upon notice.
15 Therefore, the capacity factor, or utilization, of the
16 aggregate system is unchanged. On page 6, lines 7 and 8
17 of his testimony, Mr. Dismukes makes a broad
18 generalization that "increased capacity utilization will
19 increase overall operating efficiencies by reducing
20 average system heat rates." Once again, he confuses
21 theory with practical applications. The economy
22 transaction is based on incremental costs for both buyer
23 and seller. These costs are determined using the product
24 of incremental, not average unit heat rates and fuel
25 prices, to determine the energy costs. Therefore, a

1 generating unit with a lower fuel price but higher heat
2 rate (i.e. less efficient)' could displace a generating
3 unit that is more efficient but higher cost to operate
4 due to higher fuel prices. In addition, the most
5 efficient (thermal) operating point for numerous
6 generating units is not at the maximum capacity factor.
7 Therefore, further loading of these units could result in
8 operating inefficiencies. What he ignores is that
9 economy wholesale transactions generally yield the lowest
10 margins for utilities.

11
12 In his testimony, Mr. Dismukes infers that Florida
13 developed a broker system as a means, in part, to improve
14 reliability. Given the dynamics of an economy
15 transaction and in the absence of an incentive for the
16 selling utility, there is no reliability benefit. As
17 discussed earlier, economy transactions are capacity
18 neutral in that both seller and buyer must have the
19 capacity available to enter into the transaction. In
20 other words, a potential buyer, in the absence of
21 available capacity under a "split the savings"
22 transaction, must purchase power under a different
23 schedule at a higher cost. The selling utility, in the
24 absence of incentives, is likely to manage firm reserve
25 margins to minimize as-available capacity to keep base

1 rates as low as possible. Incentives encourage utilities
2 in the state with the obligation to serve its customers
3 to carry additional capacity reserves that provide
4 opportunities to make energy transactions that benefit
5 the ratepayers of both seller and buyer. These
6 additional capacity reserves are also helpful in
7 mitigating the use of non-firm load resources during
8 weather extremes and/or system power supply
9 interruptions.

10
11 Another inaccurate conclusion by OPC's witness is that
12 utilities should be motivated by name recognition, not
13 profitability for both ratepayers and shareholders. He
14 suggests that utilities can simply "point to their
15 expertise and historic participation in the Florida
16 broker system" and this serves as an intangible
17 incentive. Tampa Electric is not driven to "name
18 recognition" but it is driven to providing reliable
19 electric service to its ratepayers and to providing a
20 fair return to its shareholders. This balance is
21 supported by incentives like those currently provided by
22 the Commission-approved 20 percent incentive on economy
23 transactions. Incentives such as these are important to
24 encourage benefits to ratepayers and should not be
25 eliminated.

1
2 Both Staff and OPC argue that utilities should be
3 motivated to reduce rates by crediting the fuel clause
4 with 100 percent of economy sales gains. Tampa Electric
5 has taken many actions to keep its rates competitive well
6 beyond what the parties are now suggesting. The company
7 does not agree that the removal of incentives is
8 appropriate since this action would be shortsighted and
9 fails to weigh overall benefits of economy transactions.

10

11 Q. What do you disagree with in FIPUG witness Taylor's
12 testimony regarding incentives?

13

14 A. Mr. Taylor concludes that because there are no risks to
15 utilities relative to economy sales, there should not be
16 a "reward." Although risks for economy transactions are
17 not as significant as other types of wholesale
18 transactions, the conclusion that there are no risks and
19 therefore utilities should not be allowed a return to
20 shareholders is erroneous. The seller does in fact incur
21 additional costs and face alternatives that, without the
22 appropriate incentive, could lead both the seller and
23 buyer to conclude that to enter into economy transactions
24 is too risky from a reliability and competitive
25 perspective. FIPUG's conclusions ignore, as do Staff's

1 and OPC's, the importance of retaining a competitive
2 wholesale market within Florida by incenting capacity and
3 energy to remain within the state for the benefit of all
4 ratepayers.

5
6 Wholesale Agreements

7 Q. What other observations does Mr. Taylor make about
8 wholesale sales, in general, that are inaccurate?

9
10 A. Mr. Taylor's suggestions in his testimony on page 11,
11 line 11 through page 12, line 5 are contradictory and
12 undermine the very premise of non-firm load resources
13 such as interruptible service and load management
14 programs. The value of non-firm load resources is
15 predicated on the value of deferral or avoidance of
16 constructing generating plant or purchasing firm power.
17 This same "avoided cost" value is the basis for load
18 management program credits and discounted rates for those
19 non-firm customers on an interruptible rate. In fact, if
20 there were no non-firm load resources on our system, the
21 associated increase in firm load and energy would require
22 Tampa Electric to build or acquire additional supply-side
23 resources to reliably meet the higher firm system
24 requirements. These same supply-side resources would
25 then be available to be used in the as-available economy

1 market or spot market when not utilized for retail
2 customer needs.

3
4 On page 12, lines 2 through 4, Mr. Taylor erroneously
5 refers to a 15 percent reserve margin relative to total
6 system demand when in fact the 15 percent reserve margin
7 applies only to firm supply-side resources and firm
8 system demand. Non-firm supply resources are excluded
9 and non-firm load resources are included due to the
10 economic benefits for both participating customers and
11 general body of ratepayers as I stated earlier.

12
13 Q. Do you disagree with FIPUG witness Taylor's comments
14 related to the regulatory treatment requested by Tampa
15 Electric in this proceeding for the FMPA wholesale
16 agreement?

17
18 A. Yes. There are numerous inaccuracies and allegations
19 made by Mr. Taylor that are biased and untrue. On page
20 9, line 7 of his testimony, Mr. Taylor infers that
21 utilities sell capacity in the wholesale market at less
22 than cost. This is simply untrue. This Commission has
23 long held and Tampa Electric supports the concept that no
24 sales should be made below incremental cost. Therefore,
25 any revenues in excess of the incremental costs to serve

1 a wholesale transaction, either firm or non-firm, create
2 benefits to both ratepayers and shareholders. It is the
3 allocation of the benefits in dispute, not the concept of
4 selling above incremental cost. This same concept
5 dispels Mr. Taylor's notion of "predatory pricing in the
6 wholesale market to kill off competition." A utility
7 that develops and maintains a cost-effective balance of
8 supply-side and demand-side resources to reliably meet
9 the needs of its retail customers is likely to be
10 positioned to sell capacity in the wholesale market at
11 prices above its incremental cost.

12
13 On page 9, line 22, Mr. Taylor incorrectly refers to the
14 FMPA agreement as being backed up by "1486 MW of IECO's
15 most efficient generating units." Based on average heat
16 rates, Folk Unit One is the most efficient unit on Tampa
17 Electric's system and Big Bend Units 1 and 4 are more
18 efficient than Gannon Units 5 and 6. In addition, no
19 more than 150 MW will be sold to FMPA at any one time.

20
21 On page 10 of his testimony (lines 1 through 5), Mr.
22 Taylor notes that the cost of the energy sold to FMPA is
23 less than the price the company charges its interruptible
24 customer. The FMPA sale was priced using capacity and
25 energy in excess of Tampa Electric's reserve margin

1 criteria and above incremental costs to serve the load.
2 Since the total revenues exceed the total incremental
3 costs to serve the sale, economic benefits are realized.
4 However, interruptible customers, by definition, do not
5 require capacity support yet are served by the company's
6 supply-side resources for most of their energy
7 requirements at a discounted rate. While neither the
8 FMPA sale nor interruptible customers require additional
9 supply-side resources, the duration of the commitments to
10 serve differs significantly. The FMPA sale began
11 December 15, 1996 and ends March 15, 2001 with less than
12 15 months remaining at the start of the projection
13 period. In contrast, the bulk of the interruptible
14 customers have been on the discounted rate since 1986 and
15 require a minimum of five years written notice to
16 transfer from a non-firm to firm rate.

17
18 On page 11, lines 3 and 4, Mr. Taylor incorrectly asserts
19 that the third-party purchases for FMPA in 1998 and 1999
20 impacted Tampa Electric's native load customers. As
21 shown in the company's monthly fuel filings, no costs
22 associated with the third-party purchases were included
23 for cost recovery.

24

1 Finally, Mr. Taylor's assertion that the EMFA transaction
2 should be studied in a separate docket is unwarranted.
3 This Commission thoroughly reviewed the transaction in
4 1997 and found that the total revenues exceeded
5 incremental costs and that the sale provided significant
6 economic benefits. Since the company is proposing to
7 credit 100 percent of the revenues for the remaining
8 months of the transaction, there is no need to have a
9 separate proceeding. Even isolating the last 14 1/2 months
10 of the four-year transaction, there are benefits
11 attributable to the sale as shown in the exhibit in my
12 direct testimony. The company's projected cost recovery
13 clause factors in this proceeding for the year 2000
14 reflect those benefits. Deferring a decision would only
15 defer the benefits to the company's ratepayers.

16
17 Q. Does this conclude your testimony?

18
19 A. Yes, it does.
20
21
22
23
24
25

1 MR. WILLIS: Call Mr. Black.

2 MR. BURGESS: Commissioner, in view of our
3 ruling with respect to the OSHA report, we are
4 withdrawing Mr. Black's testimony, Rebuttal Testimony,
5 beginning on Page 2, Line 22, through Page 8, Line 3.

6 COMMISSIONER DEASON: Very well.

7 MR. WILLIS: Would you please state your
8 name and address?

9 MR. BURGESS: Mr. Chairman, I don't think
10 anybody has any questions.

11 MR. WILLIS: Oh, okay. Well --

12 COMMISSIONER DEASON: If there's no
13 objection, we will have the testimony inserted into
14 the record with the deletion which Mr. Willis just
15 identified.

16 MR. WILLIS: Very well.

17 COMMISSIONER DEASON: And there's no exhibit
18 attached to the --

19 MR. WILLIS: There is one exhibit attached
20 which I request that -- it's titled "Job Planning
21 Procedure." Request that it be identified.

22 COMMISSIONER DEASON: Exhibit 41.

23 MR. WILLIS: Request it be moved into
24 evidence.

25 COMMISSIONER DEASON: Without objection, it

1 shall be admitted into the record.

2 (Exhibit 41 marked for identification and
3 received in evidence.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

683

PREPARED REBUTTAL TESTIMONY

OF

CHARLES R. BLACK

1
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3
4
5
6 Q. Please state your name, address, occupation and employer.

7
8 A. My name is Charles R. Black. My business address is 702
9 North Franklin Street, Tampa, Florida 33602. I am Vice
10 President-Energy Supply for Tampa Electric Company
11 ("Tampa Electric" or "company").

12
13 Q. Are you the same Charles R. Black who submitted testimony
14 in this proceeding on October 1, 1999?

15
16 A. Yes, I am.

17
18 Q. What is the purpose of your rebuttal testimony in this
19 proceeding?

20
21 A. The purpose of my testimony is to point out that the
22 position and certain statements made by Florida
23 Industrial Power Users Group ("FIPUG") witness Kent D.

1 Taylor regarding the Gannon Unit 6 accident are false and
2 are inconsistent with sound regulatory policy.

3
4 Q. Have you prepared an exhibit to your testimony?

5
6 A. Yes, I have. My rebuttal Exhibit No. 41 (CRB-2) was
7 prepared under my direction and supervision and consists
8 of one document.

9
10 Q. What do you disagree with in Mr. Taylor's testimony?

11
12 A. FIPUG's witness incorrectly states that Tampa Electric
13 has not presented evidence to support the recovery of
14 fuel and purchased power associated with the Gannon Unit
15 6 accident. Tampa Electric has responded to every
16 interrogatory and production of document request related
17 to the accident in a timely manner. My pre-filed
18 testimony and the testimony of Mark D. Ward provides
19 evidence necessary to support the appropriateness of
20 recovery for replacement fuel and purchased power.

21
22 ~~Q. Do you agree with Mr. Taylor's conclusion that the OSHA~~
23 ~~investigation has placed responsibility for the explosion~~
24 ~~on Tampa Electric?~~

1
2 ~~OSHA placed the responsibility for the explosion on~~
3 an inadequate job briefing by the work crew's supervisor
4 on the morning of the accident. While Tampa Electric
5 received a citation containing four items from OSHA as a
6 result of its investigation of Gannon Station, only one
7 item was directly related to the accident that occurred
8 on April 8, 1999. OSHA attributed the accident to an
9 inadequate job briefing by the work crew's supervisor on
10 the morning of the accident in that the work procedures
11 and hazards involved were not discussed adequately.

12
13 Q. Please discuss each of the OSHA citations in more detail.

14
15 A. The scope of OSHA's investigation arising out of the
16 April 8, 1999 accident involved Gannon Station. OSHA
17 also conducted a separate and later investigation of
18 Big Bend Station. Four of the citations received by
19 the company related solely to Big Bend Station
20 observations associated with work area activities.
21 Specifically, these Big Bend Station citations related
22 to the company's lack of development and
23 implementation of an emergency response plan for
24 ~~electrohydraulic fluid, the lack of identification on~~

1 ~~certains nonpotable water pipes, poor housekeeping and~~
2 ~~inadequately enclosed sprocket wheels and chairs at~~
3 ~~Big Bend Unit 4. None of these citations relate in~~
4 ~~any way to the accident at issue in this proceeding.~~

5
6 Q. Please describe the OSHA citation that related to Gannon
7 Station.

8
9 A. As I mentioned above, only one violation directly related
10 to the accident. That was Citation 1, Item 1, which
11 states that:

12
13 The briefing conducted by the person in charge
14 did not cover the hazards associated with the
15 job, work procedures involved, and special
16 precautions associated with the work to be
17 performed. For the work being conducted at the
18 Tampa Electric Company, Gannon Station, Unit #6
19 Generator, the briefing that was conducted on the
20 morning of April 8, 1999 did not effectively
21 cover, or inform members of the maintenance crew,
22 of the following hazards associated with the job,
23 or special precautions and work procedures
24 associated with the job.

1
2 ~~Q Please describe Citation 1, Item 2A and 2B.~~

3
4 A. Citation 1, Items 2A and 2B were combined and relate to
5 procedures that existed and are used for the control of
6 potentially hazardous energy. The documented
7 procedures for which employees were trained did not
8 contain specific written procedures for shutting down
9 and securing equipment to control hazardous energy nor
10 did they include written procedures for testing
11 equipment to determine and verify the effectiveness of
12 energy control measures and tag out devices. These
13 procedures were not related to the cause of the
14 accident. These procedures come into play after the
15 decision is made to release the equipment for the
16 required maintenance. These procedures assure the
17 desired state of shut down occurs before the placement
18 of a tagging device indicating the machine or equipment
19 is ready for the required maintenance.

20
21 Related to the accident, there had been no request that
22 the equipment be tagged out and therefore the
23 subsequent procedures to accomplish the shut down and
24 placement of the tag simply did not come into play.

1 The tagging procedures would come into operation only
2 after the unit had been purged of hydrogen and then
3 checked to be sure the equipment was shut down,
4 isolated, blocked and secured. A tag then would be
5 issued which would then be signed by the supervisor who
6 would then advise the crew it was safe to proceed. The
7 particular concern here was that the procedures for
8 physically shutting down and securing the equipment
9 were not specified in writing. However, the procedures
10 are well known and, in fact, are used by the company to
11 physically shut down and secure equipment before
12 equipment is tagged and released to maintenance.

13
14 Q. Please discuss Citation 1, Item 3.

15
16 A. Citation 1, Item 3 cited the company for not conducting
17 an annual inspection of the energy control procedure,
18 which is a technical violation and unrelated to the
19 accident.

20
21 Q. Please discuss Citation 1, Item 4.

22
23 A. Citation 1, Item 4 related to the company's tagging
24 procedures in place at the time of the accident. The

1 ~~tagging procedure used by Tampa Electric at the time of~~
2 ~~the accident is consistent with that used throughout the~~
3 ~~electric utility industry. OSHA, the Edison Electric~~
4 ~~Institute (the electric utility trade association), and~~
5 ~~the IBEW International had been engaged for a number of~~
6 ~~years in ongoing discussions with respect to the~~
7 ~~applicability of certain aspects of the OSHA "lock out,~~
8 ~~tag out" standard to the industry. That issue was~~
9 ~~finally clarified by OSHA in a directive issued on~~
10 ~~October 14, 1999.~~

11
12 The central issue here is whether a supervisory tagging
13 system or a group tag out system was the appropriate
14 procedure in light of the industry's belief that the
15 supervisory tagging system met the system operator
16 provisions of the applicable OSHA standard. Tampa
17 Electric and the rest of the utility industry followed
18 the system operator system which allowed, but did not
19 require, each crew member to sign the tag before working
20 on a piece of equipment. OSHA did not finally clarify
21 its position on this issue until well after this
22 accident. Consequently, we believe that it is entirely
23 inappropriate to consider in any way a measure which
24 ~~could be received as an improvement to the system and~~

1 ~~which, in hindsight, may now be considered the appropriate~~
2 ~~procedure to follow.~~

3
4 Q. Did Tampa Electric have specific written instructions with
5 respect to the required job briefing by the person in
6 charge?

7
8 A. Yes, most definitely. Such instructions are clearly
9 provided in the Company's Safe Practice Procedures
10 Manual. These instructions are included in my exhibit
11 entitled "Job Planning Procedure."

12
13 Q. What was the experience level of the person who was
14 required to provide the briefing on the morning of the
15 accident?

16
17 A. The person who was in charge is a well respected and
18 experienced supervisor who had been in a supervisory
19 position for many years and who had supervised this same
20 maintenance job numerous times. Since long prior to the
21 April 8, 1999 accident, Tampa Electric has had in place a
22 training program designed to insure that work crew
23 supervisors provide adequate job briefings prior to work
24 commencement. This supervisor was well aware of the

1 condition of the unit and was responsible for requesting
2 that the generator be tagged out for the crew. He had
3 not made that request at the time of the briefing and did
4 not advise the crew of the status of the generator.

5
6 Q. Was the job briefing held on the day of the accident?

7
8 A. Yes. However, while the supervisor believed he
9 communicated to the crew the status of the generator, the
10 crew understood his remarks differently. While the crew
11 was not given specific instruction to proceed to open the
12 access cover to the generator, from the best we have been
13 able to ascertain, the employee who opened the cover made
14 the decision to proceed based on his belief it was safe
15 to do so after the briefing.

16
17 Q. What action should the Commission take in this proceeding
18 with respect to the Gannon 6 accident?

19
20 A. The Commission should allow the full cost of recovery of
21 replacement fuel and purchased power which was required
22 as a result of the accident. The accident was the result
23 of an unfortunate miscommunication by a valued and
24 dedicated employee and certainly was not the result of

1 any willful misconduct by anyone. The supervisor
2 responsible is well trained with many years of experience
3 in performing and supervising generator maintenance. The
4 specific job briefing required is clearly set out in
5 written instructions in the company's Safe Practices
6 Manual. The company had a history over the years of
7 safely performing generation maintenance before this
8 accident occurred.

9
10 This accident was not caused by management's imprudence.
11 The company had the appropriate procedure in place, but
12 in this situation, all of the necessary elements of the
13 "Job Planning Procedure" were not covered. It is
14 important to define responsibility in a way that permits
15 a regulated utility to continue to conduct its affairs
16 consistent with the realities of company rights and
17 obligations. Unlike unregulated private industry, public
18 utilities are not entitled to benefits of uneconomic
19 gains nor are they free from a duty to deliver service.
20 It would not be fair then to saddle a utility with the
21 burden of economic loss in a case like this. There is no
22 evidence of a cavalier or irresponsible attitude by Tampa
23 Electric or any of its employees toward efficiency or
24 safety. Indeed a very high standard of care is the

1 general rule at Tampa Electric in all matters, and
2 particularly, related to safety.
3

4 The real cause of the accident was not any management
5 deficiency, procedural or otherwise but on unfortunate
6 miscommunications between dedicated, hard working, and
7 experienced employees.
8

9 Q. Does this conclude your testimony?
10

11 A. Yes, it does.
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1 **COMMISSIONER DEASON:** Okay. That concludes
2 all of the prefiled testimony, direct and rebuttal.
3 The record is now complete. Is that correct?

4 **MR. KEATING:** That's correct.

5 **COMMISSIONER DEASON:** Staff, how do we
6 proceed from here?

7 **MR. KEATING:** I believe first we have --

8 **COMMISSIONER DEASON:** By the way, just let
9 me clarify that all exhibits that have been
10 identified, 1 through 41, have been admitted with the
11 exception of Exhibit 37.

12 **MR. KEATING:** First, I think we should start
13 with several stipulated issues that were agreed to
14 prior to the hearing. I don't think we've voted --

15 **COMMISSIONER DEASON:** Lets do this. Let's
16 take a recess. Give Staff a few minutes to ascertain
17 where we are and how we should proceed from this
18 point. And we'll come back at five minutes to three.

19 (Brief recess taken.)

20 - - -

21 (Transcript continues in Volume 5.)

22

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