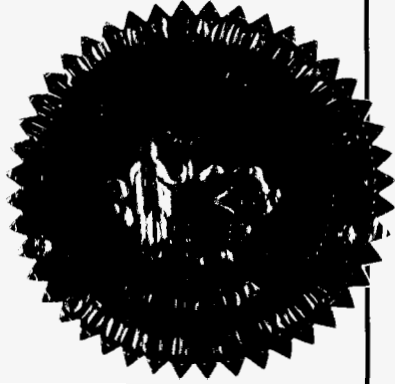


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 031033-EI

In the Matter of

REVIEW OF TAMPA ELECTRIC
COMPANY'S 2004-2008 WATERBORNE
TRANSPORTATION CONTRACT WITH
ECO TRANSPORT AND ASSOCIATED
BENCHMARK.



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THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

VOLUME 8

Pages 891 through 1018

PROCEEDINGS: HEARING
BEFORE: CHAIRMAN BRAULIO L. BAEZ
COMMISSIONER J. TERRY DEASON
COMMISSIONER LILA A. JABER
COMMISSIONER RUDOLPH "RUDY" BRADLEY
COMMISSIONER CHARLES M. DAVIDSON
DATE: Thursday, June 10, 2004
TIME: Commenced at 9:30 a.m.
Concluded at 9:17 p.m.
PLACE: Betty Easley Conference Center
Hearing Room 148
4075 Esplanade Way
Tallahassee, Florida
REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732
APPEARANCE: (As heretofore noted.)

I N D E X

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NAME:

PAGE NO.

ROBERT F. WHITE

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6	103	(Late-filed) Recalculation of CSXT bid prices for RCAFU and fuel surcharge since July 2003 bid to TECO	953	1017
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P R O C E E D I N G S

(Transcript follows in sequence from Volume 7.)

CHAIRMAN BAEZ: We are back on the record and reconvene this hearing. It seems like only yesterday. Good morning.

Counsel, we can dispense with reading; we don't have to read notices at this point, we just reconvene?

MR. KEATING: That's correct.

CHAIRMAN BAEZ: Do we have any preliminary matters that we need to take up?

MR. KEATING: There are none that staff is aware of that need to be taken up at this time.

CHAIRMAN BAEZ: Okay. I know that there is -- I will acknowledge at this moment for all the parties, I know that there are motions for reconsideration that were filed recently. As far as that goes, the response period hasn't run so I think we can take them up. What I want to do is use this precious time to finish our witnesses and finish the hearing portion. Are there other confidentiality orders?

MR. KEATING: I think I mentioned at the start of the hearing a couple of weeks ago that there were some new confidentiality requests, and there have been some since then as well that can be handled in due course. And we will get those handled as quickly as possible.

CHAIRMAN BAEZ: Very well. Thank you. I think if

1 the parties don't have anything else to offer preliminarily, we
2 can move on to a witness. And by my scorecard, I think we were
3 going to take up Mr. White at this point in time. So, Mr.
4 Wright.

5 MR. WRIGHT: Thank you, Mr. Chairman. Before we call
6 Mr. White, I have two exhibits that I would like to move. One
7 is the deposition of Martin Duff, a Tampa Electric witness.
8 That deposition has already been filed with the Commission as a
9 confidential document. Mr. Beasley and I have discussed this,
10 and I understand that Tampa Electric has no objection to the
11 admission, if we have any, of the document itself. I have
12 copies for all the parties. I do have copies for the
13 Commissioners, but since we don't intend to ask any questions,
14 I was thinking you all probably wouldn't want them.

15 CHAIRMAN BAEZ: I think we can obtain them as long as
16 they have been filed.

17 MR. WRIGHT: Right.

18 CHAIRMAN BAEZ: We will be okay, assuming we will get
19 it through other channels. Can you spell the name for me?

20 MR. WRIGHT: The first name is Martin, the last name
21 is Duff, D-U-F-F. And Mr. LaVia, my law partner, is going to
22 distribute copies to the court reporter and the parties.

23 CHAIRMAN BAEZ: And without objection, show the
24 deposition of Martin Duff -- do you have a date?

25 MR. WRIGHT: Yes, sir, I do. May 14th, 2004.

1 CHAIRMAN BAEZ: All right. May 14th, and that will
2 be shown as Confidential Exhibit 100.

3 (Confidential Exhibit 100 marked for identification.)

4 MR. WRIGHT: Yes, sir. Mr. Chairman, the second is a
5 compilation of about 18 pages or so from declassified Form 423
6 reports of Tampa Electric from 1994 through 2001. I want to
7 explain to you what I've got. I will ask Mr. LaVia to
8 distribute these, as well. These are pages of Tampa Electric's
9 Form 423 reports that have been declassified and were part of a
10 larger set of documents which were the complete 423s that we
11 were able to get in the time available through the Commission
12 Clerk's Office that are certified as such.

13 What I have done and what I propose to do is admit
14 only these excerpted pages. I want to show you the full set of
15 what we got. Mr. Chairman, this is one copy. If parties want
16 the complete copy of the whole thing, we will take them to the
17 copy shop and have them copied. But, otherwise, these are
18 public records certified by the Commission Clerk as such and we
19 would move their admission.

20 CHAIRMAN BAEZ: Mr. Beasley.

21 MR. BEASLEY: The admission or simply marking as an
22 exhibit?

23 CHAIRMAN BAEZ: Well, we're going to take up the
24 admission in due course, but for now we will mark it as Exhibit
25 101.

1 MR. BEASLEY: Thank you.

2 MR. WRIGHT: Thank you.

3 (Exhibit 101 marked for identification.)

4 MR. WRIGHT: Do you want to go ahead and take up the
5 admission now, Mr. Chairman? I don't know -- I don't know.

6 CHAIRMAN BAEZ: Why don't we --

7 MR. WRIGHT: They are public records. They are
8 part -- I aver you they are extracted certified copies. I
9 don't think there is doubt about their authenticity or their
10 relevance.

11 CHAIRMAN BAEZ: Is it proper to take up the admission
12 now? I'm looking for someone that -- there is not a problem
13 with that taking it -- we're not doing anything out of order?
14 Mr. Beasley, were you going to comment on the admission?

15 MR. BEASLEY: Is there a sponsor of these documents?

16 CHAIRMAN BAEZ: I guess that is my question.

17 MR. BEASLEY: Are any questions going to be asked of
18 a witness concerning these? If not, I wonder and I inquire
19 what role they play and what function, what purpose they serve.

20 CHAIRMAN BAEZ: Well, I'm assuming Mr. Wright is
21 going to answer that question or at least it will get cleared
22 up.

23 MR. WRIGHT: I don't know whether questions will be
24 asked of them or not. If they are, they will be directed to
25 Doctor Sansom. But the point is that they are public records,

1 and I think they are clearly admissible as such. They are
2 authentic and they are probative of the value of the benchmark

3 MR. BEASLEY: Mr. Chairman, I would suggest that
4 would be an extension, I believe, of Doctor Sansom's direct
5 testimony for him to address documents that he has not
6 sponsored or made part of an exhibit to his testimony. We
7 don't have a person available who prepared these documents to
8 ask questions of or redirect, so I would suggest to you that
9 they are not admissible or should not be made part of the
10 record of this proceeding.

11 CHAIRMAN BAEZ: I'm going to allow them. Show
12 Exhibit 101 admitted.

13 MR. WRIGHT: Thank you.

14 (Exhibit 101 admitted into the record.)

15 MR. WRIGHT: Thank you, Mr. Chairman.

16 CHAIRMAN BAEZ: Do we need to take up the admission
17 of the deposition at this time? I don't think there was any
18 objection to that. All right. Well, then show Exhibit 100,
19 Confidential Exhibit 100 admitted, as well.

20 (Confidential Exhibit 100 admitted into the record.)

21 CHAIRMAN BAEZ: Go ahead with your witness, Mr.
22 Wright.

23 MR. WRIGHT: Thank you, Mr. Chairman.

24 CSX Transportation would call Mr. Robert F. White.

25 **ROBERT F. WHITE**

1 was called as a witness on behalf of CSX Transportation, and
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. WRIGHT:

5 Q Good morning, Mr. White.

6 A Good morning.

7 Q Mr. White, you have been sworn, taken the oath as a
8 witness at the beginning of the hearing, have you not?

9 A That's correct.

10 Q Would you please state your name and business address
11 for the record?

12 A Sure. I'm Robert White. I work for CSX
13 Transportation, 500 Water Street, Jacksonville, Florida 32202.

14 Q And are you the same Robert F. White who caused to be
15 prepared and filed in this case direct testimony consisting of
16 18 pages?

17 A That's correct.

18 Q Do you have any changes or corrections to your
19 testimony today?

20 A I do not.

21 Q And do you adopt this as your sworn testimony today?

22 A Absolutely.

23 MR. WRIGHT: Mr. Chairman, if there are no
24 objections, I would request that Mr. White's direct testimony
25 be entered into the record as though read.

1 CHAIRMAN BAEZ: Without objection, show the testimony
2 of Robert F. White entered into the record as though read.

3 MR. WRIGHT: Thank you.

4 BY MR. WRIGHT:

5 Q And, Mr. White, did you also cause to be prepared and
6 filed in connection with that testimony several exhibits
7 consisting of exhibits designated in your testimony as RFW-1
8 through RFW-10?

9 A That's correct.

10 Q And were those exhibits prepared under your direction
11 or supervision?

12 A Yes, they were.

13 MR. WRIGHT: Thank you. Mr. Chairman, those exhibits
14 have been marked on the staff's exhibit list as Exhibits 19
15 through 28, and so I would just ask you to confirm that they
16 have been marked accordingly and we will move them at the end
17 of Mr. White's testimony.

18 CHAIRMAN BAEZ: And I am showing that, as well. So
19 let the record reflect that Exhibits RFW-1 through RFW-10 have
20 already been marked previously as Exhibits 19 through 28.

21 MR. WRIGHT: Thank you.

22

23

24

25

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**PREPARED DIRECT TESTIMONY OF
ROBERT F. WHITE**

1 **Q. Please state your name, address, occupation and employer.**

2 A. My name is Robert F. White. My business address is 500 Water Street, Jacksonville, FL
3 32202. I am employed by CSX Transportation ("CSXT") as Logistics Manager-Business
4 Development.

5

6 **BACKGROUND AND QUALIFICATIONS**

7 **Q. Please provide a brief outline of your educational background and business
8 experience.**

9 A. I received a Bachelor of Science Degree in Management from The University of
10 Baltimore in 1976. I began my career with CSXT in 1977 as a Management Trainee. I
11 was promoted through numerous field and staff operating positions and became Director
12 Bulk Terminals in 1985. In that capacity I was directly responsible for all of CSXT's
13 Bulk Terminals – Newport News, VA, Baltimore, MD, Toledo, OH, and Rockport in
14 Tampa, FL. These terminals primarily handled coal, iron ore and phosphate but a variety
15 of other bulk materials were handled both inbound and outbound from the facilities.
16 During peak years in my tenure, these terminals handled up to 29 million tons of bulk
17 products. I left CSXT in 1997 to accept the position of Vice President and General
18 Manager of Pacific Carbon Services in Los Angeles. I was hired to oversee the
19 construction of the \$160,000,000 Los Angeles Export Terminal ("LAXT") and to hire a
20 staff to operate the LAXT. The LAXT handled both coal and pet coke for export to the

1 Pacific Rim. I returned to CSXT in 2002 in my current position. A copy of my resumé is
2 attached as Exhibit ____ (RFW-1).

4 PURPOSE OF TESTIMONY

5 **Q. Please state the purpose of your testimony.**

6 A. The purpose of my testimony is to present information and describe the process CSXT
7 used to develop a comprehensive proposal to provide coal transportation service to
8 Tampa Electric Company's ("TECO") Big Bend and Polk Stations. My testimony
9 describes the history of CSXT's efforts to develop and present offers to TECO and to
10 negotiate with TECO toward definitive agreements for transporting coal by rail to
11 TECO's Big Bend Station, for use at both Big Bend and Polk Stations. My testimony
12 describes the offers that CSXT made to TECO in October 2002 and in July 2003 for such
13 coal transportation services, including not only the actual rail transportation services but
14 also CSXT's proposals and offers to pay for the necessary capital infrastructure
15 improvements necessary to enable the Big Bend and Polk Stations to receive coal by rail.

16
17 **Q. Are you sponsoring any exhibits to your testimony?**

18 A. Yes. I am sponsoring the following exhibits:

19 Exhibit ____ (RFW-1): Resumé of Robert F. White;

20 Exhibit ____ (RFW-2): CSXT's March 12, 2003 Presentation to TECO;

21 Exhibit ____ (RFW-3): CSXT's May 9, 2002 Proposal Presentation to TECO;

22 Exhibit ____ (RFW-4): CSXT's October 23, 2002 Proposal to TECO;

23 Exhibit ____ (RFW-5): Diagram of Facilities for Big Bend 1 to 2 MMTPY
24 Rail Delivery Option;

- 1 Exhibit ____ (RFW-6): Diagram of Facilities for Big Bend 2 to 5.5 MMTPY
2 Rail Delivery Option;
3
4 Exhibit ____ (RFW-7): Diagram of Facilities for Polk Station Direct
5 Rail Delivery Option;
6
7 Exhibit ____ (RFW-8): Diagram of Facilities for Polk Shuttle Rail
8 Delivery Option;
9
10 Exhibit ____ (RFW-9): CSXT Letters to Joann T. Wehle; and
11 Exhibit ____ (RFW-10): CSXT's July 30, 2003 Proposal to TECO.
12

13 SUMMARY OF TESTIMONY

- 14 **Q. Please summarize your testimony.**
- 15 A. CSXT for many years transported coal to TECO's Gannon Generating Station until the
16 recent conversion of this Station to natural gas fuel; from 1996 through 2001, CSXT
17 moved between 200,000 and 1,200,000 tons per year ("TPY") of coal to Gannon Station
18 by rail. Throughout our longstanding business relationship with TECO, CSXT has
19 periodically expressed to TECO our interest in providing coal-by-rail transportation
20 service to serve part or all of the needs of TECO's Big Bend Station and TECO's Polk
21 Power Station. Most recently, beginning in the first half of 2002, CSXT approached
22 TECO, and attempted to negotiate with TECO, regarding the possibility of delivering
23 coal by rail to Big Bend Station and Polk Power Station. Based upon input from TECO
24 Fuels Department personnel at a meeting in May 2002, CSXT developed a formal
25 proposal for both actual rail transportation service **and** for CSXT to pay for what CSXT
26 estimated, based on preliminary engineering studies, to be the reasonable costs of all
27 necessary infrastructure improvements to accommodate rail deliveries of coal to both Big

1 Bend and Polk. CSXT presented this complete written proposal to TECO on October 23,
2 2002.

3 Following repeated efforts to set up meetings with TECO to discuss CSXT's
4 October 2002 proposal, CSXT and TECO personnel finally met in early March 2003.
5 TECO stated that they would meet with CSXT for further discussions after they had some
6 time to "digest" the proposal. Despite repeated efforts by CSXT to schedule such
7 meetings, TECO never agreed to any further meetings with CSXT.

8 When TECO issued its RFP for waterborne transportation services in June 2003,
9 CSXT was not initially furnished with a copy. After reading about the RFP in the trade
10 press, CSXT requested a copy of the RFP and was furnished with a copy on July 23,
11 2003. Since bids were due on July 31, this left CSXT little time to prepare a bid;
12 however, CSXT submitted a bid that was substantively identical, in terms of the rail
13 transportation pricing proposals and the capital construction payment proposals, to the
14 proposal that CSXT had made to TECO 9 months earlier, in October 2002. As the
15 Commission knows, TECO rejected CSXT's bid.

16

17

CSX TRANSPORTATION

18 **Q. Please describe CSX Transportation and its business.**

19 **A.** CSX Transportation is the largest railroad in eastern North America. CSXT serves all
20 major markets in the eastern United States and serves more ports than any other railroad.
21 CSXT operates 144 terminals and a fleet of more than 3,500 locomotives and 100,000
22 freight cars. The CSXT system covers 23,400 route miles in 23 states, the District of
23 Columbia, and two Canadian provinces. CSXT's system serves all major coal reserves in

1 the eastern United States, and CSXT transports approximately 125 million tons of coal
2 per year to utilities in every reliability council region east of the Mississippi River. The
3 first fourteen pages of Exhibit ____ (RFW-2) present summary information about CSX
4 Transportation and our coal transportation service. (This exhibit is a presentation that
5 CSXT made to TECO in March 2003.)
6

7 **Q. Is CSXT a customer of Tampa Electric Company?**

8 A. Yes. CSXT has numerous retail customer accounts with TECO at various facilities in
9 TECO's service area. CSXT pays TECO approximately \$1 million per year for our
10 electric service.
11

12 **HISTORY OF CSXT'S EFFORTS TO PROVIDE RAIL**
13 **TRANSPORTATION SERVICE TO BIG BEND AND POLK**
14

15 **Q. When did CSXT first approach TECO to discuss the possibility of providing coal by**
16 **rail?**

17 A. Our first meeting with TECO was on May 9, 2002 in TECO's downtown headquarters
18 office. CSXT was represented by Mike Bullock, Tom Carollo, and myself. Mr. Bullock
19 and Mr. Carollo are both Directors in CSXT's Coal Marketing Group. TECO was
20 represented by Joann Wehle, Karen Bramley, and Martin Duff. Attached as Exhibit
21 ____ (RFW-3) is a copy of the presentation that CSXT made to TECO on that date. Our
22 message was clear: CSXT believed that we could – and CSXT still believes that we can
23 – convert a portion of TECO's coal-by-barge transportation to coal-by-rail transportation
24 and thereby create “value” for TECO and TECO's customers. This “value” would be
25 derived from several factors including: lower transportation cost, access to more coal

1 resources, decreased transit time (inventory carrying cost), fewer transfers, and less
2 product loss.

3 The result of this meeting was that TECO's representatives expressed
4 considerable interest in rail service to Polk, but were less interested in rail service to Big
5 Bend. TECO's representatives also stated that their company was having financial issues
6 and were looking to save money wherever possible. We left the meeting with the mutual
7 understanding that CSXT would develop the short-term and long-term capital
8 requirements to provide the necessary rail delivery infrastructure at Polk and Big Bend,
9 and that CSXT would come back to TECO with a comprehensive proposal. TECO's
10 representatives agreed to work with CSXT to provide site access and engineering
11 drawings to CSXT.

12

13 **Q. Did CSXT representatives visit Big Bend and Polk?**

14 A. Yes. On May 21, 2002, Mr. Richard Schumann of RAS Engineering, an independent
15 engineering firm that CSXT occasionally hires on a consulting basis, and myself visited
16 the Polk and Big Bend sites. We were met at Polk Station in the morning and taken on a
17 brief tour of the facility by Martin Duff. We were not introduced to any staff people at the
18 plant nor were we given any written material about Polk Station. We toured the site with
19 Mr. Duff and discussed several potential scenarios to serve the plant by rail. The tour of
20 Polk Station lasted about 30 minutes.

21 We then followed Mr. Duff by automobile from Polk to Big Bend. We parked our
22 vehicle outside of the plant and toured the Big Bend Station in Mr. Duff's automobile.
23 We were not introduced to any plant personnel or given any written material about the

1 plant. Mr. Duff was able to answer general questions, but was not fully versed in
2 technical specifications at the plant. We were interested in specific issues related to the
3 infrastructure needs such as belt sizes, belt speeds, hopper size and rated capacity of the
4 existing limestone dump pit, which CSXT was considering using as the receiving pit for
5 rail deliveries of coal to Big Bend. At the time of the visit the tracks below the dump pit
6 had been removed in order to lay pipe for the desalinization plant located adjacent to the
7 Big Bend Station. We asked about plans to restore the tracks after the pipes had been laid
8 and Mr. Duff replied that they would be restored. We left Mr. Duff after a tour of about
9 45 minutes and at that time requested that TECO provide "as built" drawings of the plant
10 so that CSXT could begin its design work.

11 On September 6, 2002, Mike Bullock and myself met Mr. Duff at Big Bend for
12 our second and final visit to the site. At this time, we discussed our plan to build access
13 tracks into the facility just inside the fence and parallel to the existing road. We also
14 pointed out that we needed to discuss this plan with TECO's engineering and operating
15 staff to understand any issues regarding potential relocation of any visible (above-
16 ground) facilities or underground utilities and to discuss restrictions relative to blocking
17 internal plant rail crossings.

18
19 **Q. Did you receive the requested drawings?**

20 **A.** Yes, we received both Polk and Big Bend as-built drawings on June 20, 2002 from
21 LaRae Difulgo, a TECO employee.

22

1 **Q. Were you able to use these drawings to develop CSXT's rail access options and**
2 **capital requirements?**

3 A. Yes, these drawings were used primarily to determine scale. CSXT hired Richard
4 Schumann, of RAS Engineering, on a consulting basis, to develop plans for capital
5 improvements at both plants. CSXT also used John Milton, of CSXT's Industrial
6 Development Department, to assist in the design and costing of tracks at Big Bend
7 Station. Polk Station track designs were developed by Mr. Schumann and reviewed by
8 Mr. Milton. I was also heavily involved in the track design and capital requirement
9 development.

10

11 **CSXT'S FORMAL OFFERS AND PROPOSALS TO TECO**

12 **Q. When did CSXT actually make its first formal proposal to TECO for providing**
13 **coal-by-rail transportation service to TECO for the Big Bend and Polk Stations?**

14 A. On October 23, 2002, Michael C. Bullock, Director-Utility South for CSXT, sent a letter
15 to Joann T. Wehle, Director of TECO's Fuels Department, that set forth CSXT's
16 proposals to provide rail transportation service for TECO's coal needs at its Big Bend and
17 Polk Stations. In accord with TECO's express wishes, these proposals included both rail
18 transportation pricing proposals and proposals for CSXT to pay for the reasonable costs
19 of rail delivery infrastructure at both the Big Bend and Polk Stations. Also in accordance
20 with TECO's express wishes, CSXT's proposals included proposals for less than half of
21 TECO's total coal tonnage requirements. A complete copy of CSXT's October 23, 2002
22 proposal is included as Exhibit ____ (RFW-4) to my testimony.

23

1 **Q. Please describe the rail transportation pricing proposals set forth in CSXT's**
2 **October 23, 2002 proposal to TECO.**

3 A. In summary, the rail transportation pricing proposals included delivery by CSXT of coal
4 from the MGA, West Kentucky, and Big Sandy rate districts to TECO's Big Bend Station
5 for between [REDACTED] and [REDACTED] per ton, and to TECO's Polk Station for between [REDACTED]
6 and [REDACTED] per ton, plus adjustments according to a rail cost index (the Rail Cost
7 Adjustment Factor-Unadjusted) and an additional [REDACTED] per ton for delivery of synfuels.
8 The proposals also provided for deliveries by truck during the construction period at a net
9 additional cost of [REDACTED] per ton. The minimum and maximum tonnages per CSXT's
10 October 23, 2002 proposal were [REDACTED] million tons per year ("MMTPY") and [REDACTED] MMTPY,
11 respectively

12
13 **Q. Please describe the CSXT capital expenditure proposals that were set forth in**
14 **CSXT's October 23, 2002 proposal to TECO.**

15 A. CSXT's October 23, 2002 proposal stated the following:

16 CSXT will provide funding for capital enhancements that will
17 enable TECO to receive unit trains of coal at the Big Bend and Polk Plants
18 subject to CSXT Board approval.

19
20 Big Bend – improvements to include upgrade to the existing railcar
21 dumping system, construction of a new truck dump for limestone,
22 additional trackage, additional conveyance system and a radial stacker.

23
24 Polk – improvements to include a rail loop track, dumping system,
25 additional covered storage and required conveyance systems. CSXT has
26 the right to withdraw our proposal if funding and or the specified
27 timeframe exceeds the agreed upon terms. The total capital required to
28 complete the enhancements to both plants is estimated to not exceed [REDACTED]
29 MM.
30

1 **Q. Is it standard practice for CSXT or any other railroad company to make such offers**
2 **to pay for the costs of rail delivery infrastructure at their customers' facilities?**

3 A. No. However, while this is not standard practice, it is not unprecedented.
4

5 **Q. Why then did CSXT make this offer or proposal to TECO in this instance?**

6 A. The primary reason was that TECO asked CSXT to do so, explaining that TECO did not
7 believe that it had sufficient available capital to fund the necessary capital improvements
8 to accommodate rail delivery of coal at its Big Bend and Polk Stations. On CSXT's part,
9 we are always seeking ways to provide value to and for our customers. In this instance,
10 upon careful evaluation, we felt that it was a sound business decision for CSXT to make
11 this investment.
12

13 **Q. How were the capital costs, which CSXT proposed to pay to install the needed rail**
14 **delivery infrastructure at Big Bend and Polk, developed?**

15 A. Capital costs were developed by analyzing the available equipment, land and operating
16 requirements to conceptualize a variety of options to serve Big Bend and Polk by rail.
17 These conceptual ideas were then developed into several operating options. We
18 developed the following two options for the Big Bend Station:
19

20 **Option 1 - Big Bend - 1 to 2 MMTPY Build-In Option:**

21 This option contemplated the construction of tracks, conveyors, and a stacking
22 system that would provide the necessary infrastructure to accommodate 1 to 2 MM ton-
23 of in-bound coal per year. This option also included the construction of a system to allow

1 for the reclaiming of coal (from the coal pile) and loading of shuttle trains traveling from
2 Big Bend to Polk. These costs are detailed as follows:

Table 1.
Option 1 - Big Bend 1-2 MMTPY Option
(Standard Coal Hoppers)

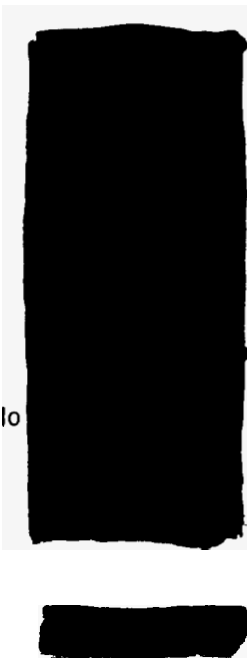
System rated at 1500 TPH

Modify Limestone Pit
Long Conveyor
Transfer Station
Short Conveyor
Three 45 car tracks
200' Radial Stacker
Truck Dump and conveyor
Total

Equipment to load shuttle trains

Reclaim Hopper w/ feed to batch silo
250 ton batch silo
New 45 car track
Total

Grand Total



3
4 A diagram depicting this Big Bend Option 1 is attached hereto as Exhibit ____ (RFW-5)
5 and incorporated herein.

Option 2 - Big Bend 2 to 5.5 MMTPY Build-In Option:

8 This option contemplated the construction of infrastructure that would allow the
9 Big Bend Station to receive up to 5.5MM tons of coal per year. This design layout
10 included a rapid discharge system capable of unloading a 90-car unit train in 4 hours. The
11 costs associated with this option are detailed as follows.

Table 2.**Option 2 - Big Bend 2-5.5MMTPY Option
(Rapid Discharge Cars)****System rated at 2500 TPH**

Rapid Discharge System

Long Conveyor 3300 ft.

Short conveyor 500 ft.

Transfer Station

Three 45 car tracks

Truck Dump and conveyor

Total

Equipment to load shuttle trainsConveyors and Transfer
station

250 ton batch silo

New 45 car track

Total

Grand Total

1

2

A diagram depicting this Big Bend Option 2 is attached hereto as Exhibit ____ (RFW-6)

3

and incorporated herein.

4

We also developed the following two options to serve the Polk Station:

5

Option 1 - Polk Station Direct Rail Build-In Option:

6

This option provided the necessary infrastructure to allow the Polk Station to receive 90-car unit trains direct. It included a new track connection to the plant, a loop track, a rotary dumper, a new 15,000-ton dome, and conveyors connecting to the existing silos. We also considered a second scenario that included a "bottom dump" unloading system with a slower conveyor system. The costs of these two scenarios are detailed in the following table:

10

11

12

1

Table 3.
Option 1 - Tampa Electric - Polk Direct Rail Delivery
Build-In Option

Item	Cost
Scenario # 1 Rotary dump at Plant	[REDACTED]
Loop Track	
Rotary Dumper w/conveyor to silo 2500 TPH	
New 15,000 ton dome	
Total	
Scenario # 2 Bottom dump at Plant	
Loop Track	
Bottom dump w/conveyor to silo 1500 TPH	
New 15,000 ton dome	
Total	

2

3

A diagram depicting this Polk Station Option 1 is attached hereto as Exhibit ____ (RFW-7) and incorporated herein.

4

5

Option 2 -- Polk Shuttle Option

6

This option contemplated the addition of 2,500 feet of track to allow the receipt of 35 car shuttle trains from Big Bend, a rotary dump system, and a new conveyor to the existing silos. The costs of this option are detailed in the following table.

7

8

9

Table 4.
Option 2 -- Polk Shuttle Option
Shuttle Train Unloading System

Bottom dump w/conveyor to silos 1500 TPH 2500' of track @ \$200 per foot	[REDACTED]
Total	

10

1 A diagram depicting this Polk Shuttle Option 2 is attached hereto as Exhibit ____ (RFW-
2 8).

3

4 **Q. Did you submit these capital cost calculations to TECO?**

5 A. Yes, there were submitted to TECO along with the rate proposal that CSXT submitted to
6 TECO on October 23, 2002.

7

8 **Q. Did CSXT meet with TECO to discuss the proposal?**

9 A. Yes, eventually. As noted above, CSXT submitted its proposal on October 23, 2002,
10 along with a cover letter requesting a meeting to discuss the proposal. TECO stated that it
11 needed time to digest the proposal before setting up a meeting. We repeatedly attempted
12 to arrange a meeting in November 2002. In early December, CSXT was told that Joann
13 Wehle's schedule was not open until after the first of the year. During the first week of
14 January 2003, CSXT was told that a meeting was not possible until the end of January
15 2003. After several more attempts to get TECO to commit to a meeting date, TECO
16 finally agreed to a meeting date of March 12, 2003.

17

18 **Q. Who attended this meeting and what was presented?**

19 A. The meeting was attended by Hugh Smith, (Vice President, Fuels), Joann Wehle, Karen
20 Bramley, and Martin Duff, on behalf of TECO, and Vic Saunier (Vice President, Coal),
21 Michael Sullivan (Assistant Vice President, Utility South Coal), Mike Bullock (Director,
22 Utility South Coal), and Robert White (Logistics Manager, Business Development), on
23 behalf of CSXT.

1 As part of the CSXT presentation, we provided a general description of CSXT's
2 structure and discussed the focus that coal transportation receives at CSXT. We also
3 discussed CSXT's access to coal reserves and provided a general description of CSXT's
4 major coal routes serving the southeastern utility coal market. After the general overview,
5 we reviewed CSXT's October 23, 2002 proposal in detail. CSXT's presentation materials
6 have previously been identified as Exhibit ____ (RFW-2), and CSXT's October 23, 2002
7 written proposal has previously been identified as Exhibit ____ (RFW-4).

8 We provided 2' X 3' Poster boards depicting our proposed capital improvements
9 at Big Bend and Polk Stations. We also gave a detailed description of the capital
10 improvements and a description of how the plants would be served by rail. We reviewed
11 the proposed rates and expressed our eagerness to provide rail service to TECO. During
12 the presentation we requested a ground level meeting at both Big Bend and Polk Stations
13 to meet with the TECO engineering and operating departments to better understand any
14 physical constraints and logistics issues. Hugh Smith agreed that these meetings would
15 take place after TECO had time to digest the proposal.

16
17 **Q. Did these ground level meetings take place?**

18 **A. No. Despite numerous telephone messages to Joann Wehle, CSXT was never contacted**
19 **to set up these meetings and frankly, we were ignored. CSXT also sent written requests to**
20 **Ms. Wehle dated March 21, 2003, June 13, 2003, July 11, 2003, and July 16, 2003. The**
21 **letters to Ms. Wehle are attached hereto as Exhibit ____ (RFW-9).**

22

1 **Q. When did CSXT first learn of TECO's June 2003 solicitation for coal transportation**
2 **services?**

3 A. CSXT first learned of TECO's June 2003 solicitation (the "RFP") when Michael Bullock
4 saw an article discussing the RFP in the Coal Transportation Report on July 16, 2003.

5
6 **Q. Was CSXT on the list of bidders to whom TECO sent the RFP?**

7 A. No.

8
9 **Q. How did CSXT obtain a bid package?**

10 A. Mike Sullivan requested a bid package by contacting Hugh Smith of TECO by telephone.
11 Mike Bullock then followed the telephone request with a written request dated July 16,
12 2003.

13
14 **Q. Please summarize CSXT's response to TECO's June 2003 RFP.**

15 A. CSXT's submitted its proposal in response to TECO's June 2003 RFP on July 30, 2003.
16 A copy of CSXT's proposal is included as Exhibit ____ (RFW-10) to my testimony.
17 CSXT's proposal was substantially the same as the proposal that we made to TECO in
18 October 2002. CSXT's July 2003 proposal did include several more origin points for
19 coal, but the basic pricing for the MGA, West Kentucky, and Big Sandy rate districts was
20 identical. Additionally, CSXT's July 2003 proposal included both a 1 to 2 MMTPY
21 option and a 2 to 5.5 MMTPY option; in other words, we reduced the minimum tonnage
22 that we would transport for TECO, while still paying for what we estimated to be the
23 entire reasonable cost of necessary rail infrastructure to accommodate deliveries of 1

1 MMTPY, and we also offered and proposed to provide all of TECO's coal transportation
2 needs, up to 5.5 MMTPY, by rail. Our July 2003 proposal included a [REDACTED]
3 [REDACTED] volume discount that would apply to [REDACTED] shipped from
4 CSXT direct rail origin points.
5

6 **Q. Were the capital cost proposals submitted to TECO on October 23, 2002 consistent**
7 **with the capital cost proposals submitted to TECO in the final bid package on July**
8 **30, 2003?**

9 A. Yes, the costs remained the same, but we eliminated the need for CSXT Board approval
10 in our July 2003 proposal. Instead, we established fixed estimates, based on preliminary
11 engineering estimates, which estimates themselves included contingency allowances, and
12 then proposed to TECO that we would pay up to an additional 20 percent above these
13 estimates. In addition, CSXT proposed that if the final capital costs were less than
14 estimated, CSXT would pay TECO the difference between 80% of actual costs and 100%
15 of our estimates. This money was to be used exclusively for upgrades to existing material
16 handling systems at Polk and/or Big Bend.
17

18 **Q. Were the rates submitted to TECO in the final bid package sent to Martin Duff of**
19 **TECO on July 30, 2003 the same as the rates submitted to TECO in CSXT's**
20 **October 23, 2002 written proposal?**

21 A. Yes, the rates submitted in the final bid package delivered on July 30, 2003 were
22 identical to the rates offered in CSXT's October 23, 2002 written proposal. As noted
23 above, we did identify several additional origin points for coal in our July 2003 proposal,

1 and our July 2003 proposal contained a volume discount proposal that went beyond what
2 our October 2002 proposal offered, but the basic pricing for delivery of coal from the
3 MGA, West Kentucky, and Big Sandy rate districts remained identical to the pricing in
4 our October 2002 proposal.

5

6 **Q. What, if anything, happened next?**

7 A. In August and September of 2003, CSXT attempted to follow up with TECO, in the
8 normal course of business, by corresponding with TECO to ask if they needed any
9 additional information, offering to answer any questions that TECO might have, and
10 similar follow-up efforts. We received perfunctory replies from TECO, until, on
11 September 25, 2003, we received formal notification that TECO had not selected CSXT's
12 proposals for award or further negotiations. We subsequently learned that TECO had
13 decided to award all of its coal transportation business to its affiliate, TECO Transport.

14

15 **Q. Is CSXT still willing and able to provide coal-by-rail transportation services to
16 TECO pursuant to its bid submitted in July 2003?**

17 A. Yes. CSXT remains ready, willing, and able to provide coal-by-rail transportation
18 services to Tampa Electric Company in accord with the terms of our July 30, 2003
19 proposal. CSXT also remains convinced that our service will provide substantial value to
20 TECO and TECO's customers.

21

22 **Q. Does this conclude your direct testimony?**

23 A. Yes.

1 BY MR. WRIGHT:

2 Q Mr. White, have you prepared a summary of your
3 testimony?

4 A Yes, I have.

5 Q Would you please deliver it to the Commission at this
6 time?

7 A Sure. Thank you. As most of us know, for many years
8 CSXT transported coal to TECO's Gannon Station until the recent
9 conversion of this station to natural gas fuel? From about
10 1996 through 2001, CSXT moved in those years between 200,000
11 and 1.2 million tons to that station annually. Throughout our
12 longstanding business relationship with Tampa Electric, we on
13 numerous occasions expressed to TECO our interest in
14 participating in coal transportation services to their Big Bend
15 and Polk stations.

16 Most recently, beginning in the first half of 2002,
17 we approached Tampa Electric and attempted to negotiate with
18 them regarding the possibility of delivering coal again to
19 their Polk and Big Bend stations. Based upon input from the
20 Tampa Electric fuels department personnel in a meeting in May
21 of 2002, we developed a formal proposal for both the rail
22 transportation, and we also agreed to pay for any necessary
23 cost of infrastructure improvements that would be required for
24 rail access to be available at the plant. And that would be at
25 both plants, Polk and Big Bend.

1 We presented this complete written proposal to Tampa
2 Electric on October 23rd of 2002 along with a cover letter
3 requesting a meeting to discuss the terms of the proposal in an
4 attempt to try and negotiate something with them. I say
5 something, a contract with them. We repeatedly attempted to
6 arrange this meeting in November of 2002, and were told that
7 they were a little busy and that they needed time to review the
8 proposal before they would sit down and meet with us.

9 In early December we were told that Ms. Wehle's
10 schedule was not open until after the first of the year, and
11 during the first week of January we were told that the meeting
12 was not possible then until the end of January. We persisted
13 pushing for the meeting. We wanted to sit down and negotiate a
14 contract. So after several more attempts, we finally got them
15 to commit to a date of March 12th.

16 At this meeting on March 12th, we were represented by
17 myself for CSXT, Mr. Vick Saunier, our VP of Coal, Mr. Michael
18 Sullivan, AVP of Coal Utilities South, Michael Bullock, our
19 Director of Utilities South. And at this meeting we
20 essentially gave them an overview of CSX, and then we went
through in great detail the proposal that we had presented to
them in October.

 At the end of the meeting Mr. Smith complimented our
effort and the time that we had spent with development of the
25 proposal. He committed that we would have an opportunity, as

1 we requested, to go to both of these plants, meet with their
2 engineering department personnel, meet with their local
3 operating people, to be sure that what we had proposed as
4 infrastructure changes would be acceptable, workable, and
5 essentially get the job done.

6 Well, he further stated that they would need some
7 further time to review the proposal, and when they had a good
8 grip on it they would get back in touch with us and arrange
9 such meetings at the plants. Well, after that point we
10 repeatedly contacted them by telephone. We have numerous
11 e-mails that are already entered in my testimony. At least
12 four times in writing we went back to them trying to arrange
13 this meeting that we were supposed to have with them to follow
14 up on our proposal.

15 Well, as you know that -- well, maybe you don't know,
16 but that meeting never happened. Never a response, never a
17 good reason as to why. We were never told that that proposal
18 doesn't work and we don't want to talk about it. We simply did
19 not get a response.

20 When Tampa Electric put out its waterborne
21 transportation bid, as everyone knows, we were not initially
22 furnished a copy. So after we read about it in the trade
23 press, we contacted Mr. Hugh Smith and asked why we had not
24 been. And he apologized and said it was an oversight and we
25 will be happy to send you a proposal. Well, we got the

1 proposal on July the 21st, and it was due on July 31st. So
2 needless to say we were in a bit of a scramble.

3 We did get the bid submitted on time, and it was
4 reviewed apparently by Tampa Electric, and we were told
5 subsequently that that bid was rejected. Not any particular
6 reason why. We were told that, you know, the standard line, we
7 will keep it on file, and the next time it comes up, we will be
8 sure to include you on the bidders list. The bid that we did
9 submit was essentially the same bid that we had originally
proposed to them in October of 2002, in terms of the rates and
in terms of the capital that we had extended ourselves for and
agreed to pay for.

14 Despite the rejection of our bid, we still stand
15 willing to enter into an agreement with Tampa Electric for
16 their coal transportation services, and such agreement would be
17 based on the original bid package that we submitted in October
of 2002. I think that's it. Thank you.

18 MR. WRIGHT: Thank you, Mr. White. Mr. White is
19 available for cross-examination, Mr. Chairman.

20 CHAIRMAN BAEZ: Thank you. Mr. Fons.

21 MR. FONTS: Well, I think if we could continue the
22 same practice --

23 CHAIRMAN BAEZ: You are absolutely right. Thank you
24 for reminding me. We will start with Mr. Vandiver and move to
25 the right.

1 MR. VANDIVER: No questions.

2 CHAIRMAN BAEZ: Ms. Kaufman.

3 CROSS EXAMINATION

4 BY MS. KAUFMAN:

5 Q Mr. White, I just have two questions for you, I
6 think.

7 A Sure.

8 Q I understand from your summary that you basically
9 have been intimately involved in attempting to get Tampa
10 Electric's attention on your proposal, is that correct?

11 A Very much so.

12 Q From CSX's perspective, do you have an opinion as to
13 why you could never get Tampa Electric to engage in
14 negotiations?

15 A Well, I guess we all have opinions, and that is all
16 they are. But I think that there were a number of reasons. I
17 think that -- quite frankly, I think they were scared by our
18 number. I think that when they saw the number, they recognized
19 that it was substantially below the benchmark. I think they
20 recognized that it was substantially below the number that they
21 were currently in contract with TECO barge company for. And,
22 of course, I don't know that number. But, again, this is my
23 opinion.

24 I think that, you know, they had a real interest in
25 the Pitt 8 coal, and I think when the gasifier deal went away

1 for the sale of the Polk gasifier that that interest died. But
2 that wasn't until the spring of 2003, so I think a series of
3 events occurred, but I think largely they were afraid of the
4 number is my answer.

5 CHAIRMAN BAEZ: Thank you.

6 Mr. Twomey.

7 MR. TWOMEY: Yes, sir, Mr. Chairman. Thank you.

8 CROSS EXAMINATION

9 BY MR. TWOMEY:

10 Q Good morning, Mr. White.

11 A Good morning.

12 Q I'm Mike Twomey, and I represent a number of
13 residential customers of TECO.

14 A Yes, sir.

15 Q At Page 18 of your prefiled testimony?

16 A Okay.

17 Q The next to the last question, you say in response to
18 a question about what the railroad is willing and able to
19 provide coal by rail transportation to TECO pursuant to your
20 bid submitted in July of last year, you say that you remain
21 ready, willing and so forth. And I want to ask you some
22 questions about your ability to do that --

23 A Okay.

24 Q -- on a going-forward basis. Were you here and heard
25 Ms. Wehle's criticism of your offer in her testimony last week,

1 or a couple of weeks ago?

2 A Yes, sir. Yes, I was present.

3 Q Okay. And the problems you had with the bid, she
4 alleged you had with the bid, you heard all of that?

5 A I heard those, yes.

6 Q Okay. I want to ask you a number of questions about
7 that. Now, one of the things that she criticized was the
8 reliability, and I want to know is there any truth to what she
9 said in terms of the reliability of your deliveries of coal in
10 Florida and throughout the country?

11 A Why, sure. I think that essentially there are some
12 perceptions out there that we are failing on delivery. The
13 fact of the matter is we have delivered substantially more coal
14 than we delivered to those same customers last year, and we
15 have delivered substantially more coal to those same customers
16 than they told us they wanted in the year 2004. We did prepare
17 an exhibit that details that, and I would be happy to make that
18 available to you, if you so wish.

19 Q An exhibit that shows what, the relationship of what
20 you delivered versus what was requested?

21 A Yes. We show what we have delivered versus last year
22 and what we have delivered versus the plan. And the plan is
23 what they told us they wanted to receive this year.

24 Q And do you have that with you?

25 A I sure do.

1 MR. TWOMEY: I would like to see it, if I could, Mr.
2 Chairman.

3 CHAIRMAN BAEZ: Mr. Wright, can you make sure that
4 you get copies to all the parties if you have enough.

5 MR. WRIGHT: I think I have copies. I should.

6 MR. TWOMEY: Mr. Chairman, I guess we should ask to
7 have this identified as an exhibit.

8 CHAIRMAN BAEZ: Show this marked as Exhibit 102.

9 MR. TWOMEY: 102. Thank you, sir.

10 (Exhibit 102 marked for identification.)

11 BY MR. TWOMEY:

12 Q Mr. White, help me understand if you would, what is
13 the -- for example, the first line under consignees, all CSXT
14 Florida destination, the columns 2003, 112 percent versus the
15 plan, 106 percent. What does that mean?

16 A What that means is we took all the Florida utilities
17 that we deliver coal to by rail and we compared what we
18 delivered through the first four months of this year against
19 what we delivered in the first four month of last year, versus
20 last year we were up 112 percent to those Florida destinations.
21 And then we looked at the plan. And the plan is what these
22 same customers told us they wanted to have delivered to them in
23 the year 2004. And as you can see, we are 106 percent above
24 that requested demand.

25 I should add, I think, for fairness, that the

1 perception is being created because of the fact that demand has
2 increased above what they told us they wanted. They see a good
3 coal supply market out there, and they see opportunities to get
4 additional coal. And this is a point in time when utilities
5 are trying to build stockpiles for the summer.

6 Now, while we are not meeting every request for
7 trains that they submit, we are meeting the requirements, and
8 we are meeting to our agreed-to plan with them on what we would
9 deliver.

Q Now, first of all, sir, those numbers mean the same
thing for each of the lines on Exhibit 102?

A That is correct.

Q So am I correct in understanding that you are saying
14 that they have -- all of these utilities have asked you for
15 more than they -- they have asked you to deliver more now than
16 they actually told you they wanted previously?

17 A That is correct.

18 Q And despite the fact that they have increased their
19 requirements, apparently, have you failed to meet any
20 generation needs?

21 A Oh, absolutely not. None whatsoever.

22 Q Okay. Now, with respect to Ms. Wehle's criticism of
23 your company's reliability, when did you first hear of those
24 questions of reliability?

25 A Well, I think the first time that I heard that was

1 when I was reviewing her redacted version of her testimony, and
2 she related to some of the -- some of the coal -- gosh, I can't
3 think of the term. Coal rags is what we call them. The coal
4 rags as well as a presentation that was made by Michael
5 Sullivan at the Eastern Fuel Buyers conference in Orlando.
6 That is where I first heard about it.

7 Q So previously they hadn't -- is it your testimony
8 then that previously TECO had not raised that issue of
9 reliability as a means for rejecting your bid?

10 A Absolutely not. I mean, this is something that these
11 articles have appeared, you know, after the first quarter of
12 this year. I think this is a convenient tool that they are
13 utilizing to try and smear us a little bit and say, oh, that's
14 why we didn't pick them, because their service is bad. But the
15 fact of the matter is in 2002 and 2003 our service was top
16 notch. We did not have complaints, did not have the issues of
17 not filling what customers perceived to be their new
18 requirements. And that was certainly not an issue at all.
19 Never came up at all.

20 Q Now, Mr. White, I think the Sullivan presentation,
21 the PowerPoint slides were entered as an exhibit, Exhibit 98 on
22 cross of Ms. Wehle. Do you recall that?

23 A Yes. Yes, I do.

24 Q Now, if you would, tell me what in this presentation
25 was relied upon -- what you understand Ms. Wehle relied upon in

1 terms of the criticism and whether the criticisms were valid or
2 not?

3 MR. FONS: I will object to the form of the question.
4 It calls for speculation.

5 CHAIRMAN BAEZ: Can you restate that question.

6 MR. TWOMEY: Yes, sir, I will try.

7 BY MR. TWOMEY:

8 Q Do you understand from her rebuttal testimony what
9 Ms. Wehle's criticisms were based upon this presentation?

10 A Well, I think that --

11 MR. FONS: I object. Unless he can show where in the
12 record she set forth her understanding, I will --

13 CHAIRMAN BAEZ: I'm sorry. Repeat that, Mr. Fons.

14 MR. FONS: Unless they can show where in the record
15 Ms. Wehle spoke to that particular exhibit -- other than to say
16 that she attended that conference, I don't believe there was
17 another question asked of her about that. So unless they can
18 show in the record what she said about that conference or this
19 exhibit, any questions asking her of her understanding would be
20 pure speculation.

21 CHAIRMAN BAEZ: Mr. Twomey, I'm inclined to agree.
22 As I recall, Ms. Wehle's testimony was only to her attendance
23 at a conference.

24 MR. TWOMEY: Okay, sir. And I don't specifically
25 recall, and I don't have the transcript, of course, to rebut

1 that. Let me try it this way.

2 BY MR. TWOMEY:

3 Q Mr. White, what in that presentation could have been
4 a basis for criticism?

5 MR. FONS: I object. That is pure speculation.

6 CHAIRMAN BAEZ: You can reform the question and ask
7 Mr. White if there is anything in that presentation that could
8 be taken as criticism.

9 MR. TWOMEY: Excellent.

10 BY MR. TWOMEY:

11 Q Did you hear that question?

12 A Yes, I did.

13 Q Okay. That is my question to you.

14 CHAIRMAN BAEZ: Well, let's make it about his
15 understanding, instead of speculating about what Ms. Wehle may
16 have been thinking.

17 MR. TWOMEY: Yes, sir.

18 BY MR. TWOMEY:

19 Q In line with the Chairman's question, what is your
20 understanding?

21 A Well, I would guess that she would be looking at Page
22 13, which reads in part, "Order fulfillment ratios have
23 dropped. Customer complaints have increased. Transit times
24 have increased, and inventories are lower than summer target
25 levels."

1 Now, that is what some people heard. And the reason
2 they heard that is because Mike said those things, because
3 those things are true. But I would like to try and clarify
4 that a little bit by looking at the preceding page where he set
5 this up to say on Page 12, if you look at where we started with
6 coal loadings in 2000 and where we are now in 2004. And we are
7 looking, again, at the first four months, the most recent
8 available information at the time of the presentation. And you
9 can see that the amount of coal loaded and transported by CSX
10 was considerably more. I mean, an increase of 29 percent over
11 that period.

12 The other thing that he was trying to point out, you
13 will see the red circle at the bottom around 2004 labeled CF,
14 and that is the customer-provided forecast. They told us in
15 the first four months that they wanted 152,000 car loads. You
16 will see the column next to that 2004 ACT, which is the actual
17 car loads, and you will see that we loaded 162,500. This
18 equates to about 17.7 million tons versus 16.6 million tons
19 that they told us they wanted. So we are in excess of a
20 million tons greater than what their forecast was for the year
21 at the end of four months.

22 So, you know, Mike was setting it up and saying that
23 is what we have done; however, we are still hearing complaints
24 because we are not meeting what their current orders are. I
25 think that -- well, you go ahead.

1 Q Well, that explains the customer complaints
2 increasing on Page 13. What about the transit times
3 increasing, what does that mean?

4 A Well, transit times have increased. And I think if
5 you go back and you look at 2000, we were around seven days
6 from mine to Florida utility back to the coal mine. You look
7 at 2001 when we saw a big ramp up, we were probably closer to
8 7-1/2 and or eight days. 2002, 2003 where it leveled out some,
9 we are back to that 7-day round trip, kind of, number. And in
10 the first four months of 2004, where we have seen this spike,
11 we are back to around that eight-day total transit time, four
12 days in each direction.

13 Q Okay. And lastly on that page, what is the
14 significance of the inventories being lower than the summer
15 target levels?

16 A Well, you know, Mike didn't say it when he was in
17 Orlando, but the reason that the --

18 MR. FONS: I'm going to object to him going to
19 indicate what Mr. Sullivan is going to -- what he meant to say.

20 CHAIRMAN BAEZ: I'm going to have to agree.

21 BY MR. TWOMEY:

22 Q From your own perspective, Mr. White, what is the
23 significance of that, if you know?

24 A Well, not from Mike's, but from my perspective, I
25 think the inventories get drawn down for a number of reasons.

1 I think, first of all, first and foremost that utilities make
2 decisions for financial reasons. And because of those
3 financial reasons, they may choose to increase or decrease the
4 amount of stockpile that they keep on hand. It's a cash flow
5 thing. And when you need more cash flow, you reduce the
6 stockpiles.

7 Last fall when they saw favorable coal prices, they
8 thought, well, you know, they are favorable, they are probably
9 going to stay down, we can draw down the inventory. So that is
10 certainly one reason that inventories get lower.

11 A surge in the heat index, and they start burning
12 more coal is another reason that stockpiles get drawn down.
13 You know, those are the primary things that cause them to go
14 down. We also have seen a number of mine problems in 2003 in
15 the second half that contributed to that. We have had several
16 of the large mining companies that went bankrupt, and we have
17 got several customers who depended largely, if not almost
18 entirely on those mine sources for their coal stockpiles. And
19 a lot of those people -- you know, their stockpiles went down.
20 They weren't able to acquire coal from other places or they
21 didn't like the price to acquire coal from other mines. And
22 those are the primary reasons.

23 I think it is perfectly right when I say that, you
24 know, the railroad has not caused the stockpiles to go down.
25 We have delivered more than they asked for, more than they told

1 us they wanted. And to think that the railroad has run the
2 stockpiles down is just a falsehood.

3 Q Well, in terms of replenishing stockpiles that are
4 down at the utilities' plant sites irrespective of whatever
5 their reasons were for going down, how do your times compare in
6 terms of refilling those supplies compared to the transit times
7 of waterborne coal, if you know?

8 A Well, sure. I mean, if you look at -- I guess Mr.
9 Dibner laid it out for us. And he basically said, you know,
10 you take about a day to get from truck or rail to a dock
11 facility, and then once you get at the dock facility you dump
12 the coal on the ground and, you know, best case it is there two
13 days and it gets loaded onto a barge. Well, it takes a day or
14 two to load barges. And then you are probably, as Mr. Dibner
15 said, 12 to 14 days down the river system, and then you get
16 down to a Davant or an IMT.

17 You put the coal on the ground. It could sit there
18 for who knows how long. If you load it direct into a cross
19 Gulf barge, it is probably there a day. Depending on the
20 timing of the barges, a day to two days. And then the cross
21 Gulf trip is another two days. So you are somewhere around 20,
22 22 days on the barge system. And if you are going to build a
23 stockpile based on a 20 to 22-day transit versus a four day,
24 because our transit times have decreased to eight round trip,
25 we are looking four days to deliver it by rail versus 20 to 22

1 by water. And I guess we could argue that a day or two in
2 either direction in either case, but that is the general
3 picture.

4 Q Okay. The overall, if I understood it anyway, the
5 overall thrust of the criticisms of the rail option include
6 that you are not meeting all the requested deliveries,
7 irrespective of whether they were previously given to you. You
8 have been late in some deliveries, or that is the accusation,
9 apparently. And now, on top of that, you are suggesting that
10 you can carry additional coal for TECO on top of what you have
11 already got in the State of Florida.

12 A Sure.

13 Q Why should the Commission feel that if your price is
14 right that you are capable of, in fact, supplying that coal on
15 a reasonable, reliable basis? I mean, what are you doing to
16 ensure that you will have adequate means, crews and trains and
17 so forth to deliver?

18 A Well, I guess there are a couple of ways to answer
19 that. I think, first of all, had TECO told us, had we entered
20 into a contract and for a minimum of X number of tons, that
21 number would have been incorporated in our plan. Every August
22 we do a plan, and the plan is prepared, we look at the volume
23 that is out there, we look at resources. How many locomotives
24 do we need, how many crews do we need, do we need any
25 infrastructure changes, do we need more rail cars.

1 We take the information the customers give us, we run
2 this through our various models and we say we either have
3 enough, or we need to allocate capital for the following year
4 to be able to acquire more locomotives, or more crews, or more
5 whatever it is. And I think that in Mr. Sullivan's proposal he
6 attempted to outline things that we were doing to help create
7 more capacity on the railroad. But the fact remains that all
8 the capacity that we plan for has been exceeded. Had we
9 planned for Tampa Electric capacity, we would have met or
10 exceeded the capacity that they requested as we have with
11 everyone else.

12 Q So your testimony is you have been able to meet their
13 requirements?

14 A My testimony is that we are very, very confident that
15 would we would have met Tampa Electric's requirements and that
16 we have met the requirements of our existing customers, based
17 and what they told us they wanted.

18 Q Okay. The last area I want to touch on is there has
19 been, I think, a suggestion that the rates you charge aren't
20 locked in and that they are capable of being modified by
21 essentially a fuel adjustment charge. Is that correct?

22 A Well, it is true, yes. I think all transportation
23 companies in this day and age see the oil prices, gas prices
24 going up and we all have to protect ourselves against that
25 sharp inflation.

1 Q Okay. I was looking at, I think, what the Chairman
2 identified as Exhibit 101 that Mr. Wright had passed out at the
3 beginning of the hearing, which are certified copies of Form
4 423s, the PSC Form 423s. Do you have a copy?

5 A No, I do not.

6 Thank you, Shef.

7 Q I want to see if I can use a number in here. These
8 are all declassified. If you would look at the third page from
9 the end, Mr. White. The pages aren't numbered, I don't think,
10 but the third page from the back. The reporting month, which
11 is on the upper left-hand corner is May of the year 2000.

12 A I have it. Thank you.

13 Q Okay. The second line, numbered line for shipments
14 is from Premier Elkhorn. Column B shows UR, which is unit
15 train, right?

16 A Yes.

17 Q Do you understand that?

18 A Yes.

19 Q The total transportation charges dollars per ton, the
20 next to the last column, is \$16. Apparently that is from
21 Premier Elkhorn to Gannon Station. Do you understand that to
22 be correct?

23 A Yes.

24 Q Using that as an example, how would any fuel
25 adjustment increases affect that rate?

A Well, our fuel adjustment essentially works like this. The base -- we took a baseline rate of the Texas intermediate crude, and our baseline rate was when it was at \$23. For every dollar increase over the \$23, you add 0.4 percent to that \$16 rate. So if it goes up --

Q What is it now?

A I would guess it is around \$37. I don't know for sure; 37 is my guess.

Q So if it is 37, how would that impact what that rate would go up to?

A So you would add 14 times .4, and you will make me cipher. Let me get a calculator. I'm not taking my shoes off. Okay. So we said it was \$14, so that would be 5.6 percent. \$16.

I'm not getting the right number here. Let me do that again. It would help if I could see, I will tell you that. I'm getting like a buck, but I don't think that's right. Help me. It would go up 5.6 percent.

Q Okay. Of whatever that is, right?

A That's correct.

Q And that would track up and down with the published prices of oil, right?

A Yes, that's correct. Keep in mind that if the price goes back down from 37 to 30-whatever, the price would -- the percentage would decrease by that amount, as well. So, the

1 rate is adjustable up and down. The bottom of that number is
2 \$23.

3 Q Okay. Lastly here, as I understand it the notion of
4 you serving -- supplying coal by rail to Florida electric
5 utilities is not a novel one. How many Florida utilities do
6 you currently serve?

7 A Florida utilities, we serve 34 utilities in the
8 Utilities South Group, and in Florida I think there are nine.

9 Q Okay. Have any of those utilities ever run out of
10 coal or been unable to produce electricity for their customers
11 as a result of any failure of your company?

12 A No. Not only has a Florida account never run out of
13 coal, no utility that we serve has ever run out of coal,
14 certainly as a result of our inability to deliver. In fact, I
15 don't know that they have ever run out of coal for any reason.

16 MR. TWOMEY: Thank you. That's all, Mr. Chairman.

17 CHAIRMAN BAEZ: Thank you, Mr. Twomey. Go ahead,
18 staff.

19 MS. RODAN: Good morning, Mr. White. I just have a
20 few questions for you.

21 THE WITNESS: Good morning.

22 CROSS EXAMINATION

23 BY MS. RODAN:

24 Q To your knowledge has CSX ever offered to pay a cash
25 advance to any customer of rail service other than Tampa

1 Electric for the installation of capital infrastructure
2 necessary to accept rail delivery to the customer's premises?

3 A Yes, indeed we have. It is not a common practice,
4 but it has been done in the past.

5 Q Could you describe some of the instances where CSX
6 has done so?

7 A Why, sure. We have recently or we are currently in
8 negotiations to supply an equal amount or near equal amount to
9 what we offered Tampa Electric. I think we have a memorandum
10 of understanding in hand with TVA at Gallatin, and we propose
11 to put about 8 to \$8-1/2 million into that facility to
12 refurbish their tracks and so forth to be able to accommodate
13 rail deliveries.

14 I know that in the past we have done that at a number
15 of mine origin sites. Sometimes that was cash up-front that
16 they paid back on a per ton basis, and sometimes those payments
17 were not paid back in that fashion.

18 Q Did CSX have a plan for disbursing the funds to
19 support the on-site capital infrastructure offered in its bids
20 to Tampa Electric, and by that I mean either on a cash advance
21 basis, or a per car basis, or some other method?

22 A No. It was our intention to fully fund that with our
23 capital. It was an amount of capital that we had set aside in
24 our capital budget, or we had talked to our Chairman about
25 setting that amount of money aside, and that was agreed to when

1 we submitted the response to the RFP in July of '03.

2 Q From the point in time that the CSX proposed rail
3 receiving facilities would have been built at Big Bend and
4 Polk, how long would it have taken for CSX to recoup its
5 capital expenditures required to install the facilities
6 identified in its bids to Tampa Electric?

7 A Well, we felt comfortable that the five-year term
8 would have provided us not a great but an acceptable return on
9 investment. We would have preferred, or we had hoped that if
10 we got the five-year commitment that we would be able to extend
11 that beyond the five years and be able to realize a better
12 return on that capital.

13 I think that our thought process was that once we got
14 in there and we showed that we could do the job and we showed
15 that our number was superior, that they would have a hard time
16 getting rid of us. We planned to go in there and stick around.

17 MS. RODAN: That's all the questions I have. Thank
18 you.

19 THE WITNESS: Thank you.

20 CHAIRMAN BAEZ: Mr. Fons.

21 MR. FONS: Thank you, Mr. Chairman.

22 Mr. White, I can't see you. Thank you.

23 CROSS EXAMINATION

24 BY MR. FONS:

25 Q My name is John Fons and I'm representing Tampa

1 Electric.

2 A Good morning, Mr. Fons.

3 Q Mr. White, are you the only CSXT employee witness in
4 this proceeding authorized to address what your company
5 intended to offer in the two bids that you submitted to Tampa
6 Electric in July of 2003?

7 A I am the only CSXT employee, yes.

8 Q And are you authorized to address what your company
9 intended in its offers?

10 A Absolutely.

11 Q On Page 18 of your direct testimony, Lines 17 and 18,
12 you state that CSXT remains ready, willing, and able to provide
13 coal by rail transportation services to Tampa Electric Company.
14 Does that phrase ready, willing, and able mean the timely and
15 sufficient delivery of coal to Tampa Electric?

16 A I'm not sure I see the difference in the terms, but
17 I'll bite and say yes.

18 Q All right. If Tampa Electric were to take coal by
19 rail delivery, can Tampa Electric receive rail coal delivery
20 from any other railroad other than CSXT?

21 A No.

22 Q So I am correct then if Tampa Electric were to
23 receive coal by rail, Tampa Electric has no choice but to use
24 CSXT for those deliveries regardless of the quality of the
25 service or the price, isn't that correct?

1 A That is correct.

2 Q Did either of CSXT's alternative bids in July of 2003
3 offer to transport all of the coal Tampa Electric was then
4 obligated by its contracts with the producers to purchase?

5 A I'm sorry, could you repeat that? I'm not sure I
6 understood that exactly.

7 Q Did either of CSXT's alternative bids in July of
8 2003, did they offer to transport all of the coal that Tampa
9 Electric was then obligated to purchase?

10 MR. WRIGHT: I'm going to object to the extent it
11 appears to call for speculation regarding the witness'
12 knowledge of what Tampa Electric's coal purchase contracts
13 require.

14 CHAIRMAN BAEZ: I see it more as a question towards
15 what the proposal contained. I mean, if it was --

16 MR. WRIGHT: If it goes to requirements, that's fine.
17 But the wording of the question implies that it was actually
18 the specific coal that Tampa Electric was required by its coal
19 contracts to purchase, and I'm not sure that Mr. White knows
20 about those coal contracts. But he can answer to the extent
21 that he understands the question, or believes he understands the
22 company's offer.

23 CHAIRMAN BAEZ: Mr. Fons, can you restate it?

24 MR. FONS: Yes, I can.

25

1 BY MR. FONS:

2 Q Am I correct, Mr. White, that the bid proposals, the
3 alternative bid proposals to Tampa Electric in July of 2003
4 contained different amounts of coal that CSX was ready,
5 willing, and able to provide or to transport?

6 A Yes, they did. In fact, the first bid, Bid A, was a
7 bid for 2 to 5.5 million. The only reason we said 5.5 million
8 is we wanted to be compliant with the RFP. The RFP required
9 that you be able to handle all the tons. The second bid, Bid
10 B, was for 1 to 2 million tons, which is what we told them from
11 day one when we walked in the door. That was our target. Bid
12 B is what we were really after. Bid A was submitted to be
13 compliant.

Q And was 5.5 million tons all of the coal that Tampa
Electric was going to need potentially at the Big Bend and Polk
Stations?

A I believe that to be true.

18 Q All right. And, again, then I will ask you the
19 question, was it your intent to offer to transport all the coal
20 that Tampa Electric was then obligated to purchase?

21 A Our intent was to submit a bid that was compliant.
22 Our intention was to secure 1 to 2 million tons.

23 Q And wasn't some of that coal under your proposal to
24 come from direct origin mines?

25 A Yes.

1 Q And could you define for me what you mean by direct
2 origin mine?

3 A When we say direct origin mine, we are referring to a
4 mine that has the capacity to load a unit train of railroad
5 cars at their facility, and that is what we are talking about
6 there. So it would be a rail direct move from mine to the
7 plant.

8 Q Was all of the coal that CSX was willing to
9 transport, that Tampa Electric currently purchases come from
10 direct origin mines?

11 A Again, I'm not intimately familiar with their
12 contracts, but I happen to know that they do receive some --
13 that they do receive coal, I don't know the quantities, from
14 mines that we do not directly serve, that's correct.

15 Q Can you show me in either bid where CSXT agreed to
16 cover the cost of any sweetener that any Tampa Electric coal
17 supplier might want in order to allow Tampa Electric to switch
18 the contracted for load of coal from rail -- from barge to
19 rail?

20 A No, I don't believe that I can show you that. On the
21 other hand, I don't know the length or duration of these coal
22 contracts. It could very well be that they expired at the end
23 of '03, and at '04 they could go make new contracts with rail
24 origin direct mines. And that is what we had intended them to
25 do. There wasn't any reason that they couldn't take coal from

1 their existing contracts that we served direct, and then
2 supplement with the mines that we don't serve direct to
3 transport that coal by water. I think there was room in there
4 for them to be able to accomplish that. And, again, the 1 to 2
5 million tons was our intent, our target, from day one.

6 Q Can you show me in either bid where CSXT agreed to
7 cover the cost of any dead freight charges that might be
8 assessed against Tampa Electric for not shipping the affected
9 coal by barge?

10 A To pay dead freight against their barge contracts?

11 Q Yes, sir.

12 A Certainly not.

13 Q Can you show me in either bid where CSXT agreed to
14 cover any net incremental short haul costs Tampa Electric might
15 incur in switching from a barge dock load to a railhead load?

16 A No. No, we didn't intend that. But, again, we felt
17 like we serve enough mines that they take coal from that there
18 was room for us to move rail direct and for them to still move
19 the balance by water.

20 Q Mr. White, did the July 2003 bid proposals submitted
21 by CSXT to Tampa Electric for the delivery of coal to Tampa
22 Electric's Big Bend and Polk Power Stations indicate that any
23 contract would include a price escalation provision?

24 A Repeat that again. I want to make sure I understand
25 the question.

1 Q Why don't we turn to your Exhibit 10. Have you got
2 it?

3 A Just a minute. Do you have an extra copy handy? I
4 see it now. Okay. I'm sorry, I'm back with you.

5 Q Page 14, please.

6 A All right, sir.

7 Q Do you see about three-quarters of the way down that
8 page a heading that says proposed escalation methodology?

9 A Yes.

10 Q And does that proposed escalation methodology include
11 two different escalation components?

12 A Yes. In fact, there are two there. And, again -- or
13 not again. Let me just further state that those were thrown
14 out there as a part of this package we fully expected that they
15 would come back and we would negotiate escalation, as has been
16 testified previously. No one pays 100 percent of RCAFU. That
17 is a negotiated number. To take that at face value and to
18 start doing calculations on that number plus a fuel surcharge
19 is a bit of a stretch.

20 That would certainly be a negotiable item and we
21 would fully expect, and we do fully expect customers to come
22 back and say, "I don't like that escalator, what about this
23 one." I mean, it is a very common practice. It is one that is
24 done in almost every agreement that we reach, every contract
25 that we enter into with our customers.

1 Q Well, then isn't it true that your bid proposal was
2 not a firm bid?

3 A It is a firm bid. If you want to take it that way,
4 we will certainly sign it, but the point is you have the
5 opportunity to negotiate those terms. Ms. Wehle said the other
6 day, when she was asked a question about why didn't you go back
7 and push IMT for a lower number, and she stated that, well, you
8 know, we usually don't push back on the number, but the other
9 things in the contract, you know, we do negotiate on those.

So I don't understand how it is different there than
it is here. We would expect them to do it, she says they do
it. We fully expected them to come back on these other
ancillary items and push back and say, hey, what about this.
14 And the idea was let's sit down and talk about it. That is
15 what a negotiation is.

16 Q And in those kind of negotiations, if there was a
17 push back on this element, which I would believe is a very
18 critical element to CSX, that CSX would demand more on some
19 other element such as price, isn't that correct?

20 A No, not correct.

21 Q Pardon me?

22 A The answer was no, that would not be correct.

23 Q So this is just put in here and nobody has to pay
24 anything to get rid of it in a contract, these price
25 escalations?

1 A Well, I think you are taking that a bit out of
2 context. My answer was that that is a negotiable item, and
3 that no one pays full RCAFU. And that we would be perfectly
4 willing to listen to an escalator that protects us against
5 inflation and all the elements of that inflation. You know,
6 every other business looks for that kind of protection, and we
7 were willing to negotiate something that was fair. This was a
8 starting point, a place you start from and you negotiate from
9 there. We would not say, all right, we will take 80 percent
10 and jack the price up a buck. It doesn't work that way.

11 Q Well, let me ask you what would happen if these two
12 elements were in there and were not negotiated? There are two
13 elements, one is called a fuel adjustment factor. There is a
14 file surcharge per your tariff, is that correct?

15 A That's correct.

16 Q And I believe we have already heard some testimony
17 about that in your discussions with Mr. Twomey?

18 A Yes, sir.

19 Q And would you agree with me, subject to check, that
20 under the fuel surcharge that the price of that in Exhibit 101
21 that was talked about, that that \$16, that it would go to
22 \$16.90?

23 A Yes.

24 Q And that would be the first adjustment, isn't that
25 correct?

1 A That's correct.

2 Q And doesn't this particular fuel surcharge adjust
3 every quarter?

4 A It does.

5 Q So it would adjust four times a year?

6 A That is correct.

7 Q And in the current situation, then that 16.90 would
8 go to \$17 the next quarter and by 90 cents or more each quarter
9 thereafter?

10 A I think that the number is adjusted quarterly based
11 on the base rate and that if it goes up or down that number
12 goes up or down accordingly. I don't believe that that is
13 additive. I don't do those adjustments. We have a department
14 that sends those adjustments out, but I believe that if you
15 start at 16 bucks you adjust it quarterly based on that 16
16 bucks and you don't just -- it is not an additive factor.

17 Q It is not an additive factor?

18 A That is my belief.

19 Q What do you mean it is not an additive factor?

20 A Well, you don't just keep -- my point is I believe
21 the way it works is you start with a base rate of \$16, you
22 adjust it quarterly looking at that \$16 rate. Again, I don't
23 do the calculations, I'm not exactly sure how that works.

24 Q So if it is 16.90 in the first quarter, if it goes to
25 16.90 in the first quarter, in the second quarter you are

1 saying you go back to the \$16 to do the math, or is it applied
2 to \$16.90?

3 A I believe that you go back. And that is my belief.
4 I'm not absolutely certain. Again, I don't do those
5 calculations. And if I'm giving you bad information, I
6 apologize, but I believe that to be correct.

7 Q In addition to the fuel surcharge, you also have an
8 RCAFU, is that correct?

9 A Yes, sir.

10 Q And would you tell us what the RCAFU is?

11 A Yes. It is the rail adjustment factor. It takes
12 into consideration elements such as labor, materials, rail
13 equipment lease costs. There are a couple of other factors in
14 there that basically make up a rail-based kind of adjustment
15 factor based on the kind of inflation that rail companies
16 typically see. It is something that is used -- it is certainly
17 not exclusive to CSX, it is a government index that is used by
18 most all of the railroads in the United States.

19 Q And isn't one of the factors fuel?

20 A Yes, indeed it is.

21 Q Okay. So you have fuel in the RCAFU and you also
22 have a fuel surcharge, isn't that correct?

23 A That's the way it is laid out here as a negotiable
24 item. I don't think any prudent business person would pay for
25 the fuel twice. I think you would negotiate that.

1 Q But if it is not negotiated, then is a double dip,
2 isn't it?

3 A It you don't negotiate, you ask to get double dipped,
4 sometimes I guess you get double dipped.

5 Q Well, let me ask you this. The fuel surcharge, is
6 that applied just to the fuel component of CSXT's operations,
7 or is it applied to the base amount?

8 A The base amount.

9 Q And is the RCAFU applied to the base amount?

10 A The base amount, yes.

11 Q And I believe that you have indicated that you don't
12 do the calculations for the charges that are imposed by this
13 price escalator, is that correct?

14 A Yes. And my company is probably glad of that, too.

15 Q Okay. But your company does do that calculation?

16 A Yes.

17 Q The company does the calculation, not the shipper,
18 isn't that correct?

19 A Yes, sir, that's correct.

20 Q And do you know what the charges would be on the
21 amount that CSX proposed in its bids that were sent to Tampa
22 Electric in July of 2003? What the escalation would be in that
23 price from that date to today?

24 MR. WRIGHT: Could I just ask for a clarification?

25 Is Mr. Fons asking about the RCAF increase, or the fuel

1 surcharge increase, or both, or what? I found the question
2 ambiguous.

3 MR. FONS: Both. I'm looking for both.

4 THE WITNESS: Well, my answer to that is no, I don't
5 know what those increases are. I guess you could run a
6 straight line, straight full 100 percent RCAFU and a full fuel
7 surcharge and come up with some huge number. But, you know,
8 the number would be what was negotiated. So I'm not sure of
9 the relevance of the question, and I can't answer the
10 particular question.

11 MR. FONS: Well, I think the Commission will decide
12 the relevance, but let me ask you this. I would like a
13 late-filed exhibit, please. A calculation, the recalculation
14 of the CSXT bid prices for RCAFU and fuel surcharge since July
15 2003 bid to Tampa Electric. And if we could have that marked
16 as the next exhibit, please.

17 CHAIRMAN BAEZ: Show that late-filed exhibit marked
18 as 103.

19 MR. WRIGHT: And, Mr. Chairman, I believe that will
20 be Confidential 103 to the extent that it is going to key from
21 our prices which are confidential.

22 CHAIRMAN BAEZ: I think that whatever your late-filed
23 exhibit might be open you can claim confidentiality.

24 MR. WRIGHT: Thank you.

25 (Late-filed Exhibit 103 marked for identification.)

1 BY MR. FONS:

2 Q We discussed earlier, Mr. White, the issue of direct
3 origin tons, and I believe you have indicated that those are
4 tons of coal that come from mines from which CSXT has direct
5 delivery, is that correct?

6 A Yes, sir, that is correct.

7 Q Am I correct, then, that the CSXT July 2003 bid
8 proposal requires Tampa Electric to purchase some of its coal
9 from mines which CSXT has direct origin, even if Tampa Electric
10 does not currently have contracts with such mines?

11 A Yes. Our contract was based on CSX originated car
12 loads, and I think I stated earlier that we do serve a number
13 of mines that Tampa Electric has contracts with that have the
14 option to go rail to water, rail direct, truck to water, et
15 cetera. So, again, we felt like there was room in there. We
16 don't know for sure because they are confidential contracts,
17 but we know enough about the mines that we serve, and we know
18 that we haul some of that coal to the river now, so obviously
19 we do have access to a portion of those tons.

20 Q But not all of the tons?

21 A Certainly not all of the tons.

22 Q Now, if Tampa Electric were to have to purchase coal
23 from mines that you have a direct connection with, that means
24 that Tampa Electric would have to forgo purchasing coal from
25 mines that it does not -- that CSXT does not have direct

1 connections with, isn't that correct?

2 A I don't think that is correct. I mean, I would think
3 that they would have a million tons from mines that are located
4 directly on CSXT back to what our intent was, a million to 2
5 million tons. And I think they could get a million to 2
6 million from mines that we serve direct. That is my belief.
7 Again, they are confidential. I don't know what their
8 contracts are with the mines.

9 Q But if Tampa Electric were to have contracts with
10 other mines that do not have direct connect, and Tampa Electric
11 is obligated to purchase coal from them, then isn't Tampa
12 Electric put in the position of the rock and the hard place of
13 either paying a penalty to those mine owners for not taking
14 coal, or paying a penalty to CSXT for not taking one million
15 tons of coal during the contracted period per year?

16 A No. My belief is that there was enough room -- and I
17 have said this a couple of times now. There was enough room
18 for us to have a million rail tons and the rest of it could
19 continue to move by water. That is my belief.

20 Q But if Tampa Electric could not take one million
21 direct ton origin coal, then it would have to pay a penalty to
22 CSXT for the failure to take that million tons of coal in a
23 given year, isn't that correct?

24 A If they didn't have a million tons on our railroad,
25 then they might get into that predicament. If they came to us

1 and said when we were negotiating, if we had that opportunity,
2 if they came to us and said, "This contract runs to the end of
3 '04. We can start moving a million to 2 million in 2005," we
4 would have said, "Okay. Let's back it up a year. Let's make
5 it fit with your contracts. Let's work together. Let's get
6 this thing done."

7 MR. FONS: Mr. Chairman, could I request that you
8 instruct the witness to answer either yes or no. He can
9 certainly explain it, but these are yes or no questions.

10 CHAIRMAN BAEZ: Mr. White.

11 THE WITNESS: Yes. Thank you.

12 BY MR. FONS:

13 Q Well, then, if these are things that you expect Tampa
14 Electric to negotiate with CSXT, did you expect Tampa Electric
15 to evaluate your proposal based upon what you included in the
16 proposal or not?

17 A I think we expected them to evaluate the proposal in
18 the most prudent way they felt that they should. I think that,
19 you know, they need to think about what -- where they want to
20 go in a negotiation. You know, I can't speculate on what they
21 should do, but I would think that a prudent company would look
22 at a bid and say the number looks good, what problems do we
23 have with it? Let's sit down and talk to them. Can we work
24 through this escalation? Can we work through the fuel
25 surcharge? We would like you to use our fuel surcharge. We

1 would look at that.

2 I mean, we are not locked into any of these things.
3 The rate is pretty much locked in, everything else was pretty
4 much a negotiable item. And that is the way we felt about it.
5 And I would think that prudent business people would think
6 about it when they saw the deal presented that way.

7 Q So when Tampa Electric puts out its request for
8 proposal and gets bids in return, is it your belief that in
9 order to evaluate each of these bids that Tampa Electric has to
10 surmise and guess what is not included in the bid or what might
11 be negotiable in a bid in determining which bid to select?

12 A Well, I think that -- I'm not sure I can answer that
13 yes or no. But I think that if somebody came to us with a bid
14 proposal, we would look at them, we would compare them, we
15 would think -- you know, we would look at the rates, first of
16 all, and then we would look at all the ancillary things. And
17 if we felt like one number was better than the other, but we
18 weren't sure about other things in the bid, I think we would
19 call them and say, hey, are you firm on this or is this
20 something we can talk about? I mean, I think that is what
21 people normally do. I'm not sure where you are going with
22 that.

23 Q Well, let me ask you this. Is it your position that
24 the bid that CSXT presented is nothing more than an invitation
25 to negotiate?

1 MR. WRIGHT: I object. That question has been asked
2 and answered.

3 CHAIRMAN BAEZ: You know, I'm not sure I remember it
4 asked and answered.

5 MR. WRIGHT: Well, the question whether --

6 CHAIRMAN BAEZ: Well, can we have an answer? I
7 understand what his explanation has been so far, I'm not sure
8 that it was -- go ahead.

9 THE WITNESS: I'm going to need him to repeat it now.
10 I'm sorry, I broke my chain of thought there.

11 BY MR. FONS:

12 Q If what you are saying about your expectations that
13 Tampa Electric would sit down with the bidder and negotiate,
14 what I'm asking you is from your standpoint and CSXT's
15 standpoint, was the bid that CSXT submitted to Tampa Electric
16 nothing more than an invitation to negotiate?

17 A It was a bid that was laid out there on the table
18 that could have been accepted at face value. We felt like --
19 we anticipated, in fact, that they would push back on some of
20 those things. And, again, that is what a negotiation is. I
21 mean, we submitted a bid. If you want to sign up for it at
22 face value, that is your prerogative. But why wouldn't you
23 push back? Why wouldn't you want to sit down and talk?

24 Q Well, let me ask you then again about the price that
25 CSXT submitted in its proposal, the price for the delivery of a

1 ton of coal.

2 A Yes, sir.

3 Q Was that a firm bid?

4 A For a five-year contract, yes, that was a firm bid.

5 Now, if they came back and said if you can knock ten cents off

6 of that number, will we do it, sure. I don't know to what

7 point we stretch that, but the bid was relatively firm. There

8 might be some minor wiggle room. It might mean that we extend

9 it another year. I mean, again, it is a negotiation.

10 Q Well, let me talk again about the price. Was the

11 price a locked-in price?

12 A Pretty much. You know, pretty much, but take my last

13 answer into consideration, as well.

14 Q Where does it show in the bid proposals submitted by

15 CSXT that the price that was bid by CSXT is locked in?

16 A Well, it's not. You know, I go back to the questions

17 asked by the Commissioners last week. You know, did you go

18 back to IMT and negotiate to see if you could get a better

19 price? Is any price locked in? If somebody pushes back are

20 you willing to give for more term? I mean, you have got lots

21 of issues here to work with. I mean, there is wiggle room.

22 That's the way we see it. I'm not trying to be rude, I'm

23 just -- that is the way we see it.

24 Q Didn't CSXT deliver coal to Tampa Electric Gannon

25 Power Station prior to its conversion to gas generation?

1 A Yes, sir.

2 Q How much coal did CSXT deliver to Tampa Electric's
3 Gannon Power Station in the years immediately preceding the
4 conversion of that station to gas?

5 A I think I testified between 200,000 tons and
6 1.2 million tons between '96 and 2001.

7 Q And obviously the Gannon Station had rail delivery
8 facilities, did it not?

9 A Oh, yes, sir.

10 Q Did the Gannon Power Station also have direct access
11 to waterborne delivery of coal?

12 A Yes, indeed they did.

13 Q Will you agree with me, though, that the Big Bend and
14 Polk Power Stations does not have facilities available for the
15 direct delivery of coal by rail?

16 A That's correct. There are tracks that go into both
17 stations. The tracks at Polk are in excellent condition, used
18 to bring generators in there. The Big Bend Station, being an
19 older station, does have tracks in there. But, again, we did
20 bring limestone in there at one point in time. There are
21 tracks at both, but no unloading facilities.

22 Q There are limestone unloading facilities at the Big
23 Bend Station, are there not?

24 A Yes, sir, that is correct.

25 Q I just wanted to make it clear. You said you

delivered both coal and limestone.

1 A Oh, I'm sorry. We did not deliver coal. I don't
2 remember saying that, because I know that we didn't.

3 Q But you said there were facilities. If you were
4 unloading limestone at Big Bend there had to be facilities for
5 unloading, isn't that correct?
6

7 A There are facilities for unloading limestone at Big
8 Bend.

9 Q Okay. At Page 5 of your direct testimony, Line 17,
10 you state that you had a meeting with Tampa Electric on May
11 9th, 2002, isn't that correct?

12 A Yes, sir, that's correct.

13 Q And isn't it also correct that the purpose of this
14 meeting was to try to persuade Tampa Electric to buy coal
15 transportation services to the Big Bend and Polk Power Stations
16 from CSXT to replace the amount of coal that CSXT had
17 previously been delivering to the now gas-fired Gannon Station?

18 A No, I don't think that was the intent to replace the
19 Gannon tons. I mean, I have testified to the fact that we have
20 approached Tampa Electric for years, all through the '90s, and
21 the '80s, even, at Big Bend to try and get into the Big Bend
22 and Polk Stations. This was a business opportunity. And that
23 is what my job is, business development. And we went in there
24 to try and secure a rail transportation contact to provide rail
25 service to those plants. It had nothing to do with Gannon. I

1 mean, Gannon has been shot. It is done and gone. We are to
2 never go back there again it looks like. But to replace
3 Gannon, no, that wasn't the intent.

4 Q How many tons of coal per year did you lose when
5 Gannon was converted to gas generation?

6 A Well, as I have stated a couple of times between '96
7 and 2001 we took anywhere -- the low year was about 200,000
8 tons per year and the high year was 1.2 million tons per year.

9 Q And certainly CSXT would like to have that coal
10 delivery business back, wouldn't it?

11 A Why, sure. But, you know, CSXT delivers 155 million
12 to 160 million tons of coal per year, so that one million tons
13 is something that is really eating away at us and pushing us to
14 go back and get it back. I mean, that is just not the case,
15 I'm sorry.

16 Q Now, at the time of your meeting in May with Tampa
17 Electric, you had no plan in hand to install coal delivery
18 facilities at either Big Bend or Polk, did you?

19 A No, sir, we did not have a plan.

20 Q And, in fact, at your May 2000 meeting with Tampa
21 Electric, didn't Tampa Electric express it had no interest in
22 rail deliveries to the Big Bend Power Station?

23 A I believe it was expressed as limited.

24 Q And how would you define limited?

25 A I didn't state limited, they did, so I don't know how

1 they define it.

2 Q But they were not expressing keen interest in having
3 coal delivered to the Big Bend Station?

4 A No, there was not a keen interest. However, there
5 was a very keen interest in coal going to the Polk Station.

6 Q Isn't it correct also that on May 21st of 2002 you
7 and Mr. Richard Schumann (phonetic), a consultant occasionally
8 hired by CSXT, went to the Polk Station to tour the facilities
9 for rail facilities?

10 A Yes, sir, that is correct. Uh-huh.

11 Q For coal delivery; I'm sorry.

12 A Yes, sir.

13 Q And your primary interest was with the Polk Station,
14 isn't that correct?

15 A Well, if you would go back and look at that, you will
16 see that we visited Polk in the morning and Big Bend that same
17 afternoon.

18 Q Well, isn't the only power station that Tampa
19 Electric expressed any interest in receiving direct coal
20 deliveries was Polk?

21 A No, I said they expressed a limited interest in Big
22 Bend. They were more agreeable to Polk, but it wasn't -- I
23 mean, why would they take us on a tour of Big Bend if there was
24 absolutely no interest? We went into the plant with Marty and
25 toured, and looked, and asked questions. We didn't get a lot

1 of answers, but we got into the plant. If there was absolutely
2 no interest, it should have been there is absolutely no
3 interest, you are not going into Big Bend. But that didn't
4 happen.

5 Q Based upon your tour of Polk and Big Bend in October
6 of 2002, did CSXT make a proposal to Tampa Electric which
7 included a proposal for constructing coal delivery facilities
8 at the Big Bend and Polk **Power Stations?**

9 A Yes, sir.

10 Q And was it the **intention in the October 2002 proposal**
11 **that CSXT was going to fund the cost of constructing the**
12 **facilities?**

13 A Yes, that is correct.

14 Q Now, if CSXT were going to fund the cost of
15 constructing those facilities, would you agree with me that
16 CSXT would first want that construction cost to be as low as
17 possible?

18 A Why, sure.

19 Q And that you would want to guarantee that CSXT would
20 recover from Tampa Electric whatever CSXT had to expend for
21 rail delivery facilities?

22 A We looked at the offer to provide capital for
23 construction of those facilities as an opportunity, an
24 opportunity to establish a long-term relationship with Tampa
25 Electric to enter into a five-year or more contract with Tampa

1 Electric. And, yes, over time we would like to recoup those
2 expenses, but we looked at it as an investment. We felt we had
3 a real opportunity to get a piece -- not all of it, but a piece
4 of a very big power plant in Big Bend, and a reasonable sized
5 contract for coal going into Polk. So we were interested. It
6 was a business opportunity for us, and that is the way we
7 addressed it.

8 Q Earlier you responded to Mr. Twomey in response to a
9 series of questions about CSXT expecting some kind of a return
10 on your investment?

11 A Well, you know, yes, there was some comments about
12 that.

13 Q And didn't you also indicate in those comments that
14 you expected in a five-year contract you would get a sufficient
15 return on your investment?

16 A I believe what I said was we would get a return. It
17 wouldn't be what we would like, but it would be a return over a
18 five-year period.

19 Q And that was return on investment?

20 A That's correct.

21 Q How about the return of your investment, isn't that a
22 totally different animal?

23 A Yes.

24 Q And were you expecting to receive a return of your
25 investment over a five-year period?

1 A Return of our investment. Again, I think we were
2 looking for a reasonable return on investment. To think you
3 are going recoup the whole thing in five years is a bit of a
4 stretch. No, I don't think we anticipated we would fully
5 recover dollar-for-dollar inflated what we had spent. Again,
6 it was an investment.

7 Q So CSXT as a matter of business practice would walk
8 away from an investment of \$10 million or more?

9 A CSXT would attempt to negotiate a contract that they
10 felt like would provide them with a reasonable return on
11 investment with an opportunity to extend that contract. And I
12 think I have said earlier, I think we felt very confident that
13 we could provide this service. We felt that once we got in
14 there they would want us to stay. We felt like our numbers
15 were better and there wouldn't be any reason for us to go away.

16 But I will say this, and I will bite on it to this
17 extent. If after five years Tampa came back and said we don't
18 want to do business with you anymore, we would have licked our
19 wounds and walked away. But we really don't expect that that
20 would have happened.

21 Q Let's turn to Page 19 of your Exhibit 10, please.
22 And I want to talk about the amount that CSXT was willing to
23 fund.

24 A Okay, great.

25 Q And I understand that number is confidential, so I am

1 going to avoid using the number, and I would hope that you
2 would, as well.

3 A I'm going to try my best.

4 MR. FONS: Ms. Kaufman, could I ask you to sit back
5 just a little bit. I'm having trouble seeing the witness.

6 MS. KAUFMAN: I'm sorry.

7 BY MR. FONS:

8 Q And are the numbers that are quoted at the bottom of
9 Page 19 and the top of Page 20, are those the numbers for the
10 Big Bend?

11 A Yes, those were the base numbers. And as you will
12 see in the second paragraph following those numbers, we were
13 willing to pay up to 120 percent of those numbers. Those
14 numbers were based on, after a cursory look at the plants, what
15 Mr. Schumann, myself, and our industrial development group felt
16 like were good budget numbers for that project.

17 We felt comfortable, but we weren't sure because we
18 didn't have adequate time, we didn't get to meet with their
19 engineers, we didn't get to meet with their plant people. So
20 we didn't know if there were other things in the plant that
21 would cause those numbers to go up. So as a result of that, to
22 try and curb some of that fear that they may have had with
23 those numbers, we added another 20 percent to it. In addition
24 to that, we said, hey, you know what, if it comes in to be as
25 little as 80 percent of that number, we will give you the

1 difference between that number and the 80 percent as long as it
2 is used to make improvements in your infrastructure, in your
3 coal handling systems, and with your stacker reclaimer and your
4 coal yard. Use the money wherever you want. We are committing
5 to that number. We feel like we can do it for that. We
6 protect you on the high end, and we give you the difference on
7 the low end. It's a great deal.

8 Q Mr. White, what was the basis of those numbers?

9 A The basis of those numbers. Primarily the numbers
10 were developed by Richard Schumann of RES Engineering. Richard
11 has worked for CSXT in a consulting capacity for a number of
12 years. He has provided excellent service to us. Mr.
13 Schumann -- we really worked off drawings. You know, we had
14 one drawing of Polk and one drawing of Big Bend. Those
15 drawings were used primarily for measurements.

16 Mr. Schumann, being an engineer, constructed the
17 facilities from the ground up; determined the materials that
18 would be required; he then went to six; or seven; or eight
19 different vendors and got budget number quotes for those
20 services. And we then put that package together with what we
21 felt like -- what we knew about the facility in our brief tour
22 that we had there and the linear diagram that we had that we
23 could take measurements from, we developed a proposal that
24 would allow us to go in there with a rail unloading system that
25 would enable us to deliver coal to both Big Bend and Polk.

1 Q Did Mr. Schumann ever give you anything in writing
2 prior to October 2002 concerning his cost estimate for the coal
3 delivery system at Big Bend Power Station?

4 A I believe so. Are you suggesting that he didn't
5 or --

6 Q No, I'm just asking did he?

7 A I believe so. Would you like me to take a look?

8 Q Sure.

9 A Okay. I felt certain that we had on discovery
10 submitted documents that we had received from Mr. Schumann.

11 Q Well, let me do this --

12 A Shef, do you -- I can't ask that, sorry. I don't
13 know all the rules. Yes, sir.

14 Q Let me hand you or give you a document that we
15 received from Mr. Wright after the deposition of Mr. Stamberg,
16 and I don't know whether it is confidential. The numbers may
17 be not confidential, but out of an abundance of caution we are
18 creating them confidential because similar numbers in Mr.
19 White's testimony, for example, on Page 11 are confidential.

20 CHAIRMAN BAEZ: Mr. White, can you confirm that they
21 are or they aren't so that we can --

22 MR. WRIGHT: The confidentiality, that is.

23 MR. FONS: Pardon me, I didn't hear?

24 MR. WRIGHT: I believe -- I was just attempting to
25 interpret the Chairman's question to refer to asking Mr. White

1 to confirm whether the numbers are or are not confidential.

2 CHAIRMAN BAEZ: Correct

3 MR. WRIGHT: Is that accurate?

4 CHAIRMAN BAEZ: That's right.

5 THE WITNESS: I believe that these numbers are
6 confidential.

7 CHAIRMAN BAEZ: Very well. I just wanted to settle
8 it for the parties so we can know how carefully to proceed

9 BY MR. FONS:

10 Q And is this the only report or anything in writing
11 that you received from Mr. Schumann?

12 A I really don't think so. But if that is what we gave
13 you, then that is probably what it is. You know, you should
14 know that Mr. Schumann and I have known each other for 20
15 years. Mr. Schumann and I did a lot of this over the
16 telephone. I think that we can support -- I don't think, I
17 know that we can support the numbers that we gave you based on
18 budget estimates from vendors. I feel very confident in Mr.
19 Schumann. Confident enough that he doesn't have to give me
20 things in writing. If Schumann tells me that is what the
21 number is, I have enough confidence and experience in him to
22 know that that number is right.

23 I think we have had others come in behind us and try
24 and verify those numbers. I haven't been able to see all of
25 that testimony. But in reading redacted versions of Mr.

1 Stamberg's testimony, I don't think there is any reason that we
2 can refute the numbers produced by Richard Schumann, whether
3 they were over the telephone to me, or whether they are on this
4 piece of paper or any other piece of paper.

5 Q Well, let me draw your attention to Item A on that.
6 And I assume that Bob is Bob White --

7 A That's correct.

8 Q -- and Dick is Richard Schumann, is that correct?

9 A Yes, sir, that's right.

10 Q And so you have seen this document before?

11 A Yes. In fact, that is my handwritten note on the
12 bottom there.

13 Q Well, let me draw your attention to Item A on that,
14 which is the modifications to limestone unloading system. Do
15 you see that?

16 A Yes, sir.

17 Q And there is a price associated with that.

18 A Yes.

19 Q What is the source of that number?

20 A That number is based on Mr. Schumann's estimate on
21 what we would have to do. And keep in mind that that estimate
22 is based on not having had the opportunity to go in the
23 basement of the limestone pit. Mr. Schumann is basing that
24 number on his vast experience in pits and unloading systems.
25 When you can't get out of the car to go down in the pit to see

1 what you have, when you aren't provided information on what
2 size belt is in that pit and what speed it operates at, you
3 have to do some guessing. And I'm telling you that I think
4 that he did an excellent job in his interpretation of what he
5 felt like what possibly was there, and I think that has been
6 supported and will be supported by our colleague, Mr. Stamberg.

7 Q But in his memo to you, doesn't he say that that
8 Item A is truly a guess?

9 A Bear with me a minute. The answer is no, it is not
10 truly a guess.

11 Q Well, isn't that what he says? He says it is not
12 known, therefore the estimate for the modification is truly a
13 guess?

14 A Oh, I'm sorry. It does say that, doesn't it?

15 Q Yes, it does.

16 A Well, keep in mind that this is a note from Mr.
17 Schumann to me, a guy that he has known for 20 years. He knows
18 that if he gives me number that I expect it to be right. He
19 hedges and puts language there as -- it is kind of a
20 Schumannism, if you will, and that is kind of a little banter
21 that we have. But the fact of the matter is Mr. Schumann is
22 very experienced.

23 Again, I stand on the supporting documentation that
24 Mr. Stamberg will provide supporting that what Mr. Schumann's
25 assumptions were very valid, very accurate, and really quite

1 remarkable based on the information that we had to work with.

2 Q Would CSXT build for itself an essential facility
3 based upon a cost estimate which included a system or a
4 facility within that system which its own consultant thought
5 was truly a guess?

6 A If that number came from Mr. Schumann, we would
7 pretty much go to the bank with Schumann.

8 Q Even though he would say it was truly a guess?

9 A Again, I tried to explain this to you, and let me try
10 it again. This is banter. This is a Schumannism. This is not
11 to be taken literally. You can read it for what it says or you
12 can understand my explanation for what it means.

13 Q But you expected Tampa Electric to accept a proposal
14 which included a proposal to construct some facilities which
15 your own consultant said contained an element that was based
16 upon what he considered to be truly a guess?

17 A Well, let's --

18 MR. FONS: Mr. Chairman, can he answer the question
19 yes or no?

20 CHAIRMAN BAEZ: Mr. White, you can answer yes or no
21 and you can explain your answer.

22 THE WITNESS: Okay. Thank you very much, and I
23 apologize. Now I have forgotten the question. Would you run
24 it by me again, please.

25 BY MR. FONS:

1 Q Would you expect Tampa Electric, who was going to
2 ultimately be responsible for the cost of this facility, to
3 accept a proposal made by CSX that contained an element which
4 CSX's own consultant considered to be truly a guess?

5 A Your question references a facility that Tampa
6 Electric would bear the cost of, and that is not the case, so I
7 really can't answer the question because we were going to pay
8 for it.

9 Q Would you pay the amount of money above what was
10 quoted in your proposal?

11 A Would we pay the amount of money that was quoted --
12 the 120 percent?

13 Q Above the 120 percent.

14 A Would we pay what number above 120 percent?

15 Q Any number above 120 percent of what was set forth in
16 your proposal?

17 A Well, the answer is yes. We would pay any number
18 above 120 percent. It wasn't stated in the proposal like that,
19 but if you are asking me would we, the answer is yes. What we
20 would have liked to have had was an opportunity to go in there
21 and to get with their engineers. We have been through this a
22 bunch of times, and I hate to burden you with this, but what we
23 wanted was what does it take. Show us that this number is
24 wrong and let's sit down and talk about it. We wanted to make
25 an investment here. If it was 130 percent of this number, we

1 probably would have gone for it. I don't know what the ceiling
2 is on what we would have done, because that would have been
3 part of the negotiation. Do we make it a six-year or a
4 seven-year or an eight-year contract? You know, how do we get
5 there. You tell me what you need, and we will sit down and see
6 if we agree with what that cost is, and what that
7 infrastructure requirement is. And if we can reach an
8 agreement, we'll do a contract.

9 Q You are aware of the number in Ms. Guletsky's
10 testimony as to the cost of building this facility?

11 A Actually I would love to know what that number is,
12 but that number is confidential and I haven't had access to
13 that number. I have no idea what it is.

14 MR. WRIGHT: Mr. Chairman.

15 CHAIRMAN BAEZ: Yes.

16 MR. WRIGHT: I apologize for this request, but we
17 have been going for about an hour and forty-five minutes, and
18 as Mr. Twomey once said, Mr. White's lawyer could use a break.

19 CHAIRMAN BAEZ: You actually stole my thunder. I was
20 going to say if I interpret your movements correctly, you are
21 trying to identify or trying to find some piece of information,
22 and maybe this is a good time to take a break.

23 MR. WRIGHT: I have the document.

24 CHAIRMAN BAEZ: Let's take ten minutes anyway. We
25 will be back in ten.

1 (Recess.)

2 CHAIRMAN BAEZ: Mr. Fons, I have reminded myself that
3 we did not mark this confidential document and only because you
4 didn't ask, but is that your intent now?

5 MR. FONTS: It is my intent. I'm glad that you
6 reminded me, Mr. Chairman.

7 CHAIRMAN BAEZ: Show the confidential document
8 marked, identified as a letter from Schumann to White dated
9 August 28th, 2002, as Confidential Exhibit 104.

10 MR. FONTS: Thank you, Mr. Chairman.

11 (Confidential Exhibit 104 marked for identification.)

12 CHAIRMAN BAEZ: And you can go ahead and proceed, Mr.
13 Fons.

14 BY MR. FONTS:

15 Q Mr. White, is there anything in the CSXT July 30,
16 2003, proposal that rules out CSXT demanding in any contract
17 with Tampa Electric a provision to guarantee that Tampa
18 Electric will reimburse CSXT for the capital enhancement
19 funding?

20 A There is nothing in that contract that proposes that,
21 no. Nothing in that proposal that suggests that we would want
22 Tampa Electric to pay us back for the monies that we agreed to
23 pay for a long-term agreement with them to haul coal.

24 Q But there is nothing in the proposal that says that
25 CSXT will not make such a demand on Tampa Electric?

A Yes, that is correct. But there is nothing in there that says we will, either.

Q So it is silent on that particular provision?

4 A It is silent, but certainly implied that if we spend
5 the money we are spending that and your end of that obligation
6 is the five-year contract. At least I feel like that is
7 implicit in what was presented.

8 Q But that is not stated in the contract, is it, or in
9 the bid proposal, is it?

10 A Technically it is not stated, but it is certainly
11 implied and standard kind of practice in a contract
12 negotiation.

13 Q Where in the proposal can you show me where it is
14 inherent that no such demand would be made upon Tampa Electric
15 for a guarantee to pay back whatever amounts CSXT were to spend
16 in the construction of coal rail delivery?

17 MR. WRIGHT: Mr. Chairman, I object to these
18 questions. He is attempting to ask the witness to prove a
19 negative. I think it is an appropriate objection as to form.

20 CHAIRMAN BAEZ: Mr. Fons, I think if he already
21 answered that there is nowhere where either terms reserve a
22 right or don't say that they won't do it, I think he has
23 already answered that. I'm curious as to why you proceed
24 down --

25 MR. FONS: If he had said just that, Mr. Chairman,

1 that would be fine and I would not be pursuing it. But he says
2 it is inherent in the contract, or it is inherent in the bid
3 proposal.

4 CHAIRMAN BAEZ: I think what he said was that is was
5 implied and he was stating an opinion. Certainly that is the
6 way he interpreted it.

7 MR. FONS: But if he will say that there is nothing
8 in the proposal --

CHAIRMAN BAEZ: I think he already did say that.

THE WITNESS: I did.

MR. FONS: Okay. That's fine.

9 CHAIRMAN BAEZ: Based on ny interpretation we can put
10 this to rest, move on to the next line.

11 BY MR. FONS:

12 Q Are you familiar, Mr. White, with the engineering
13 firm of Sargent and Lundy?

14 A I have heard the name, yes. But I don't know much
15 about them other than they are a firm that does work, I guess
16 locally, and that apparently Tampa employed them to go through
17 and evaluate what would be required. That is about all I know,
18 because, again, that is confidential information. Mr. Stamberg
19 has had access to that, and I think he will be testifying
20 later.

21 Q You have not read Ms. Guletsky's testimony at all?

22 A I honestly I have not read Ms. Guletsky's testimony.
23

1 Q Would you agree, subject to check, that Sargent and
2 Lundy is not a local engineering firm?

3 A I would agree, subject to check. And if you say they
4 are not, I will agree right now that they are not. I'm not
5 familiar with them, so --

6 Q And would you agree, based upon what you know about
7 this case, that there are significant differences of opinion
8 between CSXT and Sargent and Lundy as to the ultimate cost of
9 constructing rail coal delivery facilities at the Big Bend
10 Power Station?

11 A I have heard that there are significant differences,
12 but I don't know the magnitude of those differences.

13 MR. FONS: Mr. Chairman, I'm handing the witness a
14 page out of Ms. Guletsky's testimony. It was marked
15 confidential. Tampa Electric is waiving the claim of
16 confidentiality insofar as the S&L capital amounts are
17 concerned. The CSXT capital amounts may still be considered
18 confidential by CSXT.

19 Mr. Wright, are you still claiming confidentiality
20 for that column of CSXT capital?

21 MR. WRIGHT: Mr. Chairman, I'm surprised. I don't
22 have a problem with this, but I'm going to need to ask my
23 client whether we are still claiming confidentiality with
24 respect to our capital numbers.

25 CHAIRMAN BAEZ: And I think it would be appropriate

1 to take a moment to discuss with your client just so that we
2 can clear up and move along with the testimony.

3 MR. WRIGHT: Thank you. Mr. Chairman, consistent
4 with our treatment of the specifics of our bid package, we do
5 maintain confidentiality of those numbers.

6 CHAIRMAN BAEZ: Very well. Mr. Fons, you can proceed
7 accordingly.

8 Commissioners, just for your reference, the column on
9 the far right of the document is confidential.

10 MR. WRIGHT: And, Mr. Chairman, just for clarity,
11 that goes to the bids, the numbers in the CSXT bid. Mr.
12 Stamberg's numbers are not confidential.

13 CHAIRMAN BAEZ: Okay.

14 MR. FONTS: I can still ask my questions with that
15 understanding.

16 CHAIRMAN BAEZ: Go ahead, Mr. Fons.

17 BY MR. FONTS:

18 Q Mr. White, I have handed you a page from Ms.
19 Guletsky's testimony, Page 11, and ask you to draw your
20 attention to the Lines 1 through 6.

21 A Okay.

22 Q And to the right-hand side, would you agree with me
23 that that column is the CSXT capital amounts that CSXT was
24 willing to expend to install rail coal delivery facilities at
25 Big Bend and Polk?

1 A Yes, sir. Again, these are our preliminary -- these
2 are our numbers that we submitted in the bid package based on
3 our cursory observation of what was available at the facilities
4 without any in-depth discussions with TECO engineering or
5 operating people. This was a thirty-minute drive-by cost
6 estimate that I think you will find later in Mr. Stamberg's
7 testimony was pretty darn good for what we had to work with.

8 Q Now, the column to the left there is S&L capital. Do
9 you see that?

10 A Yes, sir.

11 Q And would you agree, subject to check, that those are
12 the dollar amounts that Sargent and Lundy indicates it would
13 cost to construct the rail coal delivery facilities as Big Bend
14 and Polk?

15 MR. WRIGHT: Mr. Chairman, I object. He has never
16 been allowed to see any of the Sargent and Lundy stuff. This
17 is getting on toward being ambushed.

18 CHAIRMAN BAEZ: Can you restate your question, Mr.
19 Fons.

20 Mr. Wright, I believe that he has asked the witness
21 that would he agree, subject to check, that these are merely
22 numbers that were submitted, is that --

23 MR. FONTS: That was my question.

24 CHAIRMAN BAEZ: And I think as to the submission of
25 the numbers he can answer.

1 THE WITNESS: I will have to take your word that
2 these were the numbers that were submitted. This is the first
3 time I have seen them.

4 BY MR. FONS:

5 Q Would CSXT be willing to underwrite the construction
6 of the facilities at Big Bend and Polk for these numbers?

7 A I do not believe that CSX would, because these
8 numbers appear to be extremely overstated.

9 Q Mr. White, you have just testified you have never
10 seen these numbers before, you don't know the basis for these
11 numbers. How can you say that these numbers are overstated?

12 A I can say that they are overstated because the column
13 next to it, which is not confidential to me, shows my number.
14 And that number is substantially larger. We are confident that
15 our number was a reasonable number, and the number that I am
16 looking at in the Sargent and Lundy column to me, my
17 interpretation is that that is an extremely high number and is
18 very, very hard for me to even imagine how the number could be
19 that high. That is what I'm saying.

20 Q Mr. White, you are not an engineer, are you?

21 A No, sir.

22 Q And you have never constructed, or designed, or
23 engineered a coal delivery system, have you?

24 A I personally have not engineered, constructed, or
25 designed, but I have certainly been a part of the engineering,

1 construction, and design of more than one facility on more than
2 one occasion.

3 Q Now, if Tampa Electric were to build the facility for
4 the delivery of coal, and the cost came in at the cost
5 suggested or estimated by Sargent and Lundy, then Tampa
6 Electric would be responsible for the difference between the
7 CSXT capital cost and the Sargent and Lundy capital cost
8 estimate, isn't that correct?

9 A The answer on the surface is correct, but I think the
10 real answer is we would sit down with Tampa Electric and say
11 explain to me why this number is so high. I think that we
12 would probe and look for a much more cost-effective and
13 reasonable design that would provide a number that is much
14 closer to the number that I submitted than this, what appears
15 to me to be an outlandish number submitted by Sargent and
16 Lundy.

17 Q Would you agree with me that the number that CSXT has
18 proposed is only about 21 percent of the number that Sargent
19 and Lundy has proposed?

20 A I think that you have just blown the confidentiality,
21 so I don't think I should have to answer that.

22 CHAIRMAN BAEZ: I don't know necessarily -- Mr. Fons,
23 he doesn't have to answer the question, but that is --

24 MR. FONTS: Mr. Chairman, there has been no number put
25 in the record with regard to the S&L capital number, so as far

1 as we are concerned this is not confidential.

2 CHAIRMAN BAEZ: Ms. Guletsky is going to -- if the
3 testimony is going to come in and you have waived
4 confidentiality, then the number is going to be in the record.
5 So I think that is splitting -- yes, I know that you waived
6 confidentiality as to S&L's numbers, and I think we have to be
7 very careful.

8 MR. FONS: I understand. For purposes of this
9 cross-examination only, we waive the number because this
10 witness had not signed a nondisclosure agreement. As far as
11 everybody else is concerned in this room, they have signed a
12 nondisclosure agreement, or are subject to a protective order
13 issued by the Commission.

14 CHAIRMAN BAEZ: So help me understand, this number
15 for purposes of the record is going to remain confidential.
16 What you are telling me is that the confidentiality was waived
17 so that this witness could see the number, but that in an
18 overall sense this number is going to remain confidential to
19 the record?

20 MR. FONS: Yes, Your Honor.

21 CHAIRMAN BAEZ: I will allow the question.

22 THE WITNESS: Yes.

23 MR. FONS: Thank you.

24 BY MR. FONS:

25 Q So in the final analysis, Mr. White, Tampa Electric

1 bears all the risk of the cost of constructing these facilities
2 and CSX has none of the risk, isn't that correct?

3 A No, sir, that is not correct at all. I think that,
4 again, that we proposed a facility that would work at Big Bend
5 and Polk. I think that eleven months after the fact they have
6 come back and produced a number that says your deal was no good
7 because this is the real number.

8 The fact remains if you were interested in doing a
9 contract, the parties would sit down, they would describe why
10 they think their number should be so high and we would have
11 engineers in place to say, hey, this number is not reasonable,
12 guys. Come on, you can do it this way or this way. I think
13 Mr. Stamberg is prepared to testify today to that effect. He
14 is the engineer, not me.

15 I think this was -- this was all about a negotiation.
16 I don't think your number is right, you don't think my number
17 is right, and, you know, let's sit down and talk about it.
18 Let's figure out what the right number is. Let's figure out if
19 we can put a deal together. That's what we are here to do.

20 Q Talking about getting together to do a deal, the
21 Tampa Electric request for proposal included a request for
22 transportation of petroleum coke, isn't that correct?

23 A Yes, sir, that is correct.

24 Q Did the CSXT proposal to Tampa Electric include any
25 rates to transport petroleum coke to Tampa Electric's power

1 plants?

2 A I do not believe that it did, no.

3 Q Now, Mr. White, I understand that one of your areas
4 of responsibility, according to your curriculum vitae, your
5 Exhibit RFW-1, is to address customer service issues, am I
6 correct?

7 A Yes.

8 Q And this includes the timely and sufficient delivery
9 of coal to customers?

10 A That is correct.

11 Q Are you familiar with CSXT's delivery of coal to
12 Tampa Electric's Gannon Station?

13 A No, not really. I mean, I was aware that we
14 delivered coal. I have been back in the coal department since
15 May of 2002. As you know, we stopped shipping coal there in
16 2001. I didn't work for the company from '97 to '01, so I
17 really don't have a great deal of knowledge about our
18 deliveries to Gannon.

19 Q So you wouldn't know about coal delivery problems
20 that Tampa Electric experienced with the deliveries of coal
21 from CSXT?

22 A I don't know first-hand, but we did go back and look
23 at the files after we heard some comments that were made in
24 prior testimony through Ms. Wehle. We weren't able to find any
25 issues in the files regarding service. We weren't able to find

1 any issues regarding billing that she mentioned. We weren't
2 able to find any issues in the files about any demurrage that
3 had been charged to them.

4 Q And what period of time did you look at the files
5 for? Well, let me ask you this. Did you personally look at
6 the files?

7 A Mr. Bullock, that is his account.

8 Q Answer my question, please.

9 A The answer is no, I didn't personally look.

10 Q Thank you. So you wouldn't know personally whether
11 or not there were any problems of delivery of coal to the
12 Gannon Station by CSXT?

13 A I personally do not know of any problems.

14 Q But there could have been problems?

15 A There could have been and there could not have been,
16 I don't know. But it is reported to me that there wasn't
17 anything in the files to indicate that there was.

18 Q Mr. White, are you familiar with the term backhaul?

19 A Why, certainly.

20 Q And does CSXT ever backhaul any commodities where
21 coal has been the headhaul commodity?

22 MR. WRIGHT: May I ask Mr. Fons to clarify does he
23 mean using the same cars?

24 MR. FONS: I think that is the definition of
25 backhaul.

1 CHAIRMAN BAEZ: That's what I understood.

2 MR. WRIGHT: I just wanted to make sure. Thank you.

3 MR. FONS: Thank you, Mr. Wright.

4 THE WITNESS: I can't think of a single instance
5 where we would backhaul anything from the State of Florida.
6 There may have been a point in time when we utilized coal to
7 backhaul other commodities, but I'm not familiar. It's not a
8 common practice. We are in the business of turning those train
9 sets, mine to destination back to mine.

10 Typically, particularly in the case of coal, you
11 know, a true backhaul is going to be picked up close to where
12 the original load went, and then it is going to go back very
13 close to where the next origin is going to be. In the case of
14 the coal fields, there is not a whole lot of products being
15 backhauled from anywhere back to eastern Kentucky or an area
16 like that where essentially all there are is coal mines around
17 there.

18 So we would be involved in more of a triangulated
19 kind of a move. It would decrease the efficiency of our fleet,
20 and that is something that we don't engage in. And, again, you
21 may be able to come up with a rare example of where we did that
22 at some point in time, but I honestly can't think of one, and
23 it is not something that we would do as a normal course of
24 business. It would be an aberrations for sure.

25 Q So you are not aware of whether CSXT has ever

1 backhauled phosphate ore from the Tampa area to a fertilizer
2 plant on the CSXT line using the same coal cars that delivered
3 coal to a customer in the Tampa area?

4 A I can honestly say that I'm not familiar with that
5 ever happening.

6 MR. FONS: That is all we have, Mr. Chairman. May I
7 suggest that in light of the discussion about Page 11 from Ms.
8 Guletsky's testimony that we get back those copies and put them
9 in red folders and return them in that fashion. Thank you.

10 CHAIRMAN BAEZ: Mr. Wright, I think that leaves
11 redirect, and let me ask you just for an estimate of how much
12 redirect you have.

13 I'm sorry, Commissioner Deason, you had a question.
14 I apologize.

15 COMMISSIONER DEASON: Earlier today there was some
16 discussion about the reliability of your deliveries, and so I
17 guess my question is this: In your proposal to Tampa Electric,
18 were there provisions which would allow TECO to impose some
19 type of penalty if there were not deliveries consistent with
20 those expected either in a timely manner or in the quantities
21 needed?

22 THE WITNESS: There were no provisions in the
23 contract for any specific type of service agreement. Obviously
24 there were contractual minimums that we would enter contract in
25 to deliver. Failure to reach those minimums might result in a

1 breach. Outside of that there was no specific language
2 proposed with respect to a service commitment. It is something
3 that we have in some contracts, it is something that if you
4 feel strongly that you need, we are willing to talk about that.

5 CHAIRMAN BAEZ: Commissioner Davidson, you had a
6 question. And then Commissioner Bradley has a question, as
7 well.

8 COMMISSIONER DAVIDSON: Thank you, Chairman. I'm
9 going to ask you to generalize a bit if you can, and I
10 apologize for that. But in terms of the key material terms of
11 quantity, quality, shipment schedule or transit time, and
12 pricing, without disclosing any confidential information, do
13 you have knowledge of those key material elements of TECO's
14 proposed contract with TECO Transport? Again, namely the
15 quantity, quality, shipment schedule/transit time, and pricing?

16 THE WITNESS: The only thing that we are familiar
17 with is we would have to assume that since they got the whole
18 bid that we know the RFP was for 5.5 million tons, so I would
19 have to assume that that is the amount that they have
20 contracted to haul. As far as quality, price, timeliness, I
21 have no knowledge of those things. That has probably been
22 presented here, but it is material that I'm not allowed to see.
23 It has been held confidential to me.

24 COMMISSIONER DAVIDSON: And what I was trying to get
25 at, and I think you have probably answered the question, is if

1 you have an opinion in terms of yes or no for now whether you
2 knew, sort of based on those terms, whether CSX's offer was
3 competitive with TECO Transport, or whether that is something
4 that the attorneys and the folks that have more information
5 will have to opine on?

6 THE WITNESS: I feel very confident -- and the answer
7 is yes, I feel very confident that our number was a very, very
8 good number. And, again, as I have tried to demonstrate here
9 today, we were looking to sign a contract with these guys. You
10 know, this was not some shot in the dark. We felt like we had
11 a legitimate shot. We worked tirelessly to put together
12 numbers that we felt like worked for them. We know what the
13 benchmark is. It is a publicly available number. We went well
14 below that, knowing that TECO Transport was probably somewhere
15 below the benchmark, but didn't know where that was.

16 We felt very confident that what we offered was a
17 solid bona fide package, and we feel more than confident that
18 we would be able to deliver every ton that way that we
19 contractually committed to deliver.

20 COMMISSIONER DAVIDSON: One follow-up final question
21 to that. On each of those elements, quantity, quality,
22 schedule, and pricing, if you can in a sentence or two, really
23 no more than that, a sentence or two for each one of those
24 elements, explain the basis for your opinion.

25 THE WITNESS: Why, certainly. As far as quantity

1 goes, as I mentioned earlier, when we do our planning process
2 in the fall for the following year, we attempt to match our
3 resources with what is expected. And we get a demand from
4 customers, and we plug that in, and we go out and get the
5 resources we need to handle that. So as far as the quantity,
6 we would recognize what the quantity was, we plan for it,
7 allocate resources for it and deliver it.

8 Quality, you know, certainly I have talked today
9 about transit time being a little bit off this year from a
10 seven-day turn, mine to the power plant and back to the mine,
11 and this year it is running more like eight days. So if you
12 take the transportation leg, just the one side of the deal and
13 you go four days on the rail side versus what we described as
14 20-plus days on the barge side, I think the quality of service
15 delivered there is better.

16 I think when you look at the price, we have talked
17 about that. I feel like our price is better. And when you
18 look at scheduling, again, I think that, you know, the four-day
19 trip from the mine to the plant is a far superior move than a
20 20-plus day from the mine by water to the plant.

21 CHAIRMAN BAEZ: Thank you, Commissioner.

22 Commissioner Bradley.

23 COMMISSIONER BRADLEY: Yes, sir. Thank you, Mr.
24 Chairman. Mr. White, at the very beginning of your testimony
25 you made the statement that your number is below the benchmark.

1 Do you remember that statement?

2 THE WITNESS: Yes, sir.

3 COMMISSIONER BRADLEY: How did you arrive at your
4 number; did you use the benchmark process, or did you use some
5 other process to arrive at your cost of transporting coal?

6 THE WITNESS: Well, sir, no, first of all, we don't
7 use a benchmark to come up with a number. We came up with a
8 number based on what we felt like our requirements were going
9 to be. You break it down and you look at how much equipment
10 will be involved, what you think your transit times will be,
11 how many crews are involved, how many locomotives are involved,
12 what is the fuel, what is the mileage.

13 You begin to construct a scenario that says we are
14 going to move coal from this general region to this specific
15 destination, and this general region to this specific
16 destination, and you run and you look at what your costs are.
17 Then you certainly consider capital that you are going to throw
18 in there, and come up with a number that you feel like is
19 competitive. And we certainly felt like it was competitive
20 against the benchmark. And more importantly we felt like it
21 was a number that should get us the business.

22 COMMISSIONER BRADLEY: A follow-up as it relates to
23 what you have described as your competitive number.

24 Contractually, do you all commonly include a clause in your
25 contractual agreements that allow for unforeseen cost overruns,

1 or overrides, or whatever?

2 THE WITNESS: I'm not sure I understand the question,
3 but would you mind --

4 COMMISSIONER BRADLEY: Let me explain it. One of the
5 common problems in bidding, competitive bidding is that
6 sometimes a bidder may -- and I think we used the cost of fuel
7 as an example just earlier -- a bidder may not be able to
8 prognosticate something as a part of their bid process. Do you
9 all commonly include a clause in your contract that allows you
10 to renegotiate the cost of doing business with the company that
11 you bid with?

12 THE WITNESS: No, sir, that is not a part of any of
13 our coal transportation contracts. What we do is we put in an
14 escalator in there. The escalator is keyed to some index. And
15 the intent of that is to protect us against such unforeseen
16 inflationary type costs that -- I think that is what you are
17 talking about -- that would protect us against that. And we
18 also have a component for fuel. And that can either be a part
19 of the general index, or it can be a piece of a general index
20 and a fuel index. Again, that is kind of a negotiable item.
21 We just like to have something in there that covers us against
22 inflationary type costs.

23 COMMISSIONER BRADLEY: Okay. Well, let me ask this
24 question this way, then. Do you all include any clauses that
25 would take into account unexpected costs other than

1 inflationary costs or clauses that you have just described?

2 THE WITNESS: No, sir. I can tell you that when we
3 sign a contract, we research it up front. We try and
4 understand what all the elements are. If we make a mistake, we
5 make a mistake and we lick our wounds and move on.

6 COMMISSIONER BRADLEY: If you make a mistake you just
7 move on?

8 THE WITNESS: Yes, sir. When I say move on, we suck
9 it up and deal with it.

10 COMMISSIONER BRADLEY: So you socialize that mistake
11 across -- you spread it out among the other customers that you
12 are doing business with?

13 THE WITNESS: Well, I would like to think that we
14 don't make very many mistakes like that, and I can't think of
15 examples where we have made a blatant mistake like that. We
16 generally do our homework and we know what we are getting into.
17 And I can't think of an instance where that would be -- what I
18 was trying to demonstrate was if we sign a deal, we stick by
19 it. We are a big company. We absorb our losses and move on to
20 the next challenge and go secure the next contract.

21 COMMISSIONER BRADLEY: And one other question and I
22 will be finished, Mr. Chairman. On the issue of infrastructure
23 improvements, under CSX's proposal who would own those
24 improvements after they were made?

25 THE WITNESS: They would be the property of Tampa

1 Electric Company.

2 COMMISSIONER BRADLEY: TECO would own them?

3 THE WITNESS: Yes, sir, we would maintain zero
4 ownership in those. Again, we would have a contractual
5 arrangement. What was proposed was a five-year arrangement.
6 At the end of that five years if they didn't want rail service
7 anymore, that equipment belongs to them and go back to barge or
8 whatever you intend to do. It would be their property.

9 COMMISSIONER BRADLEY: Could they in the interim use
10 the same tracks for other rail companies, if there are other
11 rail companies, to transport or to bring in fuel?

12 THE WITNESS: Yes, sir. The tracks would become
13 theirs. And if another rail company were to have access to
14 those tracks, they would be free to use those tracks. It would
15 become Tampa Electric's property. And once our contractual
16 arrangement was finished with, they have every right to do with
17 those tracks as they please.

18 COMMISSIONER BRADLEY: So you all would also take
19 care of maintenance during the interim?

20 THE WITNESS: Typically, once we turn over equipment
21 to a company, we are no longer responsible. I mean, we would
22 not be responsible for the maintenance. I mean, it is a gift
23 and we are not going to maintain it, too. Our typical practice
24 would be that once we have purchased it and put it in place and
25 turned over possession of it to that company, that they would

1 then maintain it.

2 COMMISSIONER BRADLEY: And who would bear the cost of
3 that maintenance?

4 THE WITNESS: It would certainly be the company that
5 received the capital improvements. They would bear the cost of
6 the maintenance, yes, sir.

7 COMMISSIONER BRADLEY: Okay. Thank you, Mr.
8 Chairman.

9 CHAIRMAN BAEZ: Thank you, Commissioner Bradley.
10 Mr. Wright, just before you start, I think,
11 Commissioners, if it is all right with you to break at 12:45
12 for lunch. And I think what we are going to do is take 45
13 minutes. So based on that, you can go ahead with redirect.

14 MR. WRIGHT: Thank you, Mr. Chairman.

15 REDIRECT EXAMINATION

16 BY MR. WRIGHT:

17 Q Mr. White, I'm going to be asking you some questions
18 following up on some other questions that you have been asked.
19 This is called redirect examination.

20 Mr. Fons asked you some questions regarding service,
21 coal transportation service from CSXT direct origin mines. I
22 have a couple of questions for you on that. To the extent you
23 know, what mines does CSXT serve directly from which Tampa
24 Electric receives coal?

25 A I know that we serve the Gatliff mine, several of

1 the -- help me now, I'm at a loss. Several of the TECO-owned
2 mines. Clover comes to mind. Clover and Gatliff are the two
3 off the top of my head that I can think of.

4 Q How about American Coal, do you know about that?

5 A Not by that name, but some of these mines have four
6 or five different names just to keep us all confused.

7 Q What about a coal that is known as Galatia?

8 A Oh, yes. Galatia is actually served by the IC, I
9 believe. But we do -- yes, it is in our bid package. The
10 first rate on there is Galatia mine. It is the IC railroad.
11 We interchange, they interchange that traffic to us at Paducah,
12 Kentucky, and we would move it from there on to the plants.

13 COMMISSIONER DEASON: Mr. Chairman, I hate to
14 interrupt, but since we are on that subject, how is that
15 physically done where it is transferred from one rail facility
16 to another, and are there significant costs involved in doing
17 so, and what is the time delay in doing so?

18 THE WITNESS: Well, it varies from location to
19 location. But, generally speaking an interexchange is a
20 transaction whereby one railroad goes out and loads a train and
21 they bring it to another railroad. There is always a
22 designated point and generally a siting there that can contain
23 that size train.

24 It is on a track where our railroad meets their
25 railroad, and it is typically referred to as an interchange

1 track. One railroad will bring the train to the interchange
2 track and place it in on the designated track. The other
3 railroad will then come and get the train and take it on to the
4 destination. That is exactly the way it would work at Paducah.
5 They would put it on the interchange track, we would go over
6 and get it.

7 Now, depending on our communication back and forth,
8 that can take anywhere from -- you know, we can be there when
9 they get there with the train and have it be no time in the
10 interchange, or there can be a delay associated with the
11 calling of a crew to go get it or something of that nature. We
12 have other interchanges where the power stays on the train and
13 all we do is send a crew there. He shows up, their crew gets
14 off and our crew gets on. And typically we are there waiting
15 for them. So there are a number of ways to do it, but
16 generally there is a designated interchange track and you just
17 get on the train either with your engines or their engines and
18 you pull it off the track.

19 CHAIRMAN BAEZ: Go ahead, Mr. Wright.

20 MR. WRIGHT: Thank you, Mr. Chairman.

21 BY MR. WRIGHT:

22 Q Just to follow up briefly. In answering Commissioner
23 Deason's question, does the coal stay in the same cars?

24 A Absolutely the same cars, yes.

25 Q Thank you. Does CSX serve directly mines in western

1 Kentucky from which Tampa Electric either can or does receive
2 or has received coals, to the extent you know?

3 A Yes, sir.

4 Q Do you know any of those mines?

5 A Well, let's see. We have got a variety of mines in
6 the west Kentucky rate district. Yes, I do know the name of
7 them. The names of the mines are Dotiki and Pattiki. Those
8 are mines that are in the west Kentucky rate district that I am
9 certain that Tampa Electric has received coal from in the past.

10 Q Thank you. Are you familiar with a type of coal that
11 is sometimes referred to as Pittsburg CM-8 or Pitt 8 coal?

12 A Yes.

13 Q Does CSXT have facilities that load direct to CSXT at
14 mines that produce Pitt 8 coal?

15 A Yes, sir, we certainly do.

16 Q Could you name some of those mines?

17 MR. FONS: Mr. Chairman, I'm going to object. This
18 is going far beyond any question that I asked on my
19 cross-examination of this witness. He is now going into issues
20 far beyond the issue that I asked about, and that was the
21 amount of tonnage we would have to take from direct from CSX.

22 CHAIRMAN BAEZ: Mr. Wright, you have a response?

23 MR. WRIGHT: If I need one, I think he asked about
24 CSXT direct origin mines. I'm just trying to clarify CSXT
25 direct origin mines.

1 MR. FONS: That was not one of my questions, Mr.
2 Chairman. My questions were solely limited to the minimum that
3 we would have to take. I did not ask about any of the mines.

4 CHAIRMAN BAEZ: Well, I remember questioning about
5 whether and how much capacity was available from these mines,
6 or whether and how much supply was available from these direct
7 origin mines. I'm going to allow the question. But, Mr.
8 Wright, if your point is that there are several mines, I think
9 you are getting very, very close to making it.

10 MR. WRIGHT: Thank you. I will take it as having
11 been made and move on to my next question.

12 CHAIRMAN BAEZ: Go ahead.

13 THE WITNESS: If you don't mind, we serve a number of
14 mines on the MGA district, and that is the Pitt 8 seam of coal
15 that you are referring to. Specific mine names, Bailey comes
16 to mind, and there are a number of others. And ordinarily I
17 would remember them, but right now I don't. I'm sorry.

18 MR. WRIGHT: Thank you.

19 BY MR. WRIGHT:

20 Q You were asked some questions regarding the price
21 escalation factors, and I think you mentioned in reference to
22 CSXT's bid the RCAFU price escalation factor and also the fuel
23 surcharge?

24 A Uh-huh.

25 Q Has RCAF ever been negative?

1 A Yes.

2 Q You were asked some questions regarding the fuel
3 surcharge. Were you able to confirm your understanding of how
4 the fuel surcharge works?

5 A Yes.

6 Q Let me just ask you, specifically. As I understood
7 your previous testimony, the base price is \$23 per barrel of
8 west Texas intermediate crude, is that right?

9 A Yes.

10 Q If we got lucky and oil prices softened, and the
11 price of west Texas intermediate crude went back to \$23, would
12 there be a fuel surcharge applicable to any CSXT rate?

13 A The fuel surcharge in that case would be zero.

14 Q Are you familiar with other price indexes that are
15 sometimes used in various contracts, such as the Consumer Price
16 Index, Producer Price Index, GNP implicit price deflator and
17 the like?

18 A Yes. And we use a variety and a mix or a blend of
19 those indices in various contracts. We, again, in negotiation
20 find what the customer is comfortable with, and as long as it
21 meets our needs and covers our inflationary risk, we are
22 amenable to other indexes outside of what was proposed in this
23 contract.

24 Q To the extent you may know, how comparable are those
25 indexes to the RCAF index?

1 A You know, I don't know a whole lot about them, and
2 I'm not the index guy, and unfortunately I'm not going to be a
3 lot of help to you there. I think we find something that is
4 fair and that we both can agree on and we go with it.

5 Q You were asked some questions regarding minimum
6 tonnages. Was there a volume discount available to Tampa
7 Electric for volumes of CSXT direct coal above minimum
8 requirements?

9 A Yes, sir, there was.

 Q And that number is confidential, but that would
actually reduce the cost on incremental CSXT direct tons above
the minimum tonnage requirement, correct?

 MR. FONS: I'm sorry, Mr. Chairman, I have to object
14 to that question. It is leading and suggestive.

15 CHAIRMAN BAEZ: That was beyond -

16 MR. WRIGHT: I apologize.

17 BY MR. WRIGHT:

18 Q How would the volume discount work, Mr. White?

19 A Well, once the minimum was met, the volume discount
20 would apply on every ton received thereafter.

21 Q Is that every ton of all coal, or every ton of CSXT
22 direct coal?

23 A Every ton of CSX direct coal, I'm sorry.

24 Q Thank you. And the escalation factors, would they
25 apply to the new lower price to the extent they applied?

1 A Yes.

2 Q I would like to ask you to look at Page 6 of 17 of
3 your Exhibit RFW-3, which has been also marked for
4 identification as Exhibit 21. It's in the white pages.

5 A Okay. Which page is it again?

6 Q Page 6 of 17.

7 A All right.

8 Q Mr. Fons asked you a question whether CSXT had -- I
9 believe this was the phrasing of the question -- had a plan to
10 pay for capital facilities or capital improvements in
11 connection with the proposal CSXT made to Tampa Electric in May
12 of 2002. Do you recall that question?

13 A Yes.

14 Q Looking at that page of that exhibit, does that
15 indicate whether CSXT offered the possibility of making such
16 capital contributions for the benefit of Tampa Electric?

17 A Yes, indeed it did. It says the potential for
18 capital contribution from CSXT and coal company.

19 Q Thank you. In response to some questions regarding
20 CSXT's proposal, in its October proposal and I think also the
21 July proposal, you were responding that Mr. Schumann had
22 obtained -- I believe that you responded Mr. Schumann had
23 obtained information from several vendors?

24 A Yes.

25 Q Can you identify any of those vendors for the

1 Commission?

2 A Sure. In fact, I have a list of vendors that I will
3 be happy to make available. I have a couple of copies. For
4 example -- should we pass this out, or should I just read from
5 it? I have one, two, three, four, five, six, seven, eight
6 different companies that Mr. Schumann typically deals with, and
7 they are anything from conveyor prices, silo costs, dome costs,
8 steel unit cost, rotary dumper cost, conveyor belting, conveyor
9 drives.

10 MR. WRIGHT: Mr. Chairman, I had not intended to ask
11 that this be made an exhibit. I was going to ask Mr. White to
12 substantiate his previous answer. We would be happy to have
13 copies made during the lunch break or even right now. I will
14 send somebody out in the hall. Why don't we do that?

15 CHAIRMAN BAEZ: We can do it on the break. You can
16 go ahead and answer the question.

17 MR. WRIGHT: Okay. If you would just as briefly as
18 practicable run over the vendors and what type of equipment
19 they supply.

20 MR. FONS: Mr. Chairman, I am going to object to this
21 line of questioning.

22 CHAIRMAN BAEZ: On what basis?

23 MR. FONS: Pardon me?

24 CHAIRMAN BAEZ: Go ahead.

25 MR. FONS: It is calling for hearsay This witness

1 is relying upon information from somebody else who is not
2 present in the hearing room, and we have no way of validating
3 that he, in fact, received these quotes.

4 CHAIRMAN BAEZ: Mr. Wright, the witness unfortunately
5 has already identified it as Mr. Schumann's list. I'm
6 wondering how we make the connection to the witness.

7 MR. WRIGHT: Well, two points, Mr. Chairman. First,
8 it is the list that Mr. White himself received from Mr.
9 Schumann in the normal course of business. Second, hearsay is
10 explicitly admissible, not for supporting a finding of fact on
11 its own, but it is admissible for the purpose of corroborating
12 other testimony. Mr. White has already testified on this
13 point. That is straight out of 120.

14 CHAIRMAN BAEZ: I will allow it.

15 Go ahead, Mr. White.

16 THE WITNESS: Mr. Schumann used Vargo Engineers
17 (phonetic) for conveyor prices, silo costs, and dome costs. AK
18 Data Corp for steel unit cost, Heyl Patterson (phonetic) for
19 rotary dumpers, Goodyear Company for belting, Faulk
20 Manufacturing for conveyors and drives, Stevens Adamson for
21 pulleys and idlers, Martin Engineering for scrapers, plows and
22 switches, and Mr. Schumann himself for steel amounts, conveyor
23 profiles, and conveyor sizes.

24 MR. WRIGHT: Thank you.

25 BY MR. WRIGHT:

1 Q Mr. White, I would like to direct your attention to
2 Pages 19 and 20 of your Exhibit RFW-10, that's the confidential
3 bid package, I believe, that CSXT presented, submitted to Tampa
4 Electric in July of 2003 about which Mr. Fons previously
5 questioned you.

6 A I'm looking at it.

7 Q Thanks. Mr. Fons asked you some questions regarding
8 the amounts shown at the bottom of -- for capital improvements
9 at the bottom of Page 19 and continuing over to the top of Page
10 20. I just want to make sure that the record is clear and the
11 Commission understands how much in total CSXT was willing to
12 pay. Without saying the numbers out loud, can you explain what
13 the proposal was? And you can say like, for example, if you
14 look at the number in the next to the last line and then look
15 at the other number, something like that.

16 A You know, when you look at what is proposed here, I
17 mean, the numbers are there, they are what they are. You take
18 all the numbers and add them up and multiply by 120 and that is
19 what we agreed to pay. Again, had they come back and said you
20 are 2 million short on your number, I'm sure we would have made
21 it up. And, again, I don't know to what extent we would have
22 kept going down the road with that, but we were looking to make
23 a contractual deal and there was some room.

24 Q Mr. Fons asked you a question that I believe was to
25 the effect that was there anything in your proposal that ruled

1 out CSXT demanding some recoupment of its investment. Do you
2 recall those questions?

3 A Yes.

4 Q Was the proposal CSXT put on the table to Tampa
5 Electric a firm bid that Tampa Electric could have accepted?

6 A Yes.

7 Q If Tampa Electric had accepted the bid as it is, in
8 your understanding of the bid, would there have been any basis
9 for CSXT later to demand recoupment?

10 A No, we certainly wouldn't do that.

11 Q You were asked a few questions regarding the relative
12 capital expenditures as suggested by CSX, Mr. Stamberg, and
13 Sargent and Lundy. I believe you testified that you are not an
14 engineer and that you haven't engineered coal rail handling
15 facilities, is that correct so far?

16 A That's correct.

17 Q You also said that you have been involved in the
18 engineering, construction, and design of -- I think you said
19 more than one coal rail handling facility, is that correct?

20 A Yes, it is.

21 MR. FONS: I'm going to object to the question.
22 Again, this is leading the witness. He has already testified,
23 his testimony stands. He is just trying to repeat his
24 testimony, and it is leading.

25 MR. WRIGHT: Mr. Chairman, I acknowledge the question

1 is leading, but I think it was a fair restatement and I meant
2 it as a predicate to the question I was about to ask.

3 CHAIRMAN BAEZ: Go ahead and lay it as a predicate.

4 MR. WRIGHT: Thanks.

5 BY MR. WRIGHT:

6 Q I have two questions for you, Mr. White. What
7 exactly is your position with the company?

8 A Logistic manager, business development.

9 Q And as logistics manager, how do your duties relate
10 to the engineering, construction, and design, if at all, of
11 coal rail handling facilities?

12 A Well, they do to the extent that we are out there
13 looking for opportunities and people that don't have
14 infrastructure to be able to unload trains. We figure out how
15 to build in there and get them the equipment and the
16 infrastructure that they need to be able to unload rail cars.

17 Q You mentioned that you had been involved in some
18 facilities. Can you name one or two for us?

19 A Sure. South Carolina Electric and Gas at North
20 Wateree and at Ermo. We have worked with Duke Power. We have
21 worked with TVA at Gallatin to design new facilities in their
22 Paradise facility to design new facilities, and a number of
23 others.

24 Q Thank you. You were asked some questions regarding
25 backhaul and you made reference to efficiency, the efficiency

1 of the trip in relation to backhaul. Can you explain what you
2 were getting at there, please?

3 A Well, what I was trying to say is we don't -- we
4 don't do backhauls in our coal fleet. We like to keep the
5 fleet turning from the mine to the destination and back to the
6 mine. The point was there isn't a whole lot of need for
7 something that moves in an open top hopper to go from one of
8 our destinations back to the coal fields. I don't know what
9 that product would be.

10 And, again, my point was it would likely have to go
11 somewhere else first before it could go to the coal fields, and
12 then we would end up triangulating the move rather than having
13 a quick point-to-point turnaround, and we would extend or delay
14 the availability of those cars to load coal. That is what we
15 do with this fleet, we load coal in it.

16 Q Commissioner Deason asked you a question regarding
17 whether Tampa Electric might have -- and I apologize, I'm
18 trying to characterize your question as best as I understand
19 it. Commissioner Deason asked you a question regarding, I
20 think, whether Tampa Electric either would have or could
21 possibly obtain the power to impose penalties on CSXT, if CSXT
22 were to fail to meet specified performance criteria. Do you
23 recall that?

24 A Yes.

25 Q And I wasn't clear exactly as to the question or your

1 answer. Did the bid include such a proposal?

2 A No.

3 Q Is that something CSXT would be willing to negotiate?

4 A It is something that we have negotiated in the past,
5 it is something that we would be willing to look at, certainly.

6 Q Commissioner Davidson asked you some questions
7 regarding quantity, quality, transit times and pricing. You
8 don't know about pricing, you gave a clear answer, I think, on
9 transit times and quantity. I wanted to ask you to follow up,
10 I wanted to follow up with you on quality by asking you to --
11 asking you whether, to your knowledge, based on your knowledge
12 of the coal transportation industry, there are quality of
13 service differences between barge and rail service. And, if
14 so, describe them.

15 A Well, I mean, you know, we have talked about the
16 efficiencies, and I drew the analogy that a load at the same
17 mine get to Tampa in four days by rail, the same mine by water
18 call it 20 days.

19 Q I would like to ask you to look at Page 1 of 59 of
20 Exhibit RFW-10. Take a moment to look at it and see if that
21 refreshes your memory.

22 CHAIRMAN BAEZ: Mr. Wright, can you repeat the
23 reference?

24 MR. WRIGHT: Page 1 of 59 of Exhibit RFW-10, which I
25 think is Exhibit 28. Yes, it is. It is RFW-10 in his

1 testimony package. It has been marked as Exhibit 28.

2 CHAIRMAN BAEZ: Thank you.

3 MR. FONS: Mr. Wright, are you referring to the cover
4 letter dated July 30th, 2003?

5 MR. WRIGHT: Mr. Chairman, yes, I am.

6 THE WITNESS: You know, you look at the last
7 paragraph, and it basically says CSXT believes that Tampa
8 Electric's analysis will show that there is significantly less
9 degradation of coal quality delivered by rail direct. In our
10 experience water system through multiple handlings and long
11 transits, exposure to moisture in the shipment of the coal,
12 each time the coal is transloaded there is a loss of coal and a
13 decrease in size. Basically, the more times you handle it the
14 more opportunities you have to add moisture, to lose product.

15 The point being you load it in a rail car is one
16 handling, you unload it at the plant is two handlings. On the
17 barge side, you load it into a rail car or a truck, you unload
18 it at the terminal is two, you reload it into a barge is three,
19 you unload it at Davant is four, you handle it out of storage
20 to reload is five, or you handle it direct is five, you take it
21 to Tampa and unload it is six. So we have got two handlings
22 versus six. And, you know, you are going to have more product
23 loss, you are going to have more product degradation, you are
24 going to expose it to moisture more often and decrease the Btu
25 value of the coal.

1 MR. WRIGHT: Thank you.

2 BY MR. WRIGHT:

3 Q I have one clarifying question regarding a few
4 questions that were asked of you by Commission Bradley. I
5 believe that Commissioner Bradley asked you a question to the
6 effect that if there are unforeseen cost overruns, does CSXT
7 attempt to spread those costs over CSXT's other customers. Do
8 you recall that question?

9 A Yes.

10 Q Does CSXT do that?

11 A No.

12 Q In response to some questioning regarding -- I think
13 it was regarding Exhibit 104, which is the August 28th, 2002,
14 letter from Mr. Schumann to yourself --

15 A Okay.

16 Q -- I think you said that -- you made reference to
17 some number as being cursory. Could you explain what you meant
18 by that?

19 MR. FONS: I'm going to object, Mr. Chairman. He had
20 the opportunity to explain. This is trying to -- it has gone
21 beyond redirect at this point.

22 CHAIRMAN BAEZ: Go ahead and respond, Mr. Wright.

23 MR. WRIGHT: I'm asking them to clarify a previous
24 answer.

25 CHAIRMAN BAEZ: And I think it is an appropriate

1 question, Mr. Fons. I'm sorry, go ahead. The witness can
2 answer.

3 THE WITNESS: Okay. I was not aware that I used the
4 word cursory. You know, in thinking about this, I testified to
5 the fact that we had limited access to the facilities. We had
6 a straight line diagram drawing from which we drew or derived
7 distances and made estimates for conveyors and such tracks that
8 would be required as infrastructure to be able to unload
9 trains.

10 The term cursory probably came out because I was
11 thinking of the approach that we had to take, the opportunity
12 that we were given, or the limit of that opportunity to be able
13 to get in there and understand things. The fact that we
14 weren't able to talk to their engineers, we weren't able to
15 talk to their plant people. We were going on a one-time site
16 visit. You know, try to remember what you saw and look at a
17 straight line map and come up with a multi-million dollar
18 proposal to make it work.

19 And, again, I think that Mr. Schumann's efforts were
20 outstanding, and I think that, you know, we have another
21 witness that is dying to get up here that is going to say just
22 how good a job he thinks Mr. Schumann did.

23 BY MR. WRIGHT:

24 Q I would like you to compare the handwritten number,
25 which I think you said is yours on Exhibit 104 at the bottom

1 there where it says total blank million dollars?

2 A Yes.

3 Q Compare that, if you would, please, to the number
4 that is shown at the bottom of Page 19 of 59 of your Exhibit
5 RFW-10. We were talking about that a few minutes ago. And,
6 again, without blurting out either of the numbers, can you make
7 a statement as to whether the number in the actual proposal
8 offered to Tampa Electric is greater than or less than the
9 number shown on Mr. Schumann's letter?

10 A They are essentially the same number. The number
11 \$900,000, that is not the number you want me to look at. I
12 have said a number.

13 Q Now, you waived your confidentiality on that number,
14 Mr. White, but since it is under a million I think we are
15 probably okay.

16 A Okay.

17 Q I was trying to ask you about the total number shown
18 at the very last hand entry on Exhibit 104.

19 A Okay, yes.

20 Q And compare that to the number at the bottom of Page
21 19 of 59.

22 A Okay. The number on this sheet is less than the
23 number that is here on Page 19.

24 Q Okay. And to the number on -- was CSX willing to pay
25 more than the number that is shown on the bottom of Page 19?

1 A Yes, absolutely.

2 Q Thank you. Did the proposal itself state that CSXT
3 was willing to pay more than that number at the bottom of Page
4 19?

5 A Yes. At Page 20, the second paragraph, we agreed to
6 pay 120 percent of that number.

7 MR. WRIGHT: Mr. Chairman, that is all the redirect I
8 have. Thank you.

9 CHAIRMAN BAEZ: Thank you. Exhibits.

10 MR. WRIGHT: We would move Exhibits 19 through 28,
11 Mr. Chairman.

12 CHAIRMAN BAEZ: Without objection show Exhibits 19
13 through 28 admitted into the record.

14 (Exhibits 19 through 28 admitted into the record.)

15 CHAIRMAN BAEZ: Mr. Twomey, I have you for one.

16 MR. TWOMEY: Was it --

17 CHAIRMAN BAEZ: 102.

18 MR. TWOMEY: 102, I think, Mr. Chairman.

19 CHAIRMAN BAEZ: All right. Without objection show
20 102 --

21 MR. FONTS: I don't believe so. I think 102 was a
22 document that was prepared by the witness, and I don't think it
23 was presented by Mr. Twomey. I think that was presented --

24 CHAIRMAN BAEZ: Well, I think it was offered by Mr.
25 Twomey as part of his cross-examination. It did get offered.

1 I mean, it came through the witness, as I recall.

2 MR. FONS: Okay. I would offer the movement of
3 Exhibit 104 and Exhibit 103 on receipt.

4 CHAIRMAN BAEZ: Without objection show 103 and 104
5 and 102, since I didn't get -- show 102, 103, and Confidential
6 104 admitted into the record.

7 (Exhibits 102, 103, and Confidential 104 admitted
8 into the record.)

9 CHAIRMAN BAEZ: Thank you, Mr. White.

10 At this point -- well, we finished a little bit ahead
11 of time. I think we are going to steal it to our column. Now
12 we will come back at 1:30. Thank you.

13 (Lunch recess.)

14 (Transcript continues in sequence with Volume 9.)

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COUNTY OF LEON)

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DATED THIS 14th day of June, 2004.



JANE FAUROT, RPR
Chief, Office of Hearing Reporter Services
FPSC Division of Commission Clerk and
Administrative Services
(850) 413-6732