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THOMAS D. HALL
MAY 25 2001

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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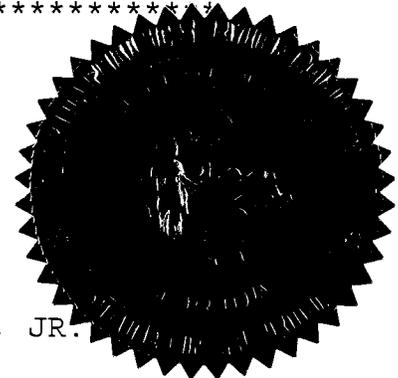
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In the Matter of : DOCKET NO. 001064-EI
:
PETITION FOR DETERMINATION :
OF NEED FOR HINES UNIT 2 :
POWER PLANT BY FLORIDA :
POWER CORPORATION. :

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VOLUME 2

Pages 96 through 176



PROCEEDINGS: HEARING
BEFORE: COMMISSIONER E. LEON JACOBS, JR.
COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
DATE: Thursday, October 26, 2000
TIME: Commenced at 1:00 p.m.
PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida
REPORTED BY: KORETTA E. STANFORD, RPR
Official Commission Reporter

APPEARANCES:

(As heretofore noted.)

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P R O C E E D I N G S

(Transcript continues in sequence from Volume 1.)

COMMISSIONER JACOBS: We'll call the hearing back to order.

When last we spoke, Ms. Brownless, you had some concerns regarding the Official Recognition List as proposed by Power Corp. Why don't we do this: Staff's Official Recognition List is not contested; is that how I can understand it?

MR. SASSO: It wasn't contested between us and Staff, was my understanding, and I was unaware of Ms. Brownless's concern until now.

MS. BROWNLESS: I have no problem with any of the items listed on Staff's request for judicial notice.

COMMISSIONER JACOBS: Very well. We will mark Staff's Official Recognition List as Exhibit 1. And absent any objection, we'll admit that.

MS. HART: Thank you.

(Exhibit 1 marked for identification and admitted into the record.)

COMMISSIONER JACOBS: Next we come to Florida Power's Recognition List and, Ms. Brownless, your concerns?

MS. BROWNLESS: Yes, sir. The rationale given for all of the items listed by Florida Power Corporation

1 on its request for official recognition is 90.902 paren 6,
2 which reads as follows:

3 MS. HART: 202.

4 MS. BROWNLESS: I'm sorry, I'm reading this
5 incorrectly, 90.202 paren 6, which I believe, states:
6 "Records of any court of this state or any court of record
7 of the United States or of any state territory or
8 jurisdiction of the United States."

9 And I don't think that -- I have no problem with
10 one, two, three, or seven. These are all legitimate items
11 for official recognition. I do have a problem with the
12 newspaper articles, because I don't think they're listed
13 in the items which can be judicially noticed, either
14 mandatorily under 9201 or discretionarily under 9202.

15 And as to their admissibility adhering, I would
16 also object, because they are hearsay. They would be, I
17 assume, admitted by Power Corp. for the purpose of the
18 facts stated therein.

19 And you know, if they want to bring Neela
20 Banerjee, Kirk Johnson, and whomever wrote the "Power
21 Markets Weekly" article here, put them on the stand and
22 subject them to cross examination, that's fine, and that's
23 appropriate, but they're not covered by the judicial
24 notice provisions of the evidence code and should not be
25 judicially noticed. And they certainly shouldn't be

1 admitted as evidence in this record, because they're
2 hearsay.

3 COMMISSIONER JACOBS: We're not entering them in
4 as evidence though, are we?

5 MS. BROWNLESS: Well, you just admitted the
6 Staff's official notice list as Exhibit Number 1, unless
7 I'm --

8 COMMISSIONER JACOBS: Right, but the list is an
9 evidentiary exhibit. But the content on that list has --
10 we're not bringing those into specific evidentiary --
11 we're not bringing those orders here and putting those
12 orders out for cross examination. We're not taking the
13 witnesses in those other orders and bringing them --

14 MS. BROWNLESS: But you are, by admitting it as
15 evidence in this proceeding, allowing all parties, and in
16 Staff's case appropriately, to argue the facts presented
17 in all of those decisions in this case without further
18 proof. That's the point of official --

19 MS. HART: That's correct, that Staff could rely
20 on it in their recommendation, and the other parties could
21 argue it as well.

22 COMMISSIONER JACOBS: Okay.

23 MS. BROWNLESS: And you also could base your
24 decision in this case upon those facts. It would be
25 competent substantial evidence to support any subsequent

1 decision.

2 COMMISSIONER JACOBS: Very well. Mr. Sasso.

3 MR. SASSO: We have two responses. One concerns
4 judicial notice, and the other concerns the issue of
5 admitting these as evidentiary exhibits, apart from the
6 judicial notice statute.

7 The judicial notice statute, 90.202, provides
8 for notice of facts that are not subject to dispute,
9 because they're capable of accurate and ready
10 determination by resort to sources whose accuracy cannot
11 be questioned.

12 These articles simply talk about the state of
13 the situation in California and New York, which is widely
14 known, commonly known, subject to verification, by sources
15 that are not readily questioned. But even if the
16 Commission weren't prepared to accept these as judicially
17 noticed circumstances, these exhibits would certainly be
18 proper evidentiary exhibits.

19 It's rather remarkable having heard this morning
20 about how we ought to open up this proceeding to receive
21 information and so on that parties are now trying to
22 shield you from reading the "New York Times" about
23 conditions taking place in the California and New York
24 markets.

25 In a proceeding like this, hearsay is not

1 excludable. Even if it were, there is a hearsay exception
2 for commercial publications, and they would qualify under
3 that exception.

4 And under this Commission's rules, and I'll
5 quote them, "Hearsay evidence, whether received in
6 evidence over objection or not, may be used to supplement
7 or explain other evidence, but shall not be sufficient in
8 itself to support a finding, unless the evidence falls
9 within an exception to the hearsay rule."

10 Well, this does fall within an exception but, in
11 any event, these articles will be corroborated and
12 supported by the testimony. Mr. Dickens, in fact,
13 reaffirms the content of these articles. Dr. Cicchetti,
14 in his prefiled testimony, echoes the content of these
15 articles. So, clearly, this is information that the
16 Commission is able to accept as the wherewithal to handle.

17 COMMISSIONER JACOBS: Very well. Commissioners?
18 Staff, do you have a recommendation?

19 MR. ELIAS: This is hearsay. We can't examine
20 -- we can't cross examine these newspaper articles. And
21 in past Commission proceedings, we have shyed away from
22 accepting hearsay evidence of this type. This is a matter
23 for the Commission's discretion, whether it wants to
24 consider this type of evidence.

25 I do not think it meets the standard for

1 official recognition enunciated in the rule with respect
2 to a factual matter that can be independently corroborated
3 or whose authenticity is not subject to dispute.

4 COMMISSIONER JACOBS: Very well. Having not had
5 an opportunity to personally read through the newspaper
6 articles that are in question, and given that I'm inclined
7 to -- as to these articles, not have them on the list, but
8 if your witnesses -- I do not want that to diminish in any
9 way, form or fashion the opportunity for those witnesses
10 to address those. They can do that, right?

11 MR. ELIAS: Yes.

12 COMMISSIONER JACOBS: They can base their
13 testimony on those articles still, even if we don't take
14 recognition of them? They simply have to support that.

15 MR. ELIAS: Yes. They have to be able to
16 support what they say. The problem that you get into here
17 is that this forms the basis for a finding of fact and our
18 ability to meet that evidence and cross examine it.

19 COMMISSIONER JACOBS: That comes when we give
20 that evidence the weight it deserves.

21 MR. ELIAS: That is one aspect of it, yes.

22 COMMISSIONER JACOBS: Any other questions,
23 Commissioners?

24 COMMISSIONER JABER: I'm concerned with what you
25 said, Bob, with respect to it's not appropriate for

1 official recognition. Isn't that the most critical thing
2 we need to think about, that it doesn't pass the test for
3 official recognition under -- what is being cited for
4 this, Chapter 90 or Chapter 120?

5 MR. ELIAS: The request is for official
6 recognition pursuant to Section 90.202 and 203, but two
7 provisions of Chapter 120, I believe, 125692-I, recognized
8 that matters which are officially recognized are
9 appropriately part of the record in a Chapter 120
10 proceeding.

11 MR. SASSO: I was going to say perhaps we can
12 help. We are not contending that the Commission should
13 accept this evidence as facts conclusively established.
14 We're simply submitting it for the Commission's
15 consideration, evidence that can be taken into account,
16 not asking the Commission to accept these facts as
17 conclusively established.

18 Again, the Commission's own rule says, "Hearsay
19 evidence may be used to supplement or explain other
20 evidence." So, the Commission does accept hearsay
21 evidence. And to suggest that the Commission hasn't done
22 so in the past is inaccurate.

23 In the Duke case, for example, Duke offered into
24 evidence something that it printed off of the Internet,
25 which was not even self-authenticating. It was ranked

1 hearsay, and the Commission accepted it with the
2 understanding that it would give it such weight, as in the
3 Commission's discretion, it decided appropriate.

4 MS. BROWNLESS: If I may respond to that, the
5 threshold question here is whether 90.202-12, which is the
6 section cited of the evidence code cited by Mr. Sasso,
7 applies to newspaper articles. That exception is facts
8 that are not subject to dispute, because they are capable
9 of accurate and ready determination by resort to sources
10 whose accuracy cannot be questioned.

11 And I would submit to you that newspaper
12 articles written by "New York Times" journalists, by
13 "Power Market Weekly" editorial boards or journalists do
14 not constitute facts which are not subject to dispute.
15 They are, by their very nature, opinions of these
16 journalists.

17 COMMISSIONER JACOBS: Very well. Anything else?

18 COMMISSIONER JABER: Chairman Jacobs, my view of
19 official notice, for what it's worth to you, is it was
20 designed to accept orders of the Commission, court
21 decisions, case law, because there would be no dispute
22 with respect to the decision, but I don't know.

23 COMMISSIONER JACOBS: Very well. I can just
24 make this ruling?

25 MR. ELIAS: Yes.

1 COMMISSIONER JACOBS: Okay. The Official
2 Recognition List will be accepted, but we will exclude the
3 articles. And as I indicated earlier, that is not
4 intended to diminish the opportunity of the witnesses to
5 base their testimony, if they can support that -- their
6 opinions, rather, on --

7 MS. BROWNLESS: So, the Official Recognition
8 List with items one, two, three, and seven will be
9 accepted?

10 COMMISSIONER JACOBS: Correct. We'll mark that
11 as Exhibit 2.

12 (Exhibit 2 marked for identification.)

13 COMMISSIONER JACOBS: Next we have Panda's
14 request for judicial notice. I'm sorry, do you want to go
15 and move that into evidence, Mr. Sasso?

16 MR. SASSO: Pardon me?

17 COMMISSIONER JACOBS: Did you want to go ahead
18 and move your list into evidence?

19 MR. SASSO: Yes, we do.

20 COMMISSIONER JACOBS: We'll show that admitted.

21 (Exhibit 2 admitted into the record.)

22 MR. SASSO: I suppose, I should make the further
23 motion to admit Exhibits 4, 5 and 6 as evidentiary
24 exhibits, not to be judicially noticed, but simply
25 accepted as evidence that the Commission can give whatever

1 weight the Commission feels appropriate. They are
2 self-authenticating, and they either fall within the
3 exception to the hearsay rules' commercial publications or
4 they needn't, because the Commission has the discretion to
5 accept hearsay, in any event. So, we'd move their
6 admission as evidentiary exhibits, not to be taken
7 conclusively as facts established.

8 COMMISSIONER JACOBS: I would entertain that,
9 but might I suggest we do it at a time the witnesses come
10 forward who are relying on those, and we'll mark the
11 exhibit associated with that testimony.

12 MR. SASSO: Very well.

13 COMMISSIONER JACOBS: We were on yours. Is
14 there any objection to Panda's list?

15 MR. SASSO: No.

16 COMMISSIONER JACOBS: We'll mark that as Exhibit
17 3, and without objection, show it admitted.

18 MS. BROWNLESS: Thank you.

19 (Exhibit 3 marked for identification and
20 admitted into the record.)

21 MS. HART: Mr. Chairman?

22 COMMISSIONER JACOBS: Yes.

23 MS. HART: Mr. Chairman, excuse me. The next
24 item that I would ask the Commission to consider is the
25 affidavit of publication of the notice that's required by

1 the statute that it was published in the county where the
2 facility is proposed to be built. So, it was published in
3 "The Lakeland Ledger," and we typically make that
4 affidavit from the newspaper an exhibit in the proceeding.

5 COMMISSIONER JACOBS: Okay. We'll mark that as
6 Exhibit 4, affidavit of publication in the notice.

7 (Exhibit 4 marked for identification.)

8 MS. HART: And there are copies coming around.

9 COMMISSIONER JACOBS: Any other preliminary
10 matters? Very well. Will all the witnesses who are
11 anticipating testifying, please stand and raise your right
12 hand.

13 (Witnesses jointly sworn.)

14 COMMISSIONER JACOBS: We are beginning with your
15 first witness, Mr. Sasso, Mr. Crisp.

16 MR. SASSO: With the chairman's permission, I
17 would like to begin with a very brief opening statement,
18 try to get refocused on the case.

19 COMMISSIONER JACOBS: I'm sorry. I did not ask
20 about opening statements. We had agreed on opening
21 statements? Is it --

22 MR. ELIAS: I don't recall that there was a
23 specific ruling addressing this issue at the prehearing
24 conference. So, as the presiding officer, it would be
25 your determination.

1 COMMISSIONER JACOBS: We'll grant that. Be
2 brief.

3 MR. SASSO: Thank you.

4 Just last year, in its review of the electric
5 utility 1999 10-year site plan, Staff said this: "If
6 utilities hesitate to build new needed generating units,
7 capacity shortages may become a certainty in the near
8 future."

9 You may recall that in the reserve margin
10 docket, Staff expressed grave concerns about the reserve
11 margins of the utilities in Florida dropping below levels
12 of 30, 40%; concerned that planning reserves were not
13 higher, recommended that utilities use at least a 20%
14 minimum planning reserve margin criterion.

15 To address Staff's concerns, Florida Power
16 Corporation and other utilities agreed to raise their
17 minimum reserve margin planning criterion to 20%. The
18 stipulation that was approved by the Commission states
19 "The 20% reserve margin planning criterion will be a
20 minimum. No maximum or cap will be represented or implied
21 by this criterion."

22 This was a very important part of the agreement
23 to everybody involved, and this was to be understood to
24 reflect the fact that utilities may, in their judgment,
25 determine that they need more than 20%; that is, a minimum

1 of floor, in their planning judgment, for purposes of
2 reliability of their systems.

3 The stipulation further provided that we would
4 implement the 20% reserve margin criterion, quote, over a
5 transition period of four years, making this fully
6 effective no later than the summer of 2004. As part of
7 the terms of that stipulation, all parties agreed that we
8 would satisfy this criterion, quote, based on generating
9 capacity owned by the IOUs or capacity for which there is
10 a firm commitment to these IOUs.

11 Also, in 1999, we asked the Commission for a
12 waiver of the bid rule, the RFP rule, with respect to this
13 plan. In denying that, the Commission made a number of
14 observations that are important, and I wish to remind the
15 Commission of them.

16 The Commission stated, "Plan reserve margins are
17 much lower than historically acceptable levels. The
18 uncertainty as to what the reserve margin should be is
19 exacerbated by the fact that a high percentage of the plan
20 reserve margin is in the form of load management and other
21 nonfirm loads." And the Commission pointed out that
22 Florida Power, in particular, has relied on load
23 management more than any other electric utility in the
24 nation.

25 Well, Florida Power has now stepped up to the

1 plate, and it is proposing by its petition in this
2 proceeding to build a unit of 530 megawatts, the Hines 2
3 Unit by the winter of 2003, 2004, significantly as a
4 Florida Power-owned plant, the entire plant, all 530
5 megawatts would count toward the company's reserve margins
6 bringing our reserve margins back toward the levels that
7 the Staff and the Commission has indicated they would like
8 to see.

9 This is a good project. It's a
10 state-of-the-art, highly efficient natural gas-fired
11 combined cycle power plant. By virtue of the fact that
12 Florida Power had the foresight when developing the Hines
13 1 project to negotiate favorable contract options on
14 equipment, Florida Power is able to develop this plant at
15 a below market cost in the range of \$40 million, savings
16 that inure to the benefit of its ratepayers.

17 It's going to be built on a site that has
18 already been impacted by industrial uses, former phosphate
19 mining site. It is the site where there is another power
20 plant, Hines 1, where this will be collocated. This site
21 has been pre-approved by the siting board for up to 3,000
22 megawatts of power plant capacity, which should streamline
23 the permitting process and mitigate the risk of a delay in
24 putting this project into service.

25 Also, by using that site, the company will be

1 able to secure additional cost savings, which will benefit
2 its ratepayers. It'll be able to take advantage of shared
3 facilities, such as an access road, cooling pond, effluent
4 supply pipeline, water treatment, wastewater disposal, gas
5 lateral, transmission facilities and buildings.

6 The plant will provide needed diversity for the
7 company's system. The company has substantial purchase
8 power capacity, supply-side resources, base load capacity,
9 coal, nuclear. At this time, the best value trade-offs
10 for Florida Power system is represented by an intermediate
11 plant of this nature that has the flexibility and the
12 responsiveness to provide intermediate service, but to
13 switch to base load, if conditions warrant.

14 It will reduce the company's overall sulfur
15 dioxide emissions for the company's fleet, reducing
16 Florida Power's reliance on the market for purchasing SO2
17 emission credits to meet the company's overall emission
18 targets.

19 While the plant is needed by the winter of 2003,
20 2004, it's important to understand that it's needed far
21 beyond that. If you could picture a utility's need, like
22 a wall, maybe 20 feet tall, 25 feet long, the resources
23 that it needs to cover its load and provide reliability to
24 the system, this is a chunk of that wall, say, a one-foot,
25 two-foot, chunk of this wall that's going to go all the

1 way across all 25 feet.

2 And if this plant weren't built if, for example,
3 we picked a short-term alternative, we could put in the
4 other units that we have planned for 2005, 2007, 2009, but
5 that wall's always going to be one foot shorter than it
6 needs to be, because this is a long-term need to handle
7 load growth and the demands of our system into the future.

8 In fact, our 10-year site plan shows that we
9 will be adding additional resources in 2005, 2007, 2009,
10 at which time the company will make resource selection
11 decisions. Given the circumstances that exist at that
12 time, based on the circumstances that exist at this time,
13 this plant is the most cost-effective alternative
14 available to the company.

15 We believe that the company has demonstrated
16 this, and will demonstrate it in the course of the
17 hearing. This has been concluded after an extensive
18 internal process, the integrated resource planning
19 process, and also after following this Commission's bid
20 rule and testing the market by issuing the RFP in
21 compliance with the Commission's bid rule.

22 In denying our request for a waiver of that
23 rule, the Commission encouraged us to use that rule
24 offering -- holding out the prospect of the company's
25 obtaining advantages by following that rule, namely,

1 quoting from the Commission's decision, the company could
2 avoid the potential for 11th-hour proposals and the
3 possibility of an unsatisfied need. This would allow FPC
4 to identify and evaluate all capacity alternatives, as
5 well as reaching closure on the issue of
6 cost-effectiveness during the need determination process.

7 Well, we've done that. The company's gone out
8 to the markets, solicited bids, got proposals, evaluated
9 those proposals, and has determined that this plant will
10 be the most cost-effective alternative.

11 There's been some suggestion today that this
12 method of using present worth revenue requirements has
13 some sinister aspect to it or is designed to prejudice
14 some other proposal. To the contrary, in its most recent
15 need decision, this is what the Commission said about the
16 use of the very method for comparing alternatives that the
17 company used in this case. This is the Gulf Power
18 decision in August of last year.

19 Upon consideration of the evidence, we find that
20 Smith Unit 3, is the most cost-effective alternative
21 available to Gulf to meet its need for adequate
22 electricity at a reasonable price. As discussed in
23 Section 3 above, we, historically, have used total dollar
24 cumulative present worth revenue requirements basis for
25 determining the cost-effectiveness of a proposed power

1 plant. Using this basis, Smith Unit 3 is expected to
2 offer net present value savings of \$116 million over the
3 next best alternative.

4 We believe, therefore, that Gulf's analysis of
5 self-build and RFP projects resulted in Gulf selecting the
6 most cost-effective alternative available in Smith Unit 3.
7 This company followed the Commission's requirements and
8 precedent and historical practice in evaluating the
9 alternatives presented to it and made this decision.

10 In sum, as Staff has effectively urged and the
11 Commission has urged, we have stepped up to the plate to
12 propose building this plant. We believe it's a good
13 project, and we're confident that on the basis of the
14 evidence in this hearing this Commission will agree that
15 our decision was a sound one and provide a favorable
16 determination of need.

17 If we may proceed, we'll call our first witness
18 at this time.

19 MS. BROWNLESS: Actually, wouldn't I be able to
20 give an opening statement as well?

21 COMMISSIONER JACOBS: I was just going to ask
22 that. Go right ahead.

23 MS. BROWNLESS: I want to put on the record my
24 objection to allowing Mr. Sasso to give an opening
25 statement. It was not discussed at the prehearing

1 conference. It was not subsequently discussed. I had no
2 idea that this would be done and, therefore, had no
3 opportunity to prepare such a statement.

4 Usually prehearing statements are given in
5 tandem with closing argument, and they are in lieu of
6 subsequent written briefs. The Commission has always
7 taken the tact or traditionally has taken the tact, except
8 or specifically provided by the prehearing officer, that
9 written briefs following the proceeding would be in lieu
10 of both opening and closing arguments.

11 So, I would ask to be allowed to make an opening
12 argument. I want my objection to be established for the
13 record, because I do think I am prejudiced at this late
14 date by not having had an opportunity to prepare one. And
15 I would also request that I be allowed to give a closing
16 argument, because if we're going to have opening
17 arguments, then, closing arguments are, indeed, in order,
18 in addition to being able to file a brief. So, that's
19 sort of my statement there.

20 I can, briefly, tell you where Panda is coming
21 from. Basically, we believe that the RFP process engaged
22 in by Power Corp. was predetermined, that the results of
23 the evaluation, the methodologies used, the assumptions
24 applied were not appropriate.

25 As a specific example of that, the fact that a

1 present worth revenue requirement was done over a 25-year
2 period, rather than over a 5-year period or a 10-year
3 period, in light of the turmoil in the electric market and
4 in the wholesale market that's taking place at this time,
5 was not appropriate and was not an appropriate analysis to
6 evaluate the bids or, in fact, to evaluate Florida Power
7 Corporation's Hines Unit 2 facility on its own merit, even
8 if no bids had been submitted.

9 And finally, I would say that the evidence that
10 is adduced and will be adduced at hearing will show that
11 the decision to purchase the equipment associated with
12 Hines Unit 2 was made prior to the date that the RFPs were
13 issued; that is, prior to January 26th of the year 2000.
14 And that is an indicia that the RFP was merely a formality
15 and that the conclusion of Power Corp. was foregone, and
16 they really had no intention of awarding the bid to anyone
17 else.

18 Thank you.

19 COMMISSIONER JACOBS: Very well. I'm going to
20 defer ruling on your request for closing arguments until
21 we conclude testimony. Hopefully, there may not be need
22 for it. But if you want to pursue that, you can raise
23 that again at that time.

24 MS. BROWNLESS: Thank you.

25 COMMISSIONER JACOBS: You may proceed.

1 MR. SASSO: We would call our first witness at
2 this time, John B. Crisp, Ben Crisp.

3 Mr. Crisp has some confidential exhibits in
4 sections of his testimony, and in accordance with the
5 prehearing order, we are providing that to you in closed
6 envelopes at this time.

7 I would also just note that under the prehearing
8 order, to the extent that parties wish to rely on or refer
9 to the confidential material in cross examining Mr. Crisp,
10 that care be taken not to disclose the confidential
11 material. And I would also note that Panda has waived
12 confidentiality as to their material.

13 JOHN B. CRISP

14 was called as a witness on behalf of Florida Power
15 Corporation and, having been duly sworn, testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MR. SASSO:

19 Q Would you state your name, position and business
20 address, please.

21 A My name is John Benjamin Crisp. My business
22 address is Florida Power Corporation, One Power Plaza, 263
23 13th Avenue, St. Petersburg, Florida. I'm employed by
24 Florida Power Corporation as the Director of Integrated
25 Resource Planning and Load Forecasting.

1 Q Mr. Crisp, did you prepare and file direct
2 prefiled testimony in this proceeding, both open testimony
3 and a confidential portion as well?

4 A Yes, I did.

5 Q And did you file a corrected version of the
6 confidential testimony?

7 A Yes, I did.

8 Q And did you also prepare and file, in this
9 proceeding, certain exhibits identified in your prefiled
10 testimony?

11 A Yes.

12 Q If I were to ask you the questions contained in
13 your prefiled testimony today, would you provide the same
14 answers?

15 A Yes, I would.

16 Q Do you have any changes or corrections that you
17 need to make to that testimony?

18 A No, sir.

19 Q Do you adopt your prefiled testimony as your
20 sworn testimony before the Commission in this proceeding?

21 A Yes, sir.

22 MR. SASSO: Mr. Chairman, I would request that
23 Mr. Crisp's testimony be entered into the record as though
24 read.

25 COMMISSIONER JACOBS: Without objection, show it

1 entered into the record as though read.

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IN RE: PETITION FOR DETERMINATION OF NEED
BY FLORIDA POWER CORPORATION
FPSC DOCKET NO. _____

DIRECT TESTIMONY OF JOHN B. CRISP

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I. INTRODUCTION AND BACKGROUND.

Q. Please state your name and business address.

A. My name is John B. Crisp, and my business address is Florida Power Corporation, One Power Plaza, 263 13th Avenue, St. Petersburg, Florida, 33701.

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

A. I am employed by Florida Power Corporation (“FPC” or the “Company”), as the Director of Integrated Resource Planning and Load Forecasting.

Q. Please describe your duties and responsibilities with Florida Power Corporation.

A. My responsibilities include coordinating the analysis and development of load forecasts and integrated resource plans (“IRPs”) for the Company on an ongoing basis. The IRP process consists of developing load forecasts and examining supply-side and demand-side resources available to the Company on its existing system and potentially available to the Company over its planning horizon to determine and recommend to the Company’s management changes or additions to those resources to enable the Company to fulfill its obligation to serve. In this

1 connection, the Planning Department prepares and presents the Company's Ten-
2 Year Site Plan ("TYSP") documents that are filed with the Florida Public Service
3 Commission ("PSC" or the "Commission") from time to time, in accordance with
4 applicable statutory and regulatory requirements. In my capacity as Director of
5 Integrated Resource Planning and Load Forecasting, I presented the Company's
6 1999 TYSP filing to the Commission at the planning workshop scheduled for that
7 purpose last year, I represented the Company in Docket No. 981890-EU,
8 addressing the aggregate electric utility reserve margins planned for Peninsular
9 Florida, and I oversaw the completion of the Company's most recent TYSP
10 document, filed in April 2000.

11
12 **Q. Please summarize your educational background and employment experience.**

13 A. I attended the Georgia Institute of Technology in Atlanta, Georgia. I received a
14 Bachelor of Science degree in Industrial and Systems Engineering in 1979. As
15 part of the requirements for my job at Oglethorpe Power Corporation, I also
16 completed Georgia Tech's International Management Executive Program in 1990.

17 My power industry employment began with Oglethorpe Power
18 Corporation in 1988, where I was involved in the management of generation
19 planning and construction, system operations and dispatch, operations planning,
20 load forecasting, integrated resource planning, and strategic and business
21 planning. I also developed and implemented strategies for asset leasing and fixed
22 price contract supply, and implemented an operations resource planning and
23 marketing system for sales of excess generation capacity and energy.

1 After leaving Oglethorpe Power in 1995, I joined an independent power
2 producer, Tenaska Inc., as its Manager of Power Services Development. In this
3 position, I was responsible for developing and marketing capacity and energy
4 proposals for combustion turbine and combined cycle facilities that served
5 wholesale requirements and cogeneration functions. In February 1997, I joined
6 Dynegy Marketing and Trade (then known as Electric Clearinghouse) in a start-up
7 position in their Atlanta field office. In this position, I coordinated the
8 development and implementation of power marketing strategies in the Southeast
9 Reliability Council (“SERC”) and the Florida Reliability Coordinating Council
10 (“FRCC”) regions. I was responsible for market analysis, deal identification and
11 prioritization, capacity and energy pricing, negotiations, portfolio balance, and
12 achievement of revenue and profit objectives. I also assisted Dynegy in the
13 development of commercial marketing alliances, power plant and asset
14 acquisition, merchant market evaluation, merchant plant siting, power plant
15 marketing, and strategic asset deployment.

16 In May 1999, I joined FPC as its Director of Integrated Resource Planning
17 and Load Forecasting.

18
19 **II. PURPOSE AND SUMMARY OF TESTIMONY.**

20
21 **Q. What is the purpose of your testimony in this proceeding?**

22 A. I am testifying on behalf of FPC, in support of its Petition for a Determination of
23 Need, (1) to provide an overview of the “Hines 2” power plant that FPC proposes

1 A. The Hines 2 power plant will be a state-of-the-art, natural gas-fired, combined
2 cycle power plant with a nominal rating of 530 MW. FPC will build the plant at
3 the Hines Energy Complex ("HEC") site in Polk County, Florida. The Company
4 proposes to place the plant into commercial operation by November 30, 2003.
5 The plant will use distillate oil as a backup fuel source. The plant will be a highly
6 efficient unit with a projected average heat rate of 6,975 Btu/kWh. Although the
7 Company has previously obtained Site Certification from the Florida Siting Board
8 for the HEC in order to build the Hines 1 power plant (and for 3,000 MW of
9 ultimate site capacity), we are seeking at this time a supplemental Site
10 Certification for the purpose of building the Hines 2 generating unit.

11 The estimated total direct cost for building the unit will be \$197.6 million,
12 and our estimated transmission and interconnection costs will be \$5.6 million.

13 We believe that the Hines 2 plant will enable the Company to meet the
14 reliability and economic needs of our ratepayers during its 25 years of expected
15 service and that it will provide a superior source of efficient, low-cost power to
16 our ratepayers during that time. The Hines 2 plant will be fully committed to
17 meeting these needs.

18

19 **IV. NEED FOR THE HINES 2 POWER PLANT.**

20

21 **Q. Please explain FPC's need for the proposed Hines 2 power plant.**

22 A. I am sponsoring and filing with my testimony a detailed Need Study (Exhibit
23 JBC-1) that explains in detail how and why the Company arrived at its

1 determination to seek approval from the Commission to build the Hines 2 plant.
2 The information and data set forth in our Need Study have been prepared or
3 assembled by FPC's Integrated Resource Planning and Load Forecasting
4 Department, and provide the basis for our planning work and conclusions. As we
5 discuss in our Need Study, the Company needs the Hines 2 power plant for
6 several reasons.

7 1. First, the Company needs Hines 2 to maintain electric system
8 reliability and integrity. FPC has recently agreed to increase its Reserve Margin
9 planning criterion from a minimum of 15 percent to a minimum of 20 percent,
10 effective in the summer of 2004. (Please see App. C to FPC's Need Study). The
11 Company needs to add substantial new capacity to its system in order to meet this
12 planning objective. Although the Company wanted to have the leeway to
13 implement this new planning criterion as late as the summer of 2004, in our
14 planning judgment we believe that it will be important to achieve this planning
15 criterion by the winter of 2003/04. By putting the Hines 2 unit in service by
16 November 30, 2003, we will meet this goal. As described more fully in the
17 detailed Need Study (JBC-1), the Hines 2 unit will enable the Company to
18 maintain planning reserves above the 20 percent minimum during the winter of
19 2003/04 and ensuing periods, and the Company should not need to build or
20 contract for additional supply-side resources until 2005 in order to meet or exceed
21 its 20 percent minimum Reserve Margin planning criterion.

22 2. Second, in order to meet its Reserve Margin planning criterion, and
23 to comply with the directives of the Florida Energy Efficiency and Conservation

1 Act ("FEECA"), the Company has relied increasingly over the last decade upon
2 dispatchable demand-side resources to reduce the "firm" load that must be
3 protected by planning reserves. This has included placing a large number of
4 willing customers on load-management or interruptible service in exchange for
5 reduced tariffs. Due to the Company's experience with its Residential Energy
6 Management program over the last two years (i.e., attrition by customers due to
7 dissatisfaction with service interruptions), the Company believes that it is prudent
8 (from a financial and reliability perspective) to reduce its reliance on dispatchable
9 demand-side alternatives. Accordingly, as developed more fully in the
10 Company's recent Demand-Side Management ("DSM") Plan filing and the
11 TYSP, FPC has revised its Residential Energy Management program in favor of
12 adding more supply-side generating capacity to its total reserves.

13 This is significant for two reasons: (a) We are facing a period of some
14 uncertainty about how the Company's Energy Management program will be
15 received by our residential customers, which creates the need, in our judgment,
16 for more "insurance" in the form of additional hard generating assets in our fleet,
17 and (b) it is our judgment, in any event, that the Company should carry more
18 supply-side assets as part of its total reserves than it has in the past. This is the
19 reason the Company projected in its recent TYSP filing a stepped-down reliance
20 on demand-side reserves. (See App. D to FPC's Need Study, JBC-1, at pp. 15-
21 20). The upshot of this is that, although FPC continues to believe that certain,
22 specific demand-side programs provide an important and cost-effective resource,
23 FPC will be counting more in the future on generating units to meet its customers'

1 needs than on the willingness of customers to accept frequent curtailments in
2 service.

3 To illustrate, for the winter of 2003/04, FPC's estimated firm load at time
4 of peak load is 8,231 MW and its estimated non-firm peak load is 1,150 MW,
5 which results in an estimated total peak load of 9,381 MW. Without the Hines 2
6 plant in service, FPC's firm supply-side resources (power plants on its system and
7 firm power purchase agreements) would be 9,748 MW, or 1,517 MW greater than
8 the estimated firm peak load. Because the Company calculates its Reserve
9 Margin based on the relationship between only firm load and firm capacity
10 available to serve that load, FPC's Reserve Margin (without Hines 2) would be 18
11 percent (based on reserves of 1,517 MW). The relationship between FPC's firm
12 supply-side resources and its estimated total load (firm and non-firm) would be
13 much lower, however. Specifically, FPC would have only 367 MW of firm
14 capacity reserves in excess of estimated total peak load. This demonstrates that,
15 in the event of weather extremes or unavailable capacity, we would have to expect
16 a significant number of customers who participate in FPC's Energy Management
17 program to willingly accept their non-firm service so that we could support the
18 remaining firm load with our firm supply-side resources.

19 The PSC Staff on occasion has examined the relationship between (a) our
20 firm supply-side resources and (b) the combined total of those resources and our
21 demand-side resources. (This combined total is sometimes called "total reserves,"
22 as distinguished from our "Reserve Margin," which measures only the
23 relationship between firm capacity and firm load.) Using this approach, in the

1 winter of 2003/04 (without Hines 2), less than one fourth of FPC's "total
2 reserves" would consist of firm capacity. This is simply another way of showing
3 that, with the current resource mix, the Company has expected customers
4 participating in the Company's Energy Management program to willingly accept
5 their non-firm service provisions in order to be able to provide firm service to the
6 remaining firm customers with available firm capacity. In the past, the Staff has
7 been critical of the Company's reliance on dispatchable demand-side resources to
8 make up a significant part of the Company's total reserves. By building Hines 2,
9 the Company will reduce its reliance on demand-side resources. Thus, in the
10 winter of 2003, with Hines 2 in service, the Company will be able to increase the
11 portion of its total reserves attributable to firm capacity to almost one half (45
12 percent). The Company thus needs the Hines 2 plant to enhance in this manner its
13 electric system reliability and integrity.

14 3. Third, the Hines 2 plant will meet the Company's need to be able
15 to provide to its customers adequate electricity at a reasonable cost. Specifically,
16 the Hines 2 plant will meet FPC's economic need to realize fuel savings that can
17 be achieved through the addition of a state-of-the-art gas-fired, combined cycle
18 unit to its fleet. FPC estimates conservatively that it will achieve fuel savings in
19 the range of \$40 million per year from the Hines 2 plant.

20 4. Finally, the Hines 2 unit will meet FPC's need for electric system
21 reliability and integrity, and the Company's need for sufficient resources to
22 provide adequate electricity at a reasonable cost, in the further sense that the plant
23 will add diversity to the Company's supply-side mix. Taking into account the

1 Company's demand and energy requirements (i.e., load shape, load factors and
2 seasonal peaking characteristics), the Company has ample baseload and peaking
3 capacity, including purchased power resources. Baseload resources include
4 nuclear, coal, coal-by-wire, and cogeneration contracts priced on the basis of coal
5 units. The potential additions to FPC's fleet that generate the best value tradeoffs
6 at this time are resources that are flexible and responsive enough to meet the
7 challenges of intermediate service, and yet capable of shifting to baseload
8 operations as needed if prevailing economic or operating conditions warrant the
9 shift. Combined cycle plants are very cost effective and well suited for this
10 service regime. The proposed Hines 2 unit is a dual-fuel capable combined cycle
11 unit that will meet all of these operating requirements, increase the fleet's fuel
12 diversity, and provide a cost-effective means to meet clean air compliance
13 requirements. FPC has only two other comparable units (Hines 1 and Tiger Bay)
14 in its fleet. The Hines 2 unit addition will serve the Company's need to maintain
15 appropriate fuel and operating diversity in its fleet, which will thereby enhance
16 the reliability and cost-effectiveness of the Company's generation system as a
17 whole.

18
19 **V. THE COMPANY'S INTEGRATED RESOURCE PLANNING PROCESS.**

20
21 **Q. Please explain FPC's Integrated Resource Planning Process.**

22 **A.** FPC uses an IRP process to determine the most cost-effective mix of supply-side
23 and demand-side alternatives that will reliably satisfy the Company's future

1 energy needs. We have explained this process at some length in our Need Study
2 and in our TYSP (April 2000), which we are submitting as Appendix D to FPC's
3 Need Study (JBC-1).

4 For planning purposes, we begin with two basic reliability measures: (1) a
5 minimum Reserve Margin planning criterion of 15 percent, no later than the
6 winter of 2003/04, replaced by a minimum 20 percent Reserve Margin planning
7 criterion, commencing no later than the summer of 2004, and (2) an assisted Loss
8 of Load Probability ("LOLP") criterion of one day in ten years (sometimes
9 expressed as 0.1 days per year). The Reserve Margin criterion is deterministic
10 and provides a measure of FPC's ability to meet its forecasted seasonal peak firm
11 load. The LOLP criterion is probabilistic, and provides a measure of FPC's
12 ability to meet its load throughout the year taking into consideration unit failures,
13 unit maintenance, and assistance from other utilities. Typically, we will be driven
14 to add supply-side resources by our Reserve Margin planning criterion before our
15 LOLP criterion would become implicated. But the LOLP criterion provides a
16 meaningful supplemental reliability measure. Of course, we must also exercise
17 planning judgment to take into account other facts, information, and assumptions
18 that may not be captured fully in these planning criteria that may nonetheless have
19 a bearing on electric system reliability and integrity, including, for example, our
20 experience with our DSM programs and with the actual performance of our
21 generating units.

22 As we discuss in the TYSP and Need Study documents, as a part of the
23 planning process, the Company develops forecasts, including demand and energy,

1 fuel prices, and economic assumptions. (These are addressed more fully in the
2 Need Study and at pp. 83-85 of our recent TYSP). We then identify potential
3 supply-side resource alternatives and collect extensive cost and operating data for
4 the purpose of modeling these alternatives. We pre-screen the generation
5 alternatives to isolate those generation technologies that are commercially feasible
6 and both technologically and economically compatible with FPC's system for
7 further, more detailed analysis.

8 Next, we use the proprietary PROVIEW optimization program to evaluate
9 economic issues associated with various generation alternatives. With this
10 optimization program, we are able to (a) evaluate a multitude of potential resource
11 plans generated from combinations of future resource additions that meet system
12 reliability criteria, (b) assess the relative economics (revenue requirements) of
13 each plan, and (c) examine other system constraints such as environmental
14 requirements (for example, SO₂ compliance). PROVIEW will rank all resource
15 plans by system revenue requirements, with the plan with the lowest cumulative
16 present worth revenue requirements ("CPWRR") ranked first, over the study
17 period. Through this process, we develop the Base Optimal Supply-Side Plan.
18 (Please see our Need Study, JBC-1, for a more detailed discussion of our supply-
19 side screening procedure.)

20 Just as we evaluate potential supply-side resources, we conduct a careful
21 screening of demand-side resources as well. Extensive analysis was performed
22 during the DSM Goals and DSM Plan proceedings (Docket Nos. 971005-EG and
23 991789-EG, respectively) to assess the projected cost, performance, viability, and

1 cost-effectiveness of a wide range of dispatchable and non-dispatchable DSM
2 options. We use the demand-side screening model DSVIEW to conduct the cost-
3 effectiveness evaluation.

4 The Base Optimal Supply-Side Plan is used to establish avoidable units
5 for cost effectiveness screening of future demand-side resources. We then test
6 each future demand-side alternative individually in this plan over the DSM study
7 period to determine the benefit or detriment that the addition of the demand-side
8 resource provides to the overall system. DSVIEW calculates the benefits and the
9 costs for each demand-side measure evaluated and reports the appropriate benefit-
10 to-cost ratios for the Rate Impact Measure ("RIM"), the Total Resource Cost Test
11 ("TRC"), and the Participant Test. We then bundle together the demand-side
12 programs that pass all three tests of cost-effectiveness to create demand-side
13 portfolios.

14 In December 1999, FPC presented its proposed DSM plan and strategies,
15 together with the results of its demand-side screening analysis, to the Commission
16 for review and approval. We are including our DSM filing herewith as Appendix
17 K to our Need Study, JBC-1. The Commission approved FPC's DSM filing on
18 April 17, 2000, by Order No. PSC-00-0750-PAA-EG. We are filing that Order
19 herewith as Appendix L to our Need Study, JBC-1.

20 Once we have analyzed supply-side and demand-side alternatives, we then
21 optimize these together to formulate an Integrated Optimal Plan. To do this, we
22 assimilate the cost effective DSM programs identified in the DSM screening
23 process and then re-optimize the supply-side resource options that are available to

1 meet the Company's reliability criteria over the planning period. In so doing, we
2 identify the ten-year plan that provides the lowest revenue requirements for FPC's
3 ratepayers while still providing reliable, efficient service.

4 We then test the plan that provides the lowest revenue requirements using
5 sensitivity analyses to make sure it is the most cost-effective plan. We evaluate
6 the economics of the plan under high and low forecast scenarios for load, fuel,
7 and financial assumptions to ensure that the plan does not unduly burden the
8 Company or its ratepayers in the future. A sound plan, based on our sensitivities,
9 will be retained; an unsound one will be returned to the process to be re-
10 evaluated. Through this process, we establish our Base Expansion Plan.

11 We may reach a preliminary conclusion, through this process, that the
12 Company should make a significant resource commitment, such as building a
13 power plant or entering into a firm power purchase arrangement. At that point,
14 the Company analyzes more detailed cost estimates, technical, financial,
15 corporate, and regulatory considerations to determine the best course of action to
16 pursue.

17
18 **VI. IDENTIFICATION OF HINES 2 AS THE NEXT-PLANNED**
19 **GENERATING ALTERNATIVE.**

20
21 **Q. Please explain how the Company identified the Hines 2 power plant as its**
22 **next-planned generating alternative.**

1 A. Through the IRP process I have just described, we developed a Base Expansion
2 Plan calling for the addition of three combustion turbine units at the Intercession
3 City Site by December 2000 (currently in development) followed by the projected
4 combined cycle expansion of the HEC with Units 2 through 5, which are forecast
5 to be in service by November 2003, 2005, 2007, and 2009, respectively. These
6 new HEC units will be state-of-the-art combined cycle units similar to HEC Unit
7 1 (which is currently in service). As new advances in combined cycle
8 technologies mature, FPC will continue to examine the merits of these new
9 alternatives to ensure the lowest possible expansion costs.

10 We performed sensitivity analyses on load, fuel, and financial forecasts
11 with respect to this base plan. We concluded that the base plan was robust
12 concerning changes in load, fuel, and financial forecasts. The low load forecast
13 sensitivity required less combined cycle generation, and the high load forecast
14 indicated that we would need to add more combined cycle and combustion turbine
15 units to our system.

16 Our sensitivity runs did not suggest that any significant reconsideration of
17 the base plan was necessary or appropriate. The low fuel forecast did not point to
18 any changes to the base plan either. The high fuel forecast indicated a potential
19 increase in benefits for future advanced technology combined cycle units (as the
20 technologies mature) versus the current state-of-the-art combined cycle units but
21 did not suggest a change in the next-planned unit. When we held the current
22 differential price of oil and gas to coal constant over time, this pointed toward a
23 slight decrease in the value for combined cycle units, but again, did not suggest a

1 change in the next-planned unit. The variances resulting from these fuel
2 sensitivities were not significant enough to consider departing from the Base
3 Expansion Plan or to reconsider other alternatives to Hines 2 as the next-planned
4 generation addition.

5 Subject to identifying superior opportunities by issuing a Request for
6 Proposals, we concluded that the Hines 2 plant was our preferred next-planned
7 generating alternative. We were able to reach this conclusion based on the
8 modeling and other evaluation that I have already described.

9
10 **VII. FPC'S REQUEST FOR PROPOSALS.**

11
12 **Q. Please describe FPC's efforts to solicit proposals from other supply-side**
13 **providers.**

14 **A.** In accordance with PSC Rule 25-22.082, FPC issued a Request for Proposals
15 ("RFP") on January 26, 2000, soliciting proposals for other generating resources
16 that might prove superior to Hines 2 as a supply-side alternative. (See App. P to
17 the Need Study, JBC-1). We filed a copy of this RFP with the PSC on January
18 26, 2000. (See JBC-2).

19 I should point out that we engaged Mr. Alan Taylor of PHB Hagler Bailly
20 – an expert in utility industry resource planning and solicitations – to consult with
21 us concerning our RFP and evaluation process and to help us elicit and obtain
22 superior supply-side contract opportunities. Mr. Taylor is filing testimony in this
23 proceeding about our RFP, solicitation process, and evaluation of proposals.

1 In our RFP, we explained that we had identified Hines 2 as our next-
2 planned generating unit, and we invited interested parties to make alternative
3 proposals to the Company that may offer superior value and other attributes. We
4 purposely set forth very few limitations in the RFP in order to encourage utilities
5 and developers to submit creative proposals to us. We encouraged (but did not
6 require) interested parties to provide notice to us by February 10, 2000, regarding
7 their intent to submit a proposal, and we set up a pre-bid meeting with interested
8 persons (also not required) on February 18, 2000, at the Tampa Airport Marriott
9 to provide an opportunity for interested persons to ask questions and to discuss
10 the RFP.

11 Thirteen companies submitted notices of intent to bid on the project, and
12 representatives of twelve entities attended the pre-bid meeting. Also, we invited
13 the PSC Staff to attend the pre-bid meeting, and Roland Floyd *did in fact attend*.
14 At the meeting, we elaborated on the RFP and encouraged open discussion by all
15 participants (while providing for opportunities to make confidential inquiries to
16 the Company as well). Among other matters, we indicated in response to
17 questions raised before and during the meeting that we would entertain proposals
18 by bidders to build a generating unit at FPC's HEC.

19 In the RFP, we identified an RFP contact person (Michael D. Rib) to
20 handle inquiries about the RFP, and we set forth his address, phone number, fax
21 number, and email address. We provided answers to various inquiries during the
22 time before submission of bids and circulated information that we thought might
23 be of general interest to all bidders.

1 the PROSCREEN and PROSYM models, and we carefully evaluated the non-
2 price attributes as well.

3 The Hines 2 alternative proved to be significantly superior to the two
4 proposals FPC received on the basis of economic factors alone, calling for
5 significantly lower revenue requirements over the life of the project. The results
6 of our economic evaluations are set forth in Appendices 5 and 6 to the
7 Confidential Section of the Need Study, (Confidential) JBC-3. Likewise, both
8 proposals proved significantly disadvantageous in comparison to Hines 2 based
9 on non-price attributes. The results of our analysis of the non-price attributes of
10 each proposal are set forth in Appendices 7 and 8 to the Confidential Section of
11 the Need Study, (Confidential) JBC-3. In fact, even if the proposals had been
12 even with Hines 2 on economic factors (which they were not), Hines 2 would
13 provide superior value and reliability to our ratepayers based on non-price
14 attributes alone.

15 Based on this evaluation, we recommended to FPC's management that the
16 Company proceed with the Hines 2 power plant. We promptly notified Bidders A
17 and B that we would not be able to proceed with their projects.

18
19 **IX. MOST COST-EFFECTIVE ALTERNATIVE.**

20
21 **Q. Is the Hines 2 power plant the Company's most cost-effective alternative for**
22 **meeting its need?**

1 A. Yes, it is. As I have described, the Company conducted a careful screening of
2 various other supply-side alternatives as part of its IRP process before identifying
3 Hines 2 as its next-planned generating alternative. We were able to screen out
4 less cost-effective supply-side alternatives, identifying Hines 2 as the most cost-
5 effective alternative available to us.

6 In issuing the RFP, we hoped to elicit superior, more cost-effective power
7 purchase agreement opportunities, but we were unable to do so. The two
8 proposals that we did receive proved to be considerably less cost-effective than
9 Hines 2. In addition, during the RFP process, we were advised informally by
10 would-be bidders that they were unable to offer proposals that could compete
11 effectively on a cost basis with Hines 2. This provided further assurance that we
12 were on the right track in selecting Hines 2 as our next-planned generating
13 alternative.

14

15 X. CONSERVATION MEASURES.

16

17 Q. Did FPC attempt to mitigate its need for the proposed power plant by
18 pursuing conservation measures reasonably available to it?

19 A. Yes, we did. In fact, as I have described, the Company has pushed the envelope
20 in testing demand-side resources prior to adding hard generating assets to its
21 existing fleet. For the reasons we have given, we have concluded that we have
22 reached a practical limit, encompassing both reliability concerns and cost-
23 effectiveness issues, on the portion of FPC's resource mix that can be satisfied

1 with load control measures like the Energy Management program. FPC's recent
 2 modifications to the Energy Management program will help the Company achieve
 3 and maintain a more appropriate balance of supply-side and demand-side
 4 resources by limiting the overall growth of the Energy Management program as
 5 supply-side resources are added and improve overall program cost-effectiveness.

6
 7

8 **XI. BENEFIT TO THE STATE.**

9

10 **Q. Is the Hines 2 plant consistent with the needs of Peninsular Florida?**

11 A. Yes, the Hines 2 power plant will assist FPC in meeting its minimum 20 percent
 12 planned Reserve Margin and will also assist Peninsular Florida in maintaining
 13 planning reserve levels above the 15 percent minimum level targeted for the
 14 FRCC region. In the (current) timeframe of this resource decision, all of the
 15 significant utilities in the FRCC appear to be moving to reinforce their system
 16 reserves, and, as a result, there have not been underutilized assets available to
 17 purchase from other utilities. The absence of other utilities offering capacity for
 18 sale, as well as the additional RFP announcements that have occurred since our
 19 RFP was announced, further reinforces the consistency of this addition with the
 20 capacity needs of Peninsular Florida.

21

XII. CONSEQUENCES OF DELAY.

1

2

3 **Q. What will be the consequences of delay in implementing the Hines 2 project?**

4 A. The most significant consequences of delaying this resource addition would be (1)
5 the additional risk imposed on FPC's customers resulting from the overall
6 performance of and the transition in the Company's load management programs,
7 (2) the loss of significant fuel savings associated with Hines 2, and (3) the loss of
8 system benefits, for example, fuel and system diversity, flowing from the Hines 2
9 plant. FPC has estimated these delay cost impacts to range from \$40-70 Million
10 over a one to two year delay, respectively. However, this attempt to quantify the
11 deferred revenue requirements simplistically for a delay in implementation of this
12 facility ignores a wealth of benefits that this option offers at this time.

13

14

XIII. CONCLUSION.

15

16 **Q. Please summarize the benefits of the Hines 2 power plant.**

17 A. FPC needs the Hines 2 power plant to maintain its electric system reliability and
18 integrity and to provide its ratepayers with adequate electricity at a reasonable
19 cost. By building the plant, FPC will be able to meet its commitment to increase
20 its Reserve Margins, and it will do so by improving not just the quantity, but also
21 the quality, of its total reserves – adding more hard generating assets to the
22 Company's overall resource mix. The plant will add diversity to FPC's fleet of
23 generating assets in terms of fuel, technology, age, and functionality of the unit.

1 Having exhausted conservation measures reasonably available to the Company,
2 FPC selected the Hines 2 plant as its most cost-effective alternative for meeting
3 its needs. The plant will be a state-of-the art, fuel efficient, environmentally
4 benign installation that will be located on a site substantially pre-approved for
5 exactly this kind of power resource. We are pleased to be able to add this plant to
6 FPC's fleet and to Peninsular Florida.

7

8 **Q. Does this conclude your testimony?**

9 **A. Yes, it does.**

1 MR. SASSO: Also, Mr. Crisp has with his
2 testimony three exhibits, JBC-1, 2 and 3, the third being
3 the confidential exhibit. We would request that they be
4 marked at this time as a composite exhibit which, I
5 believe, would be number 4.

6 COMMISSIONER JACOBS: Actually, we marked the
7 affidavit as Exhibit 4. Do you want the confidentials to
8 be a composite with the other two or --

9 MR. SASSO: I think so, unless the chairman
10 prefers to separate it out.

11 COMMISSIONER JACOBS: Staff, if that works for
12 you, that's fine with me.

13 MS. HART: That's fine.

14 COMMISSIONER JACOBS: You want the confidential
15 the same exhibit as the regular?

16 MS. HART: That's fine.

17 COMMISSIONER JACOBS: Okay. Show that as
18 composite Exhibit 5.

19 (Exhibit 5 marked for identification.)

20 BY MR. SASSO:

21 Q Mr. Crisp, have you prepared a summary of your
22 testimony?

23 A Yes, I have.

24 Q Would you present that, please, to the
25 Commissioners?

1 A Yes, sir.

2 Good afternoon, Commissioners. My name is Ben
3 Crisp, and I'm the Director of Integrated Resource
4 Planning and Load Forecasting for Florida Power
5 Corporation. I appreciate the opportunity to be here
6 today and to testify in support of our proposed Hines 2
7 power plant.

8 The Hines 2 power plant will be a
9 state-of-the-art, natural gas-fired combined cycle power
10 plant with a nominal heat rating of 530 megawatts. We
11 propose to build the plant at the Hines energy complex in
12 Polk County. The company has previously obtained site
13 certification from the Florida siting board for the Hines
14 complex in order to build what we now call Hines 1 and
15 also for 3,000 megawatts of ultimate site capacity.

16 We're seeking, at this time, a supplemental site
17 certification for the purpose of building Hines 2. We
18 plan to put Hines 2 into commercial operation by November
19 30th, 2003. We've been able to negotiate very favorable
20 contract terms on the equipment, which will enable us to
21 do this at a significantly reduced cost, provided we
22 proceed on our current schedule.

23 The plant will use distillate oil as a back-up
24 fuel source. It will be a highly-efficient unit with a
25 projected heat rate of 6,975 BTUs per kilowatt hour. We

1 believe that the Hines 2 plant will enable the company to
2 meet the reliability and economic needs of our ratepayers
3 and that it will provide a superior source of efficient
4 low-cost power to our ratepayers.

5 In our planning judgment, and after careful
6 consideration of supply-side and demand-side alternatives,
7 we have concluded that we need the Hines 2 Unit for
8 several compelling reasons.

9 First, the company needs Hines 2 to maintain
10 electric system reliability and integrity. We recently
11 agreed to increase our reserve margin planning criteria
12 from a minimum of 15% to a minimum of 20%, effective no
13 later than the summer of 2004. We have concluded in our
14 planning judgment that it will be important to achieve
15 this planning criterion by the winter of 2003, 2004. By
16 putting Hines 2 in service by November 30th of 2003, we
17 will meet this goal.

18 In order to meet our reserve margin planning
19 criterion and to comply with the directives of the Florida
20 Energy Efficiency Conservation Act, we have relied
21 increasingly over the last decade upon dispatchable
22 demand-side resources to reduce the firm load that must be
23 protected by planning reserves.

24 This has included placing a large number of
25 willing customers on load management or interruptible

1 service in exchange for reduced tariffs. We have suffered
2 attrition from our residential energy management program
3 over the last two years, due to customer dissatisfaction
4 with service interruptions. So, we believe that it will
5 be necessary from both a financial and reliability
6 perspective to reduce our reliance on dispatchable
7 demand-side alternatives. Building Hines 2 will help us
8 reduce our reliance on demand-side alternatives.

9 We also need the Hines 2 Unit to enable the
10 company to continue to provide its customers with adequate
11 electricity at a reasonable cost. Specifically, the Hines
12 2 plant will meet FPC's economic need to realize
13 substantial fuel savings that can be achieved through the
14 addition of a state-of-the-art, gas-fired combined cycle
15 unit to its fleet. We conservatively estimate that we can
16 achieve fuel savings in the range of \$40 million per year
17 from this proposed unit.

18 Finally, the Hines 2 Unit will meet the
19 company's need for electric system reliability and
20 integrity and the company's need for sufficient resources
21 to provide adequate electricity at a reasonable cost in
22 the further sense that the plant will add diversity to the
23 company's supply-side mix. The company currently has
24 significant base load and peaking capacity. Our system
25 will benefit most by adding the Hines 2 plant at this time

1 in order to provide added flexibility and intermediate
2 service capacity.

3 The last point I would like to mention is that
4 we're satisfied that the Hines 2 Unit provides the most
5 cost-effective solution to our needs. We have undertaken
6 a comprehensive look at supply-side and demand-side
7 alternatives as part of our integrated resource planning
8 process.

9 Having identified the Hines 2 plant as our next
10 planned unit, we then tested the market to try to get
11 better value for our company and its ratepayers. We
12 issued an RFP in compliance with this Commission's rules
13 and, thereafter, worked actively with parties who might be
14 interested in responding to our RFP. We received two
15 proposals.

16 We carefully evaluated what they submitted and
17 concluded that the Hines 2 Unit was superior to either
18 proposal on both price and nonprice attributes. All in
19 all, the company needs the Hines 2 Unit for all the
20 reasons I've discussed, and we're confident that the Hines
21 2 Unit is the most cost-effective solution for our need.
22 That being the case, we respectfully ask that the
23 Commission grant a favorable determination of need for the
24 Hines 2 power plant.

25 Thank you.

1 MR. SASSO: Mr. Chairman, we tender Mr. Crisp
2 for cross examination.

3 COMMISSIONER JACOBS: Ms. Brownless.

4 MS. BROWNLESS: Thank you. I want to make sure
5 that I understand what can be discussed. I do not intend
6 to discuss any of the data that is associated with what
7 Florida Power Corporation has identified as Bidder B.

8 With regard to Panda's own bid and, I think, we
9 were identified in the public portion of the testimony as
10 Bidder A, we waive confidentiality, and we will be
11 discussing that in detail, because we are the person who
12 can waive it, and we're willing to.

13 What I need to know from Florida Power
14 Corporation's counsel is, is Florida Power Corporation
15 willing to waive confidentiality with regard to the data
16 associated with its own unit; for example, the PWRR data
17 contained in certain Staff interrogatories with regards to
18 the Hines Unit 2?

19 MR. SASSO: We may need to be more specific. I
20 don't think we have a problem, if we're talking about runs
21 that concern Panda. To the extent you're talking about
22 runs that concern Bidder B, then we would have a
23 constraint.

24 MS. BROWNLESS: No. We do not intend to ask any
25 questions at all about Bidder B's bid or any specifics of

1 Bidder B's bid. These would be the PWRR runs that were
2 provided to Staff that show PWRR for Hines Unit 2 and PWRR
3 for our Panda projects.

4 MR. SASSO: Yeah, that would be fine. We do
5 have a confidentiality issue with respect to certain other
6 exhibits, as you know, for which we requested confidential
7 classification.

8 MS. BROWNLESS: Sure. I think, I would point
9 out here that there is an exhibit which, I believe, was
10 Exhibit Number 8 that deals with a November 15th of 1999's
11 strategic presentation. I'm not sure whether all the data
12 contained therein, because it does reference some Siemens
13 Westinghouse numbers, would be subject to the Siemens
14 Westinghouse confidentiality agreement. And I certainly
15 am willing to refer the Commissioners to the exhibits and
16 let them look at the exhibits themselves without
17 mentioning the numbers.

18 MR. SASSO: That exhibit is confidential, not
19 only because of its relationship to that vendor, but also
20 the company's internal information. And so, we would
21 request that any discussion of that be generic or
22 indirect. The Commission and Staff does have the exhibit,
23 but that would be covered by confidentiality.

24 MS. BROWNLESS: Okay. So, you would be
25 asserting it?

1 MR. SASSO: Yes, we would be asserting it as to
2 that exhibit. And I'm a little uncomfortable talking
3 about this in blanket terms. Certainly, to the extent
4 that you wish to talk about PWRR runs, we don't anticipate
5 any difficulty there.

6 The reason we classify that as confidential is
7 because it related to Bidder A and Bidder B. And,
8 obviously, your own material is open now and other Bidder
9 B stuff would be confidential, and then, there were some
10 other specified interrogatory responses and other
11 proprietary information that we made available under
12 confidentiality request that we would also want to
13 protect.

14 MS. BROWNLESS: Okay. And what I propose to do,
15 Mr. Sasso, is obviously provide you with a copy of the
16 exhibits or the material that I would be seeking to ask
17 questions about, give you a chance to look at it, and then
18 go forward, and I'll try to be as generic as possible.

19 MR. SASSO: I apologize for having this
20 discussion between counsel, Mr. Chairman, but if that's an
21 agreeable procedure to you, that will work for us.

22 COMMISSIONER JACOBS: Sounds like it works.
23 Let's at least proceed that way. If we run into problems,
24 we'll deal with them as we go.

25 MS. BROWNLESS: Thank you.

CROSS EXAMINATION

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BY MS. BROWNLESS:

Q Good afternoon, Mr. Crisp.

A Good afternoon.

Q I want to discuss for a minute the origin of this RFP process; and, if I could, refer to what's been officially noticed as order number 990232, and I don't know if you've been provided with a copy of that or not. I gave a copy to your counsel.

MR. SASSO: Can you provide a more user-friendly description of it?

MS. BROWNLESS: That's the notice of proposed agency action order denying petition for rule waiver.

MR. SASSO: Thank you.

MS. BROWNLESS: Sure.

MR. SASSO: Would you like Mr. Crisp to have a copy?

MS. BROWNLESS: May I, please? Thank you.

MR. SASSO: I've provided him with the copy you gave us. I noticed it had some markings on it.

MS. BROWNLESS: Those markings are my markings. Those are not the -- obviously, the FPSC reporter didn't include those original markings, and we'll be glad to clarify that for the record.

BY MS. BROWNLESS:

1 Q Mr. Crisp, my understanding is that on October
2 20th of 1998, Florida Power Corporation filed a request to
3 waive the bidding rule; was that correct?

4 A That's correct.

5 Q And as support for its waiver, it indicated that
6 it believed it had unique cost scheduling site
7 environmental and utility-controlled advantages associated
8 with Hines Unit 2 that could not be or would not be
9 available to it from another bidder; is that correct?

10 A It does not reference would not be available
11 from another bidder.

12 Q Okay. So, it was not your contention that you
13 couldn't -- that your unit did not -- your contention was
14 that your unit did not provide unique cost scheduling site
15 environmental or utility control advantages?

16 MR. SASSO: Mr. Chairman, I have an objection.
17 Ms. Brownless hasn't established a foundation that this
18 witness was involved in the request for a bid waiver that
19 he has knowledge about what she's asking.

20 MS. BROWNLESS: Be glad to do that.

21 BY MS. BROWNLESS:

22 Q Mr. Crisp, do you have knowledge of the bid that
23 took place at --

24 A No, I do not.

25 Q -- I'm sorry -- of the request for rule waiver

1 submitted by Power Corp. in October of 1998?

2 A I was not employed by Florida Power Corp. at
3 that point and time. I do have a supervisory level or
4 have been informed of issues surrounding that, though.

5 Q Okay. So, you would not be aware of the reasons
6 that reported the rule waiver request or would you?

7 A Not in detail, no.

8 Q Okay. So, you wouldn't know whether the request
9 was based upon the fact that you had a contract with
10 Siemens Westinghouse for below-market price combustion
11 combined cycle units?

12 A I am aware of that contract, but I'm also aware
13 that even though we had that contract option, we
14 entertained bids from other suppliers to see -- to
15 continue to test the market.

16 Q And you believe that took place in October 20th
17 of 1998 when you asked for the rule waiver from the bid
18 rule?

19 A Requests for bids, requests for information from
20 suppliers of other generation equipment go on, on a
21 regular basis.

22 Q Okay. So, it's -- I'm just trying to get this
23 straight.

24 Is it your testimony that you have no knowledge
25 of the facts that supported Power Corp's request for a

1 waiver of the rule in October of 1998?

2 A As I stated before, I have a high level
3 understanding of what happened. I was not involved with
4 the details.

5 Q Well, okay. Based upon the level of
6 understanding that you have, did you understand that one
7 of the reasons that you had -- that you wanted to waive
8 the rule was because you believed you had a below-market
9 priced combined cycle unit available to you?

10 A I believe that we did have an option that
11 provided some unique cost attributes, yes.

12 Q Okay, so, that's a yes, that was one of the
13 reasons?

14 A Yes.

15 Q Okay. Did you believe at the time that the
16 desired in-service date of the unit which, I think, at
17 that time was 2001, would be something that you could
18 accomplish that no one else could?

19 MR. SASSO: Objection. Ms. Brownless is using
20 the term "you" rather loosely in asking Mr. Crisp what he
21 believed at the time. He said he wasn't employed at the
22 time.

23 COMMISSIONER JACOBS: Can you --

24 MS. BROWNLESS: I'll restate the question.

25 COMMISSIONER JACOBS: -- restate the question?

1 Very well.

2 BY MS. BROWNLESS:

3 Q Do you believe that Florida Power Corporation or
4 is it your understanding that Florida Power Corporation
5 was of the opinion that the unique Hines site and the fact
6 that it was previously permitted with DEP would allow it
7 to bring its unit on-line in a very expeditious manner?

8 A I don't know the answer to that.

9 Q You don't know whether that was a rationale or
10 not?

11 A I don't know if that was the entire rationale.

12 Q That's not the question. The question is was
13 that one rationale, to your knowledge, that Florida Power
14 Corporation believe supported its rule waiver request?

15 A I believe that there were specific cost benefits
16 to the option. I believe that there was a need that was
17 identified. And from the standpoint that there was a need
18 that was identified and that there were cost options that
19 were very beneficial, we were proceeding with the bid
20 waiver.

21 Q Would you agree with the statement, and do you
22 agree, is it your opinion, that at the time, on October
23 20th of 1998, Power Corp believed that the Hines Unit 2
24 unit was its most cost-effective available option?

25 MR. SASSO: I object to the question. It's not

1 really sensible to ask Mr. Crisp whether it's his opinion
2 that Florida Power believed something at the time.

3 MS. BROWNLESS: Only his understanding. He said
4 he had some knowledge of the circumstances surrounding
5 their bid request. And my question is does your knowledge
6 include the understanding that Florida Power Corporation
7 asked for the rule waiver because they believed in October
8 of 1998 the Hines Unit 2 unit was the most cost-effective
9 alternative?

10 COMMISSIONER JACOBS: Given that he already
11 expressed very limited knowledge of the application and
12 surrounding facts, that's going a bit far in testing that
13 knowledge. I'll sustain the objection.

14 BY MS. BROWNLESS:

15 Q Are you aware that at the time that the bidding
16 rule waiver request was made, Florida Power Corporation
17 indicated that it intended to put the Hines Unit 2 into
18 its base rates for surveillance purposes but promised not
19 to initiate a rate increase request based upon its
20 inclusion for a period of five years or from 2001 until
21 2006?

22 A I apologize. I'm not aware of that.

23 Q Accepting for a moment that that is true, is
24 Florida Power Corporation willing to make that same
25 representation today with respect to this unit?

1 MR. SASSO: Objection, Mr. Chairman. This is
2 not a negotiation. She's entitled to ask questions about
3 facts, not to negotiate with Mr. Crisp.

4 COMMISSIONER JACOBS: Was that --

5 MS. BROWNLESS: He either knows whether they're
6 willing to make that representation or he doesn't know
7 whether they're willing to make that representation. And
8 that's the question. That is a fair and legitimate
9 question.

10 COMMISSIONER JACOBS: Is that a part of their
11 filing or is there a fact in their filing that relates to
12 that?

13 MS. BROWNLESS: It is a fact that they made that
14 representation with regard to their bid waiver. It is on
15 Page 94 -- actually, the third page of the order which has
16 been issued by the Commission in that bid waiver docket.
17 Now, my question is a simple one. They made that offer
18 then. Is he aware of whether they're willing to make it
19 now? He either is aware or he's not aware.

20 THE WITNESS: I am not aware of --

21 MR. SASSO: Excuse me, Mr. Crisp.

22 COMMISSIONER JACOBS: I will allow the question,
23 to the extent that you're inquiring his awareness of the
24 company's willingness to stand by any representations made
25 in that prior filing. That's the essence of what I hear

1 you saying.

2 MS. BROWNLESS: No. With all due respect, what
3 I'm saying is they made the offer to do that --

4 COMMISSIONER JACOBS: Right.

5 MS. BROWNLESS: -- in October of '98.

6 COMMISSIONER JACOBS: And you're asking is he
7 aware of that.

8 MS. BROWNLESS: Is he aware whether they're
9 going to make the same offer today?

10 MR. SASSO: And we would object, Mr. Chairman,
11 on the ground that that proceeding is concluded. This is
12 a different proceeding. The company has filed testimony.
13 Mr. Crisp has not addressed that issue in his testimony.

14 As we've already indicated, we have no intention
15 to get into rate issues in this case. And this,
16 essentially, amounts to an attempt to exact some type of
17 commitment or to negotiate on the stand, not to ask this
18 witness about his knowledge about this case.

19 COMMISSIONER JACOBS: I will allow the question
20 only to the extent you're asking him his awareness of
21 that. And he can answer to the degree that he is aware or
22 not.

23 MS. BROWNLESS: Right.

24 COMMISSIONER JACOBS: But I would state we are
25 traveling a bit far afield to continue to ask him about

1 that docket where he's already indicated a very limited
2 understanding and awareness of the filing, but I'll allow
3 the question.

4 A I am unaware of this, because this is very far
5 outside of my level of responsibility.

6 BY MS. BROWNLESS:

7 Q Thank you.

8 In 1998, are you aware of the 10-year site plans
9 filed by Florida Power Corporation in 1998?

10 A I have reviewed the documents in the past.

11 Q Are you aware of whether the Hines Unit 2 unit
12 was identified as a capacity addition planned by Florida
13 Power Corporation in that document?

14 A I believe that Hines 2 was in the document.

15 Q Okay. And what was the in-service date that
16 Power Corp. gave the Hines Unit 2 in that document?

17 MR. SASSO: I think, in fairness to the witness,
18 Ms. Brownless ought to show the witness the document.
19 We're asking about contents of a document.

20 MS. BROWNLESS: Well, I can refer to, again,
21 to --

22 COMMISSIONER JACOBS: Before we go, your
23 objection is --

24 MR. SASSO: I object that she's asking him to
25 testify about the contents of a document and the best

1 evidence of that is the contents of the document. If she
2 has enough information to ask the question, I presume, she
3 has the document and ought to show the witness.

4 MS. BROWNLESS: What I have is a finding of fact
5 in the order that has been judicially noticed that
6 indicates it was identified in the 1998 10-year site plan
7 and that there was an in-service date given. And that's
8 on Page 298 of the order.

9 COMMISSIONER JACOBS: Have we established that
10 the witness has knowledge about that?

11 MS. BROWNLESS: He indicated he'd reviewed the
12 plan and that it was in the plan.

13 COMMISSIONER JACOBS: Okay. If he would like,
14 we'll give him an opportunity to review the document.

15 BY MS. BROWNLESS:

16 Q Subject to check, Mr. Crisp, would you agree
17 that the in-service date was November of 2004?

18 A I'm looking at your document 99 FPSC 2 colon 98,
19 reading from that document, "FPC's current 10-year site
20 plan filed in April of 1998 indicated that its next plan
21 generation addition, known as Hines 2, was a 487 megawatt
22 combined cycle unit to be ready for commercial operation
23 by November of 2004."

24 Q Okay.

25 A Based on this document, the accuracy about this

1 document, I would say that's true.

2 Q Thank you.

3 When did Florida Power Corporation conduct the
4 modeling analysis necessary, if you know, to establish the
5 need for the Hines Unit 2 plant in November of 2004 with
6 regard to its April '98 10-year site plan?

7 A We file on an annualized planning process. So,
8 the process that identified the need for Hines 2 would
9 have been done in between the October 1997 into February
10 1998 planning horizon.

11 Q Okay. In your bid process request for rule
12 waiver, did you indicate an in-service date for the Hines
13 Unit 2 unit?

14 MR. SASSO: Same objection, Mr. Chairman. This
15 witness has said he doesn't have familiarity with the
16 details of that application.

17 MS. BROWNLESS: Okay. We'll skip that.

18 BY MS. BROWNLESS:

19 Q Are you familiar with the 1999 10-year site plan
20 of Florida Power Corporation?

21 A Yes, I am.

22 Q Okay. Are you aware of whether the Hines Unit
23 was identified in the April 1999 10-year site plan?

24 A Yes, it was.

25 Q And what was the in-service date for it in that

1 plan?

2 A I now have a copy of the April 1999 10-year site
3 plan in which the Hines 2 Unit on-line date, November of
4 2004.

5 Q Okay. Will you accept, subject to check, that
6 in your bid waiver request, you indicated that Florida
7 Power Corporation wished to accelerate the in-service date
8 of the Hines Unit to 2001?

9 MR. SASSO: Objection, Mr. Chairman. It's not
10 appropriate to ask Mr. Crisp to verify facts on the stand
11 under oath subject to check. If Ms. Brownless wants to
12 refer to that exhibit, which is in evidence, she can do
13 so. It's not proper or efficient to be doing this with
14 Mr. Crisp.

15 COMMISSIONER JACOBS: We do have that petition
16 for waiver available to us and, then, that way we can cut
17 to this.

18 MS. BROWNLESS: Sure.

19 MR. SASSO: I believe, I'm corrected. I guess,
20 she was asking about the petition and not the order
21 itself. And I don't know where the petition is, because
22 it has not been shown to the witness.

23 BY MS. BROWNLESS:

24 Q I'll withdraw that question and ask this one:
25 When did you issue -- well, are you aware of the date of

1 the order for the bid rule waiver?

2 A No, I'm not.

3 Q Okay. Assuming, for purposes of this question,
4 that the date of the order was February 9th, 1999, would
5 that be the time in which Florida Power Corporation began
6 to make preparations to issue an RFP?

7 A No.

8 Q When did Florida Power Corporation begin to make
9 preparations to issue the RFP?

10 A Florida Power Corporation went through a series
11 of sensitivity analyses and operational analyses that were
12 going coincidental with the generic reserve margin docket.
13 Through those sensitivity analyses and the results of the
14 generic reserve margin docket, which culminated in late
15 last year, late 1999, at that point, we determined a need
16 for 500 megawatts, roughly 500 megawatts of capacity.
17 That's when we determined a need to move ahead with an
18 RFP.

19 Q Okay. And you did not make that decision
20 internally based upon the Commission's -- to your
21 knowledge, based upon the Commission's rejection of your
22 proposal to build the Hines Unit in 2001?

23 A No.

24 Q So, even though you were told to bid this unit
25 by the Commission, you didn't start working on an RFP

1 until the fall of last year?

2 A Define unit, please.

3 Q Hines Unit 2, the 500 megawatt block identified.

4 A As a result of the bid waiver process, we also
5 had peaking plants in our 10-year site plan. We switched
6 positions of the peaking plants within the 10-year site
7 plan with the Hines 2 Unit and went ahead with the peaking
8 plant construction projects at Intercession City on units
9 P-12 through P-14.

10 Q Would you have had to submit those peaking units
11 to a bid determination process, if you know?

12 A I'm not aware of that.

13 Q You don't know whether you would or would not?

14 A I wasn't here at the time.

15 Q So, it would not be a fair statement to say that
16 you took from February 9th of 1999, the date of the bid
17 waiver order, until January 26th of 2000, to put your RFP
18 together?

19 A That's not a fair statement.

20 Q Okay. Because you didn't start really working
21 on the RFP until the fall of last year.

22 A Until the winter of last year, early spring of
23 this year.

24 Q I'm a little confused by that last answer.
25 Isn't it true that you issued your RFP on January 26th of

1 this year?

2 A That's correct, that's what I'm saying.

3 Q Okay. All right. I thought you said until
4 early spring of this year so, I guess, I don't take
5 spring --

6 A Considering January in Florida, to me, that's
7 spring.

8 Q We could probably say it's spring all year round
9 here, couldn't we?

10 A I think so.

11 Q Okay. I just want to get the basic timeline for
12 the RFP established in the record here and, I think,
13 Mr. Sasso went over this earlier. The RFP was actually
14 issued January 26th of 2000; is that correct?

15 A That's correct.

16 Q And the RFP is contained in what was previously
17 noted as JBC-1, but now it's Exhibit 5, I think?

18 A It was formerly noted as Exhibit JBC-2.

19 Q Was it contained -- was the RFP that was
20 actually issued contained as Appendix P to the Need Study,
21 which was identified as JBC-1 previously, the big fat
22 book?

23 A I believe, these documents are the same.

24 Q Okay. And so, if I turn to P, then, that is a
25 true and correct copy of the RFP bid?

1 A To the best of my knowledge, yes.

2 Q On the first page of that document, and
3 Commissioners, this is under tab P of that larger
4 document, this one, you set forth a tentative solicitation
5 schedule; is that correct?

6 A That's correct.

7 Q And you did issue the RFP on the 26th of
8 January, right?

9 A That's correct.

10 Q Okay. You did request that parties indicate
11 their intention to bid on February 10th; is that correct?

12 A That's correct.

13 Q You did hold a pre-bid meeting on February 18th?

14 A Yes.

15 Q Was attendance at the pre-bid meeting necessary
16 in order to submit a bid?

17 A Pardon me? I didn't hear the last part.

18 Q Sure. Was attendance at the pre-bid meeting
19 necessary in order to submit a bid?

20 A No, it was not.

21 Q So, it was not a mandatory --

22 A That's correct.

23 Q Did you, in fact, accept the proposals on March
24 27th?

25 A Yes, we did.

1 Q Okay. Now, due to the nature of your resolution
2 of your evaluation of the bids, did you ever get to the
3 steps on the second page of this RFP, the short list of
4 determination or negotiations or execution of a contract?

5 A No, we did not.

6 COMMISSIONER JACOBS: Now, excuse me, you had
7 either 17 or 18 who came to the meeting -- I'm sorry, 12
8 who came to the meeting and only two proposals?

9 THE WITNESS: Yes, sir.

10 COMMISSIONER JACOBS: Is that kind of a common
11 occurrence when you have these bids?

12 THE WITNESS: Commissioner, it was a little
13 disappointing to only receive two bids, but that's the way
14 it shook out. We did receive some informal feedback
15 afterwards that indicated that several bidders chose to
16 simply not to bid because of the competitiveness of the
17 pricing of the option.

18 COMMISSIONER JACOBS: Go ahead.

19 BY MS. BROWNLESS:

20 Q I just want to follow-up on the number of
21 participants. My understanding is that Florida Power
22 Corporation developed its own list of potential bidders
23 in-house; is that correct?

24 A It was a rather extensive list. It was
25 developed in-house using a variety of sources.

1 Q And did that contain approximately 50 potential
2 bidders?

3 A It contained a list of approximately 50, but it
4 also went out into newspapers throughout the country.

5 Q But it's fair to say that at least a minimum of
6 50 people got the bid?

7 A Had direct contact, yes.

8 Q Of those 50 folks, how many indicated on the
9 10th of February that they intended to bid?

10 A Of the notice of intent -- I believe, there were
11 roughly 12 to 13 notices of intent, subject to check. I'm
12 going to have go back and check that.

13 Q That is on Page 17 of your testimony, perhaps?

14 A Pardon me?

15 Q Page 17 of your nonconfidential direct
16 testimony.

17 A Thank you.

18 Yes. 13 companies submitted notices of intent
19 to bid on the project, thank you.

20 Q And how many folks actually came to the pre-bid
21 meeting?

22 A Subject to check, I'd say, there were roughly an
23 equivalent amount of companies represented at the pre-bid
24 conference.

25 Q Could that number possibly be 12?

1 A Yes.

2 Q And of the 12 who came to the pre-bid meeting,
3 how many actually submitted proposals?

4 A Two.

5 Q So, that's roughly 4% of the folks who got a
6 direct solicitation from Power Corp.; is that correct?

7 A Yes, that's correct. As I stated before, we
8 received informal feedback from several of the prospective
9 bidders that the Hines 2 options were very, very
10 competitive and they chose not to bid.

11 Q I want to turn to Page 8 of the RFP document in
12 which you list under Category C, nonprice attributes.

13 A I'm there.

14 Q Okay. And those nonprice attributes go on for
15 several pages until Page 10; is that correct?

16 A That's correct.

17 Q Okay. Did Florida Power Corporation advise the
18 bidders at any time during either the pre-bid conference
19 or in subsequent negotiations with both bidders what
20 weight would be given to these nonprice attributes?

21 A We chose not to weight the attributes, because
22 what we wanted to do is stimulate creativity in the
23 proposal process. We wanted everyone to feel like they
24 came forward with their best shot with the best possible
25 creative solution, something that would, in fact, bring

1 more value to our ratepayers. So, we chose not to weight
2 the criteria, but rather look at the criteria as a whole
3 once the proposals came in.

4 Q Did you make any determination, internally, how
5 much weight would be given to price versus nonprice
6 attributes?

7 A Not, specifically, in terms of making a
8 quantitative rating about this much percentage of the
9 weighting will be on price and this much percentage will
10 be on nonprice, no.

11 Q Did you determine, if not quantitatively,
12 qualitatively, that you were mainly interested in price as
13 opposed to these other attributes?

14 A Let me explain that, if you may.

15 Q Sure.

16 A We didn't want to exclude proposals on the basis
17 of price alone. We wanted -- if somebody brought in
18 something that was a good opportunity and provided
19 significant values on the nonprice attributes, we didn't
20 want to consider just the pricing side as a separate
21 weighting.

22 Q Well, I'm not suggesting -- and the question is
23 not whether you would consider just the price. The
24 question is was there any internal determination that
25 price would be, for example, 70% of your idea or price

1 would be a determining factor which might be offset by
2 other nonprice attributes?

3 A No, we didn't do that. We didn't want to
4 exclude specific attributes for pricing.

5 Q Okay.

6 A We wanted to look at the projects in total.

7 Q Thank you.

8 Turning to Page 10 and Section 5, Part A; are
9 you there, Mr. Crisp?

10 A I'm there.

11 Q With regard to proposal evaluation procedures,
12 which are listed there, you make the statement, "FPC
13 reserves the right to evaluate the proposals in a manner
14 that ultimately produces the most competitive responses
15 from which to begin negotiations"; is that correct?

16 A That's correct.

17 Q So, as this process moved along, the idea was
18 that you would do an initial screening and that once a
19 bidder passed that initial screening, you would enter into
20 negotiations with him to determine the final parameters of
21 the deal; is that correct?

22 A If the bidder would pass those screenings and
23 supplemental screenings, in effect, then, we would go back
24 and issue a short list. And at that point, if a short
25 list had been issued, then, we would have proceeded with

1 negotiations. In fact, none of the bidders passed the
2 screening processes.

3 Q Okay. My question would be if someone had
4 passed the screening, okay, you would have entered into
5 negotiations with them concerning the final details of
6 their bid; would you not?

7 A If someone had passed the screenings and had, in
8 effect -- if we went through all of the criteria --

9 Q Right.

10 A -- the price and the nonprice attributes --

11 Q Sure.

12 A -- they passed the screening, yes, we would have
13 issued a short list and proceeded with negotiations.

14 Q Would you have, for example, if both parties had
15 passed the screenings, how would you have figured out
16 which one with whom to negotiate first?

17 A As in the process of evaluations, we provided
18 concurrent feedback with both bidders. We were trying to
19 hold very, very carefully to our timelines, as best as we
20 could and the schedule, even though we were not required
21 to hold specifically to our timeline, as stated in the
22 RFP, but we tried to handle everything on a concurrent
23 basis so that neither bidder had any semblance of
24 preference.

25 Q I understand that. My question goes to if you

1 had put both bidders on the short list, not that you did,
2 I understand you did not, but if you had developed a short
3 list and put both bidders on it, how would you have
4 determined with whom to negotiate first?

5 A That's speculative. From my standpoint, as far
6 as what we would have done had we arrived at a short list,
7 we would have moved forward with discussions with both
8 companies concurrently.

9 Q Okay, thank you. I understand now.

10 Was it your intention, if you had been able to
11 successfully negotiate a contract with one or both
12 bidders, was it your intent to file that contract with the
13 Public Service Commission in connection with this need?

14 A Absolutely. If one of the bidders would have
15 beaten Hines, we would have proceeded through the
16 negotiation process. If the negotiation process, in fact,
17 ended up with price and nonprice attributes better than
18 Hines, we would be in here with that recommendation right
19 now.

20 Q So, that would be yes, right?

21 A Yes.

22 Q Okay. Other than the nonprice attributes that
23 are listed on Section C, and the statement on 5-A-1, were
24 there any specific instructions or any specific criteria
25 set out in the RFP document itself as to what criteria

1 would be applied?

2 A Yes, there were.

3 Q And what were those? Where are they?

4 A What I would suggest is that you start on
5 page -- well, going through the nonprice attributes, the
6 two pages of nonprice attributes, the collection of
7 information there, that information, obviously, would be
8 evaluated.

9 Q Sure.

10 A The performance assurances information,
11 obviously, would be evaluated.

12 Q Okay.

13 A The proposal evaluation procedure lists several
14 steps by which we would go through the evaluations of the
15 pricing data. Number three states that "FPC will perform
16 an initial screening evaluation to identify and eliminate
17 any proposals that are not responsive to the RFP, do not
18 meet the minimum requirements set forth in the RFP, are
19 clearly not economically competitive with other proposals,
20 or are submitted by respondents that lack appropriate
21 creditworthiness or sufficient financial resources or
22 qualifications to provide dependable and reliable
23 service."

24 Then, we move into paragraph number 4. "The
25 proposals that pass the initial evaluation screen will be

1 further evaluated based on qualitative and nonprice
2 attributes as discussed at Section 4. See above. And
3 using production costing methods; in other words, cost
4 models, another model, so that all reasonable cost impacts
5 can be quantified, a selection of the best proposals will
6 be chosen as a short list for negotiations. Short listed
7 proposals will compete with each other and with any
8 self-build options before FPC makes any final selection."

9 And then, we go into our reservations or rights,
10 but --

11 Q Sure.

12 COMMISSIONER JACOBS: Ms. Brownless, do you have
13 very much more? Are you going to be a bit longer?

14 MS. BROWNLESS: Yes, sir.

15 COMMISSIONER JACOBS: Okay. Why don't we take a
16 break, come back at 2:30.

17 (Transcript continues in sequence in Volume 3.)

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, KORETTA E. STANFORD, RPR, Official FPSC Commission
6 Reporter, do hereby certify that Volume 2 in Docket Number
7 001064-EI was heard by the Florida Public Service
8 Commission at the time and place herein stated.

9

10 It is further certified that I stenographically
11 reported the said proceedings; that the same has been
12 transcribed under my direct supervision; and that this
13 transcript, consisting of 79 pages, constitutes a true
14 transcription of my notes of said proceedings.

15 I FURTHER CERTIFY that I am not a relative, employee,
16 attorney or counsel of any of the parties, nor am I a
17 relative or employee of any of the parties' attorney or
18 counsel connected with the action, nor am I financially
19 interested in the action.

20 DATED this 1st DAY OF NOVEMBER, 2000

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